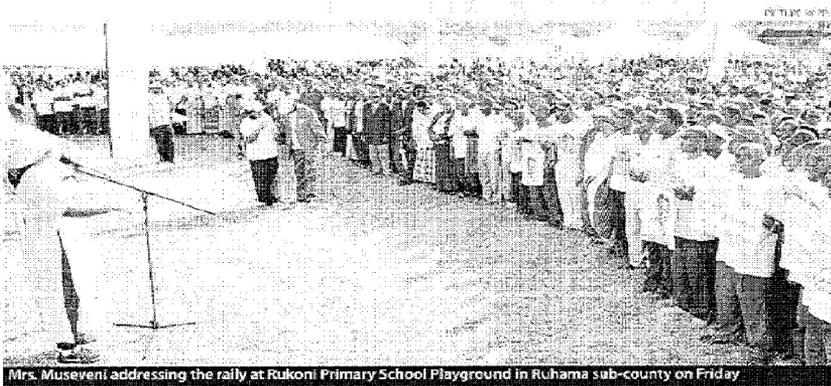


# **EXHIBIT 189**



Mrs. Museveni addressing the rally at Rukoni Primary School Playground in Ruhama sub-county on Friday

# K'jong campaign for First Lady

By FRANCIS KAGOLO

A group of Karimojong from north-eastern Uganda travelled to Ntungamo district in the south, and requested voters to re-elect the First Lady Janet Museveni as member of Parliament for Ruhama. The Karimojong, mainly from Moroto district, said Janet's re-election would enable her carry on development initiatives for both Ruhama and their region. Speaking at the launch of her campaign, held at Rukoni Primary School Play-

ground on Friday, the group hailed her work in their region, describing her as a "God-chosen mother." Janet is also state minister for Karimojong Affairs. Janet, who was accompanied by her daughters and sons-in-law, pointed out her achievements in the last five years as MP, which included improving household incomes; drilling 34 boreholes in various schools, putting rain water collection systems in seven schools and setting up gravity flow schemes. "Others are renovating Hoje

Hospital and Kitwe Health Centre and providing ambulances and assorted medical equipment and supplies to the hospital. She added that classrooms, teachers' houses, offices and latrines had been constructed in some primary and secondary schools which had poor infrastructure. The First Lady also supported agricultural mechanisation, distribution of coffee seedlings and study tours. She also planted 96,000 trees in Hoje, Rweikire and Ntungamo sub-counties.

She requested the residents to ensure that the National Resistance Movement (NRM) party wins both the presidential and parliamentary elections in order to consolidate the gains achieved. Mrs. Museveni said NRM was committed to building a prosperous Uganda. The party vice-chairperson, Moses Kigongo, who was the chief guest, applauded the First Lady for being sincere and accountable to her electorate and urged other politicians to emulate her.

# Buliisa evictions: Balaalo urge govt to intervene

By DARIUS MAGARA

The Balaalo pastoralists have appealed to the Government to order Gen. David Tinuyefuza to stop the Buliisa evictions, saying they are illegal. Addressing the press at Open House in Kampala on Friday, their lawyer, Mukasa Lugalamba, said: "Tinuyefuza was not acting on court orders to evict the pastoralists. We challenge Gen. Tinuyefuza to display the court order he is purportedly using to evict our clients and re-distribute their land," he said.

Tinuyefuza, the national intelligence services co-ordinator, headed the operation in which pastoralists were evicted last week. The operation, which called on the combined force of the UPDF and Police reportedly left the pastoralists homeless and destroyed their property. The move, which stated on December 12, saw over 600 families evicted from their homes. Although Court in Hoima ordered that the evictions be stopped, Tinuyefuza said the court order had no consequence as the exercise had ended. "I do not disobey the court. But I am not evicting any body now," Tinuyefuza said Thursday last week. The evictions took place in

the villages of Waiga, Waisoke, Bugana and Katalaba in Buliisa sub-county. Lugalamba said his clients were bona fide purchasers of the land and had stayed on it unchallenged for years. He added that: "At an appropriate time we shall reveal the big guys in Government who niles for Buliisa land." The Bagungu accused the Balaalo pastoralists of encroaching on their land and grazing their animals in their gardens. The Bagungu sued the pastoralists and asked court to have them evicted. The Bagungu won the case but the Balaalo appealed. Responding to Tinuyefuza's recent remark that the Balaalo are Banyarwanda, Frank Mackari said Tinuyefuza knows that they are in Uganda legally. Mackari is the general secretary of the Ugandan Banyarwanda Cultural Development Association.

Tinuyefuza said that security agencies would remain stationed in the area to ensure that the evictees do not return. He said the eviction was executed with fairness. However, Lugalamba said he would pursue the matter until the pastoralists found justice. "If Tinuyefuza does not stop and we fail to address the matter in his courts here, we shall take the matter to the International Criminal Court," he vowed.

# Police stops Lukwago's late rally

By JULIET WAISWA

Kampala mayoral candidate Elias Lukwago pleaded with the Police to let him finish a point he wanted to emphasize to his supporters. Lukwago's Saturday rally in Kasubi had gone beyond the time slated by the Electoral Commission (EC) after his master of ceremonies let a string of candidates speak before him.

Lukwago's rally went beyond 6:00pm, the time slated by the commission.

The EC directed that all aspiring candidates are supposed to end their rallies by 6:00pm. Lukwago was heard saying: "Please Police officers let me finish giving my people the points," as he continued to address the rally. Lukwago's rally was further delayed by performances from artists like Phira Mugwera and Matthias Walukaga, who were praising him. Lukwago said he will work on issues like garbage, street lighting, markets and schools.

# Buturo attacks human rights body

By ANNE MUGISA

Ethics minister Dr. Nsaba Buturo has accused the Uganda Human Rights Commission (UHRC) of promoting homosexuality using a human rights documentary. The commission attacked Buturo after he banned the documentary titled *Do not Discriminate*. Buturo insisted the documentary contained controversial material. In a press conference yesterday, the minister scoffed at the

UHRC, saying the organisation that should protect Ugandans' interests had fallen by allowing themselves to be used by those promoting western vices. He said the people showing the documentary at the National Theatre had refused to divulge its contents or allow the officials to have a preview. About 200 people, including school children, had been invited to watch it. Buturo observed that when UHRC realised that the Government would not allow them

to show the documentary, they reluctantly allowed an official and the theatre management to view it. Those who viewed it, he said, reported offensive material in the documentary. He said worthy themes like women's rights were added to justify the documentary. "We told them that if they wanted to show that documentary, they had to edit it and remove the controversial material. We also took offence that young people were invited to watch."

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HCCS No. 321 of 2012  
**CENTRAL ELECTRICALS INTERNATIONAL LIMITED (PLAINTIFF)**  
VERSUS  
**1. CHINA JIANGSHU INTERNATIONAL ECONOMIC TECHNICAL COOPERATION**  
**2. CONRAD PLAZA LIMITED (DEFENDANTS)**

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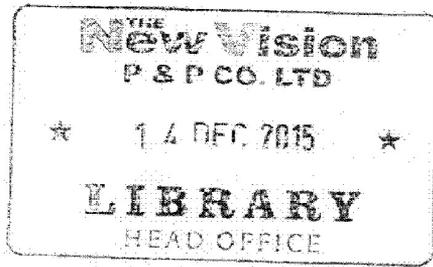
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# **EXHIBIT 190**



Scott Lively <sdllaw@gmail.com>

## Murdering Uganda UPDATED

1 message

DefendTheFamily.com <abidingtruth@defendthefamily.com>  
To: Scott Lively <sdllaw@gmail.com>

Wed, Feb 2, 2011 at 7:33 PM



### DefendTheFamily.com Alert

Friends,

In the past few hours the killer has been caught and confessed that he killed Kato for failing to pay him for two days of male prostitution. I have updated the article as follows and this can be considered the final version.

Blessings,

Scott

#### MURDERING UGANDA

By Pastor Scott Lively, J.D., Th.D.  
President, Defend the Family International  
[www.defendthefamily.com](http://www.defendthefamily.com)  
[Sdllaw@gmail.com](mailto:Sdllaw@gmail.com)

Uganda is being murdered. The nation once called "The Pearl of Africa" by Winston Churchill, a lush and beautiful country as fertile as the Nile Delta. It is the nation that retained its self-rule through centuries of African colonialism, the society that survived even the atrocities of the cannibal cultist Idi Amin, the culture that has been thriving in Christian revival for over a dozen years.

This great and honorable nation, alone in Africa to have all but conquered the scourge of AIDS through abstinence - and whose First Lady led a holy gathering of thousands of believers on the eve of the millennium, dedicating her homeland "to Jesus Christ for a thousand years" - this Uganda, a shining light in the Dark Continent, is being murdered.

The murderers are the lavender Marxists, the now-global network of sexual revolutionaries bent on remaking the entire world in their own perverted image, whose juggernaut has toppled even once mighty Britain, crushing under their lavender boots after eight centuries the symbol of its Christian power: the Magna Charta, whose first principle had proclaimed "The English church must be free!" These revolutionists of Sodom, who march triumphantly through all the major cities of the western world to flaunt their defeat of moral law, and who hold both Hollywood and the heart of America's president in their iron grip: These very same zealots have fixed their malevolent gaze on Christian Uganda.

Uganda is the only country in the world with a national holiday commemorating its rejection of sexual perversion. Every June 3 it honors the 22 young men and boys who were tortured and roasted alive in 1886 by homosexual King Mwanga, because they refused to submit to sodomy. Is it any wonder, then, that Uganda has reacted violently against the army of

agitators, led by George Soros, who now seek to re-homosexualize Ugandan culture?

It is as if the militant ranks of "Code Pink" were transported back to 1890s America to agitate for "sexual freedom." Our great grandparents would not have countenanced this. There would have been violence, as there has now been in Uganda. And that is, of course, the strategy: the agents provocateur are goading unsophisticated natives into over-reacting, while the "gay" media lie in wait to catch the images and spin the propaganda that is even now poisoning the gullible against the Ugandans.

Ugandan homosexual activist David Kato was recently beaten to death with a hammer, a horrific crime. These very media have rushed eagerly to judge this a hate crime and to blame those, like me, who have spoken against homosexuality in Uganda. It is the central (but patently false) narrative of the left that all criticism of homosexuality leads inevitably to violence and murder. Yet the killer has now been caught and confessed that he was a live-in male prostitute who murdered Kato for failing to pay him as promised. The "gay" hate-narrative has failed, the Ugandan rejection of "gay" culture has been vindicated, and the finger-pointing media have pulled quietly back into the shadows - for now.

There is indeed evil in Uganda today, but it is not the reaction of Christian and Moslem citizens to the rape of their culture. It is the pink-gloved hand of western powers that are cutting the throat of Africa's most God-fearing country, and one of the world's most promising Christian democracies.

This information is brought to you courtesy of DefendTheFamily.com, daily news updates and extensive free resources on the homosexual issue from a pro-family perspective. Please do not reply to this email; if you would like to contact us, visit our [contact page](#).

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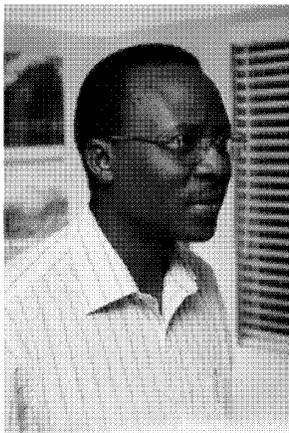
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## Uganda parliament starts public hearings on anti homosexuality bill

The committee on Legal and Parliamentary Affairs has started conducting public hearings on the anti-homosexuality bill.



Stephen Langa

According to the committee chairperson, Stephen Tashobya the bill has generated a lot of interests from the public and the members of parliament and that's why they have decided to give it time before the 8<sup>th</sup> Parliament ends its term by 12<sup>th</sup> May 2011.

Some people have however complained that the committee is trying to handle the bill too quickly so it is passed by the outgoing Parliament without due scrutiny.

But Tashobya says that the committee has been busy and that's why they delayed in handling the bill till last minute. He says that the committee will conclude the public hearing on Monday and thereafter embark on report writing.

Meanwhile Steven Langa the executive Director of the Family Life Network who appeared before the committee urged parliament to have the anti-homosexuality bill passed immediately in order to protect children from being violated by what he called homosexual promoters.

Langa says that parliament should not listen to gays who say the new bill will abuse their human rights, because according to him, homosexuality has never been a human right.

By Isaac Senabulya

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# **EXHIBIT 192**



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## Pornography control committee named

By Vision Reporter

**Pastor Martin Sempa, a renowned activist and founder of the Makerere Community Church is one of the committee members.**



Information & National guidance minister, Gen. Jim Muhwezi, has announced a Pornography Control Committee set by Government.

Cabinet appointed controversial pastor, Dr. Martin Sempa, on the nine-member team that would monitor pornographic material in the country and ensure that perpetrators are apprehended and prosecuted.

Muhwezi told a news conference in Kampala on Thursday that the approved Pornography Control Committee would be chaired by Dr. Annette Kezaabu Kasimbazi.

Sempa, Dalton Opwonya, Sheik Mohammad Ali Waiswa, Joan Kyomugisha, Gastone Byamugisha, Hafisa Kabagonja, Victoria Sentamu and Fred Nyakori are the members.

Section 3 of the Anti-Pornography Act 2014 provides for the setting up of the committee with a sole purpose of overseeing and implementing the law.

“The committee would collect and destroy pornographic objects and materials with the assistance of police,” Muhwezi said.

The other roles of the committee, Muhwezi said, include, sensitization of the public about dangers of pornography, ensure prosecution of perpetrators, detect and prohibit pornography and also expedite the development, acquisition and installation of effective protective software to detect pornography users in the country.

Recently, Fr. Simon Lokodo, the state minister for ethics and integrity tabled before Parliament a Sh2b request to procure machines that Government can use to detect pornography.

**The Anti-Pornography Act 2014**

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***Jim Muhwezi, the Minister of information and national guidance***

# **EXHIBIT 193**

NEWS POLITICS ENTERTAINMENT



SPECIAL REPORTS

# Lokodo gets new team to fight porn



By Our Reporter

Posted on April 14, 2016

40 SHARES



Government has formed a team to work with the Ethics and Integrity

minister, Simon Lokodo, in the fight against pornography.

Jim K. Muhwezi, the Minister of Information and National Guidance, says pornography is a major challenge in Uganda society today.



According to him, the vice is increasing consumption is fast eroding our cherished decent African moral fabric, particularly among young people.

“In our society today, pornography is in the form of publishing nude pictures in print and on line, sexually explicit films, nude stage shows, vulgar songs and dances, among others.”

He adds: “In our midst today, exposure to pornography is aggravating sexual perversion and related crimes like defilement, rape, bestiality and homosexuality. Proliferation of pornography also contributes to increasing instances of teenage pregnancy and Sexually Transmitted Diseases particularly HIV.”

Section 5.6 of Uganda's Vision 2040 enjoins government to develop policies that define national culture, behaviour and decent conduct of our people.

Accordingly, the National Ethical Values Policy (NEVP) as approved by Cabinet in 2013.

To operationise the NEVP, the Anti-Pornography Act, 2014, was enacted by Parliament and duly assented to by H.E the President.

Section 3 of the Anti-Pornography Act 2014 provides for setting up a Pornography Control Committee comprising key stakeholders in overseeing and implementing the law.

The committee is specifically mandated by the Act to: take necessary measures to ensure early detection and prohibition of pornography; ensure that perpetrators of pornography are apprehended and

prosecuted; collect and destroy pornographic objects and materials with the assistance of the police.

It will also educate and sensitise the public about the dangers of pornography; promote the rehabilitation of individuals, groups, families, or communities negatively affected by pornography; and, expedite the development, acquisition and installation of effective protective software in electronic equipment such as computers, mobile phones and televisions for detection and suppression of pornography.

Cabinet has now approved the following persons to serve as Members of Uganda’s Pornography Control Committee.

They are; Dr. Annette Kezaabu Kasimbazi – Chairperson, Mr. Opwonya Dalton – Member, Sheikh Mohammad Ali Waiswa – Member, Pr. Dr. Martin Sempa – Member, Ms. Joan Kyomugisha – Member, Mr. Gastone Byamugisha – Member, Mrs. Kabagonja Hafisa – Member, Ms. Victoria Sentamu – Member and Dr. Fred Nyakori – Member.

The Pornography Control Committee will work closely with the Ministry of Ethics and Integrity, Uganda Police Force and other entities and individuals it deems necessary.

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# **EXHIBIT 194**

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**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 **[Audio Begins]**

2 **[0:00:00]**

3 Scott Lively: Good Morning everyone.

4 Female Speaker: Good Morning.

5 Scott Lively: I want to introduce myself first. My name is Scott Lively. I'm from,  
6 uh, Massachusetts in the United States, a state called Springfield. Uh, I'm married,  
7 I have four children. Uh, my wife and I been married for 28 years and, uh, I  
8 am, uh, 51 years old and I have been studying this issue for 20 years. And I  
9 want to tell you why I'm doing that. I'm going to be addressing the topics that  
10 I'm addressing today wearing two different hats at the same time. I'm going to be  
11 speaking to you as a pastor, uh, with the degree in theology and with someone  
12 who studied extensively the scriptures ...

13 **[0:01:00]**

14 ... regarding all these issues. I'm also going to be talking to you as an attorney  
15 who has training in secular, uh, reasoning and, uh, when I do these things, when  
16 we're talking about the issues we'll be talking about today, there is no  
17 contradiction between science and Christianity because they come to the exact  
18 same conclusions when you look at the facts. So it's easy to wear both hats and,  
19 uh, the reason that I wear both of these hats is because I have been, I've  
20 experienced the power of God in my own life. I was raised in a family of six  
21 children. I was the oldest of six children. My father developed a mental illness  
22 when I was young and I retreated from the pain of my family life. I know

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 about family pain, I know about family difficulties and things that are caused by  
2 the breakdown of family. I became an alcoholic when I was 12 ...

3 **[0:02:00]**

4 ... years old. And I was in bondage in alcohol and drugs for 16 years. I couldn't  
5 hold a job, I slept under bridges, I used to beg for a money on the streets.  
6 That's how bad it was. I have a brother and sister that went in to homosexuality.  
7 I have another sister that wasn't able to enter into marriage until she was in her  
8 40s because of the pain of the family life that we had. I know about these things  
9 personally. I've suffered through different kinds of addictions. When I was  
10 hitchhiking all over the United States, I was picked up hitchhiking many times by  
11 Christians. And they would see my plate and they would advise me. If you  
12 accept Jesus Christ into your life, you will be transformed. And eventually, when  
13 I came to a place where there was nowhere left to turn, I had tried everything  
14 else, I finally got down on my knees and I surrendered my life to Jesus Christ.  
15 And I was healed in an instant. I never had another desire ...

16 **[0:03:00]**

17 ... to drink or use drugs ever again. When I got up off my knees, I was clean  
18 and healed. And that was a total miracle. I have no will power in my soul to do  
19 it. I could not have stopped on my own. And if the temptations had still been  
20 there the next day, I would've continued to do it. But by His grace, God took  
21 those things away. And so, I know that he has the power to touch and heal any  
22 person with anything. But I also know that he doesn't do that for every person,

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 that he allows us to be able sometimes to struggle with different things for the  
2 purpose of building and shaping our character because the whole purpose of life  
3 is to be conform to the character of Christ through those challenges that are  
4 given to us by God for the shaping of who we are. That's my personal  
5 philosophy. I believe that to be true and I believe that it's a truth that I've  
6 lived.

7 **[0:04:00]**

8 Now, I also am approaching this as an attorney. I hold a Juris Doctor degree  
9 from Trinity Law School in Santa Ana California. I graduated magna cum laude.  
10 Even after all these things happened after I was healed and delivered, I was not a  
11 lawyer. I was not a pastor in any of those early years. That all happened later  
12 and, uh, my life today I went from being the kind of person that used to sleep  
13 under bridges and today, I am standing before you as a world traveler. I have  
14 spoken on these topics in almost 40 countries now. I've written several books, I  
15 have now a doctor of theology degree for the Pentecostal Assemblies of God in  
16 San Jacinto, California. I hold a certificate in human rights from the International  
17 Institute of Human Rights in Strasbourg France. And I've done studies on many  
18 other topics on my own that ...

19 **[0:05:00]**

20 ... I don't hold credentials for but that I have knowledge of – and I'm going to  
21 bring all of them to bear today to teach on this topic. Why did I get involved in  
22 dealing with this homosexual issue now? And why would I spend 20 years

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 dealing with this? This is not the kind of topic that most people want to even  
2 think about it. There's a lot of pain dealing with this. There's a lot of ugliness  
3 involved with it, but what happened was and I'm not going to tell who it was that  
4 was close to me, but two people very close to me brought me to an understanding  
5 with this topic . One of them was a little four year old boy. And he was one of  
6 the sweetest little children you would ever have known, just adorable lovable  
7 child. And the other person was very close to me as well and that that man  
8 when he was 19 years old, he molested that four year old boy and I saw what  
9 ...

10 **[0:06:00]**

11 ... happened to that little child. He was transformed into a sweet and innocent  
12 person into a tortured and tormented child filled with anger and rage. And he  
13 never recovered from that even though he got counseling. He went on and he  
14 never really addressed it. There are other people in his life that tried to cover it  
15 up and say it's not an issue, don't think about it, don't talk about it and he  
16 ended up even today, his life is destroyed. And that man that molested him when  
17 he was 19 years old he went on, continued to live, he's still living in the gay  
18 lifestyle in Los Angeles, California and he's active homosexual and he's active in  
19 church that endorses what's called gay theology. The idea that God has created  
20 people to be homosexual. He wants them to be homosexual and that the bible  
21 actually teaches that homosexuality is ...

22 **[0:07:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... good and normal. I'm telling you these two people are very close in my life.  
2 And I had my eyes opened to the situation right at the very beginning at the  
3 time that I became a Christian and God moved me very quickly into a ministry  
4 where I would deal with these things. And so for all these years, I have been  
5 focusing on this topic. I know more about this than almost anyone in the world.  
6 There's a few people I actually know that do know, I would probably sit below  
7 them and learn from them on some of these things, but I actually, and it's not  
8 because there's anything special about me. It's just that there are so few people  
9 that are willing to delve deeply into this topic, and who are willing to take the  
10 abuse that comes from doing this. But so far this morning, as some of you have  
11 come later, but we had people talking about what they remember from yesterday,  
12 and everything about this ...

13 **[0:08:00]**

14 ... conference has been about healing and love and care for people, right?  
15 Everything that we've heard. This is all about dealing with a topic logically,  
16 sensibly right? Reasonably, rationally, right? That's true. but even now, the word  
17 is going out all over the world about this conference, that this is a seminar  
18 about hate, right? And when you go and you see the coverage of this in the  
19 newspapers around the Internet, you're going to see the accusation that this was a  
20 conference about hate and that's what you suffer when you stand up and you  
21 deal with this topic. I want to just address that right at the very beginning.  
22 There's accusations against me all over the Internet - filled with lies. All the idea

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 of intimidating people from looking into this topic so that they don't care whether  
2 they – they don't want to necessarily make you ...

3 **[0:09:00]**

4 ... an advocate of their position although they will push you very hard for that.  
5 But what they want you to do is be silent about it, not to speak of what you  
6 know. And if you dare to say anything about this topic that doesn't go along  
7 with their agenda then you will be sneered. You will be called intolerant, you'll  
8 be called hateful, you'll be called a homophobe. And right at the beginning, I  
9 want to address those things. I'm going to want this board back, if I can get that  
10 board back. I'll bring it to you as systematically as I can and there being a lot of  
11 facts, a lot of analysis that you're probably not going to remember a lot of what  
12 I have said today. And so this is the recording being made, you can get that and  
13 so I'm going to be talking about things that you might not ever heard before and  
14 um, I'll give you a lot of details.

15 **[0:10:00]**

16 So take good notes. If you don't have um, if you don't have a notepad or you're  
17 forgetting at this, or you don't get the tape, go to my website  
18 [www.defendthefamily.com](http://www.defendthefamily.com), and there are extensive resources on that website.  
19 Whatever I don't have, I have links to people that do have it and you'll find out  
20 information there that will be very helpful to understanding the topic. There's  
21 another website that I will put up out here. I do have a link to it but write this  
22 down as well, [www.NARTH.com](http://www.NARTH.com). This is probably the after mind website. This is

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 the one that I consider the most important. This is the National Association for  
2 Research and Therapy of Homosexuality. These are doctors and professors ...

3 **[0:11:00]**

4 ... therapists uh, that all specialize in treating homosexuality and how can people  
5 be restored to their normal heterosexual identity. So those two things. Now, I'd  
6 like to get into this topic, uh, dealing with the dual approach, both the religious  
7 approach and the secular approach dealing with the homosexual issue. Now, I  
8 toured the countries of the former Soviet Union in 2007, and they would not  
9 allow me to speak as a pastor in the universities so I spoke as an attorney. But  
10 like I said, it's the same lesson and it comes to the same conclusions so I'm  
11 going to show you both. I want to touch on the basis of authority, where do you  
12 get your information? Because everything that we assert, everything which we  
13 claim to be true.

14 **[0:12:00]**

15 All the conclusions that we come to and that we act upon in our lives, all have  
16 to be based on some kind of information from somewhere. This isn't coming out  
17 of our own lives, we're leaning all of these things from different places and we've  
18 heard, for example, we've heard some different ideas of how homosexuality, about  
19 intersex people, about left handedness, about clear and questioning about religious  
20 perspectives, all kinds of things. All these ideas have come from other places  
21 besides ourselves and they all depend for their truthfulness on the source of their  
22 authority. Are this things really true, and if they're true, how did you know they

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1 are true? What's the source that you're getting this information from and that's  
2 something that I want to introduce to you right from the beginning is two  
3 questions that you can always ask in any debate when you're dealing with this  
4 topic. In fact ...

5 **[0:13:00]**

6 ... on almost any topic, when you're dealing as a Christian, with something you  
7 know because of the truth of God. When you're arguing with someone who is  
8 coming from a worldly perspective, whose thinking may not be very clear. Two  
9 questions, what do you mean by that? Question number two, how do you know  
10 that to be true? How do you know that's true? And I'm going to be addressing  
11 that all through the seminar and you're welcome to ask me those questions as  
12 well and get used to asking them because that's how you expose the falsehood of  
13 beliefs that come against the truth. Because what you'll find, is when you're  
14 dealing with people, they're coming from the other side on this topic, is that  
15 they never define their terms. They don't want you to know the definitions of the  
16 words that they're using because they'll use words that they want you to think  
17 mean one thing, but in fact, they mean something completely different. But ...

18 **[0:14:00]**

19 ... you'll see, they never define them so that you never have that chance to  
20 actually test what do they mean? What do these words mean? Let's say for  
21 example, the word Homophobia right, I have been called a homophobe and  
22 anyone else who disagrees with the gay agenda is called a homophobe, too. What

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1 is homophobe? What is Homophobia? And this is an example of the terminology  
2 that you need to be challenging. A homophobe, they will define this particular  
3 one because they actually begin the initial definition isn't where the lie is hidden.  
4 It's hidden a little bit deeper and they will tell you what is a homophobe? A  
5 homophobe is a person who hates and fears homosexuals, right? That's the  
6 definition. Originally actually, homophobia was meant in the 1950's or so, it was  
7 an early psychiatric term that was used in America when they were treating.  
8 Actually, they ...

9 **[0:15:00]**

10 ... were actually very effective in treating homosexuality in the 1940's and 50's  
11 in the United States until the gays got control of the mental health associations  
12 and begun stripping all the authority of people to do that. But the term meant a  
13 person's fear of his own homosexual inclinations. So if someone came to the  
14 doctor and he says, "I'm having homosexual feelings, I really don't want them.  
15 I'm afraid I don't want to indulge myself in these." That was called homophobia,  
16 but the word was adopted later. It's taken by the agents, the activists of the gay  
17 movement and they changed the definition to hatred and fear of homosexuals.  
18 Now, it's even, but what's hidden in this, is a couple of things. Number one, a  
19 phobia is an anxiety disorder. It's a mental illness, that's what a phobia is. If you  
20 ...

21 **[0:16:00]**

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1 ... have a phobia, you have hydrophobia, fear of water. That's a mental illness, its  
2 irrational right. There's no good reason to have a fear of water. If you have  
3 agoraphobia, the fear of going out in open spaces, that's a mental illness. It's  
4 irrational. So what happens if you have homophobia, right? What that really  
5 means with the actual built-in meaning of those sub-parts of that phrase, that term  
6 means, if you are against homosexuality, you have a mental illness. You have  
7 hatred and fear that rises to the level of a mental illness right? Does all of it  
8 make sense to you so far?

9 Female Speaker: Yes.

10 Scott Lively: Okay. Now, here's what you do when you're presented with  
11 something and next time you hear someone use the term homophobia, you ask  
12 them this, you say, I don't want to be a homophobe. Tell me, where is the line  
13 ...

14 **[0:17:00]**

15 ... between a homophobia and legitimate opposition to homosexuality, right? If  
16 homophobia, because what they want you to think, when they say someone is a  
17 homophobe, what they want other people to think is that you're some kind of  
18 irrational hater that wants to beat up gays, that has no basis for being against  
19 them but really just has this burning hostility or has some craziness in their mind  
20 that makes you afraid of them or ones they hate them, right? That's what the  
21 term, that's what they want you to think the term is. Say, "Wait a minute, I  
22 don't want to be a called a homophobe. So where is that line? What position can

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1 I take to say that I'm against homosexuality without having a mental illness?"

2 And what they will show you, what they will tell you is, there is no line  
3 between homophobia and legitimate opposition. We'll take questions at the end.

4 Female Speaker: No, because it's...

5 Scott Lively: No we'll take questions ...

6 **[0:18:00]**

7 ... at the end I'm sorry.

8 Male Speaker: Let's take questions at the end please. Mark your questions.  
9 There's going to be a plenty of time but let's not disrupt it.

10 Scott Lively: And frankly, anyone who disagrees with the gay movement  
11 about homosexuality is considered a homophobe. So, right from the beginning,  
12 you see that this is, you know, when you think about this, when you ask the gay  
13 movement, is there any legitimate position that you can have that says that  
14 homosexuality is wrong or abnormal, unnatural? No. That's homophobia. So by  
15 that definition, your president is a homophobe. The first lady is a homophobe.  
16 The members of the parliament are homophobes. Every person in this room is a  
17 homophobe, right? And this is all because there's no definition of the term. This  
18 is a word that is not a scientific term. This is a, is actually a rhetorical ...

19 **[0:19:00]**

20 ... tool of psychological manipulation. That's what its used for, psychological  
21 manipulation. Because everyone knows if you dare to say, "Homosexuality is  
22 wrong," even if you say something simple like that, a moral statement,

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1 homosexuality is wrong, you are a homophobe, which means, you have a mental  
2 illness. That's what's built into this terminology. Now, let's look at another term,  
3 the term tolerance. Now, what does tolerance mean? Tolerance, the real definition  
4 of tolerance is putting up with something that you don't like in order to have  
5 civility. So, if, you know, if Steven is over here during my talk and he's tapping  
6 on the table like this, its irritating to me, you know, and I'm hearing into this, I  
7 don't really like it but I know that if I say, "Hey, come on don't do that." That  
8 that's going to create some tension ...

9 **[0:20:00]**

10 ... there, right? So I might tolerate that , right. That's what tolerance means. I'll  
11 put up with that, I'm just going to overlook it, I'm not going to deal with it  
12 because I don't want to have a fight with him. I don't want to create tension. If  
13 my next door neighbor has a dog and the dog is barking and barking and  
14 barking all night right. Oh, you know, I would like to go and yell at that  
15 neighbor but I know if I do that, he's going to be angry with me. I'm just going  
16 to tolerate it. I'm going to put up with it. That's the meaning of tolerance. But what  
17 does the gay movement mean when it says tolerance? It doesn't mean putting up  
18 with something that you don't like. It means absolutely, unconditionally accepting  
19 it as perfectly normal, healthy, natural, and subject should be integrated into  
20 every part of society. That's what they mean by the term and you know that they  
21 never define the term. The term sexual orientation.

22 **[0:21:00]**

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1 How many people are familiar with the term sexual orientation? Sexual orientation  
2 is basically a co-word for homosexuality. When they use that term, that's how  
3 they sort of make an abstraction by coming up with things like things like this,  
4 sexual orientation. An orientation is a relationship. It's a word that describes the  
5 relationship between an object and a subject right? So if you are oriented towards  
6 something, I'm oriented, my orientation between in my, in the room here between  
7 myself and the speaker in that corner, It's really observing a relationship between  
8 me and the person and that saying the speaker and then I'm observing it and I'm  
9 oriented toward it. I may be 12 feet away, I'm, you know slightly below it.  
10 That's what you're talking about with an orientation. Orientation really means that  
11 ...  
12 **[0:22:00]**  
13 ... your relationship between you as a sexual person and the object of your sexual  
14 interest, right? So, a sexual orientation then is can be anything, you know. It  
15 could be homosexual. It could be heterosexual, it can be towards children, it can  
16 be toward animals, it can be toward shoes. It can be towards-- there's all kinds  
17 of different things that actually the diagnostic and statistical manual that the  
18 psychologist and the psychiatrist use has a list of 26 or so, different sexual  
19 orientations that you can have. But when the gay movement uses the term sexual  
20 orientations, they though they never define it. You never see in any of the laws,  
21 anywhere that this is used. You never see the term sexual orientation defined or

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1 if you do see it defined, they define it as heterosexuality and homosexuality,  
2 right? Or maybe they'll put in another one ...

3 **[0:23:00]**

4 ... in here because they want to be able to have the broadness of ambiguity of  
5 the term to be able to be broad enough to allow homosexuality in as equal with  
6 I mean, homosexuality is equal to with heterosexuality but they don't want people  
7 to think of it so broadly that it would bring in other things that people don't like,  
8 pedophilia, right? Because if you actually accept the term sexual orientation for  
9 what it really means, and you say that you can't discriminate on the basis of  
10 sexual orientation, then that would mean that you can't discriminate on the basis  
11 of pedophilia. It means you can't stop someone from molesting children. You can't  
12 stop them from having sex with animals, right? That's why they never put the  
13 definition in or if they do, they only put it in and say, "This is limited to  
14 heterosexuality and homosexuality," but there's no logic for that. It's an arbitrary  
15 ...

16 **[0:24:00]**

17 ... classification that cuts off legal protection on no real logical basis because the  
18 state of arguments that people make for legitimizing homosexuality can be used  
19 for all kinds of other things as well. They can be uses just as well for polygamy.  
20 Everything that the gays use in terms of their logic, in terms of why they  
21 shouldn't be discriminated against and how they should be treated in society,  
22 those all have the logical premises or presuppositions to them and if you take the

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1 same logical premises or presuppositions and you apply that to polygamy or  
2 incest or some of these other things, then you would've to then grant them the  
3 same legal sense, right? So that's why they don't define the terms, because as  
4 soon as you define the terms, then there's an opportunity to be able to hold  
5 people to a standard. There's an organization in the United States, it's called ...

6 **[0:25:00]**

7 ... the Southern Poverty Law Center. The Southern Poverty Law Center used to  
8 be a great organization that worked against racism in the United States and they  
9 went after organizations like the Ku Klux Klan and the Aryan nations that are  
10 really nasty hateful groups of people, and they built this reputation as champions  
11 of civil rights against hate groups. Well, in the United States, things have changed  
12 a lot. There aren't that many racists anymore and so they had become an  
13 enormous fundraising organization based on these themes. So they had to find a  
14 new group to be able to go after. And now, they're going after the Christian  
15 groups, again who are against homosexuality saying that being against  
16 homosexuality is the same as being against to somebody on the basis of a race  
17 and they define my group as a hate group and they define me as a hatermonger  
18 the same as a racist. Now this is a terrible thing especially in America where  
19 everyone is hyper sensitive ...

20 **[0:26:00]**

21 ... to all these things. To be called this and be called by that organization that  
22 has the highest stature in the whole country, that's terrible. So I went on their

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1 website, I went to this organization. I tried get them to stop, don't do this. I'm a  
2 Christian, I'm not against people on any basis, but the things that I say and  
3 they're not hateful. I don't hate anybody, I don't want violence against them,  
4 right? And so I made that approach. I went on their website, you know. This is a  
5 legal organization. In the law, the definitions of words, mean everything, right?  
6 You can't have a law. You can't impose a law on people without telling them  
7 what they have to do. You put a speeding limit up there, but then you don't  
8 define what the number is. Say, they're a speeding limit in this zone, we're not  
9 going to tell you that's 25 miles an hour. We're going to wait till you pass it and  
10 then we're going to arrest you, right? You can't do that. The law has to be  
11 accurately defined and, but on ...

12 **[0:27:00]**

13 ... their site, there's no definition of hate. There's no definition of hate. How can  
14 you do that, because, you do it because you want the ambiguity, the freedom to  
15 be able to point the finger so that people will think they know what you're  
16 talking about when you actually mean something else. And so that you can't be  
17 held to the same standard yourself, right? What is hating? Hating is an intense  
18 dislike or hostility, an intense dislike or hostility. Now, based on that definition,  
19 are the people that are accusing me of being a homophobe, were telling about lies  
20 about me and who are, you know, saying I'm a terrible person? Do they have an  
21 intense dislike or hostility toward me? Of course they do. By their own

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1 definition, they are haters. So then, then, if you actually put that forward, and  
2 people were actually asking these definitions, then you would have ...

3 **[0:28:00]**

4 ... to look and say, "Well, yeah, well, everybody hates somebody or something," or  
5 whatever and yet know that's not good, but it certainly doesn't rise to the level of  
6 creating all of the resource that you have and try to stop them in what they  
7 think, right? So then you have sort of put a level of grades. What do you mean  
8 by a hater? Do you mean a hater is someone who's going out injuring people  
9 because he hates? Or you're just talking about somebody that's just grumpy, that  
10 just doesn't like people, you know, maybe he's just a grumpy person and didn't  
11 have a good breakfast this morning and his blood sugar was off. That's the kind of  
12 thing that you're able to then talk about when you define the terms. Now going  
13 back to the whole idea of tolerance for example, tolerance is something that isn't  
14 just one a word with one level. For me, it actually created this chart. It's called  
15 the triangle of tolerance and I use the triangle because that's one of the symbols  
16 of the gay movement itself has used - the pink triangle.

17 **[0:29:00]**

18 And when I've showed on this is that tolerance itself has different levels, right?  
19 That when you're talking about tolerance, you don't give the same amount of  
20 tolerance to everything that you encounter, right? Steve is still over here and he's  
21 thumping his fingers like this and irritating me. I'm going to have, you know, a  
22 pretty high level of tolerance on it because it's really harmless, right? There's

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1 nothing really bad about that. But if somebody comes charging through the door  
2 with a machete and he says, "I'm going to attack this woman here with the  
3 machete," right? Am I going to tolerate that person coming here to do that? No.  
4 I'm going to have a zero tolerance for that. I'm going to tackle him, I'm going to  
5 drop knock him to the ground, I'm going to take that weapon away, I'm going to  
6 turn him over to the police. So we have different levels of tolerance. We have,  
7 and we do it based on the degree of good or harm that comes from the things  
8 we're talking about, right? So, if we're talking about, let's just take it right into  
9 the realm of homosexuality. Now, if we're talking about what is homosexuality...

10 **[0:30:00]**

11 ... mean? What is this gay agenda? How are we addressing this thing, right? If  
12 we were talking about the right of a person in their own mind to say, "I'm gay,"  
13 right? And it's happening in here, their own thoughts, right? How high should  
14 our tolerance be for people's right to think the way they want to about  
15 themselves? It should be way up here, right? Now we may not like it, we may  
16 not think it's a good thing. We may say, "That's harmful to you, but if you want  
17 to think that way about yourself then that's okay." We're not going to interfere  
18 with that. Maybe we'll tell you the truth, but we're not going to do anything  
19 about it but if your definition of homosexuality is being able to do whatever you  
20 want to, and then you should be able to go and engage into sex with other  
21 person and then because of that, the disease you have is going to spread to that  
22 person and they're going to take it home and give into their wife. How much

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1 tolerance should we have for that? We should have zero tolerance for that. You  
2 should not be able to do that. That's the same sort of thing. The freedom of  
3 speech, high ...

4 **[0:31:00]**

5 ... tolerance. Even if we don't like that speech, but freedom of action is going to  
6 depend on what you're doing. If you're driving around drunk, we're going to  
7 have very, very low tolerance for drunk driving. If you're out begging on the  
8 street, right, we'll have a medium level of tolerance about that. We don't like it  
9 but you know, so that's those are the few of the terms that we're dealing with. So  
10 I want to go back and just, if you get that out of the way, dealing with  
11 terminology, understanding words and the second question, moving on to that, is  
12 how do you know that to be true? And really what your asking is what's the  
13 source of the authority for your information, right? Now we've talked about, one  
14 of the things that was raised earlier was the idea that homosexuality that there's  
15 some times scientific evidence that homosexuality is genetically caused. Now, that  
16 and it was correctly ...

17 **[0:32:00]**

18 ... presented that it's not a decided question and I will give credit to that, but the  
19 implication is that really that's the way it truly is and that we should act that  
20 way in the interim until we find out, right? Now, and that was, that's an honest  
21 position to take. I completely disagree with it, but it's an honest position to take.  
22 That's not the way that it is around most of the world and when most of the

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1 people that you deal with as part of this topic. They do not say we think that  
2 there might be a genetic cause for homosexuality. They say gays are born that  
3 way and it has been proved. It's been proven that they are born in that way.  
4 That is a lie. That's what's called a lie. It is not true. There is no definitive  
5 scientific study that has ever proved that homosexuality is innate. It doesn't exist  
6 but there are thousands, there are millions of people on the face of the earth  
7 today that believe ...

8 **[0:33:00]**

9 ... that its true, why? Because it was introduced as a fact over and over and over  
10 and over again by people that want it to be true and nobody questions it at any  
11 public level, right? So when you're talking to someone they say, "Well, they can't  
12 help it. Gays are born that way." You ask them, "How do you know that to be  
13 true? How do you know that to be true? Where did you get the source of that  
14 information? I would like to see it for myself, right? I'm not calling you a liar  
15 but I'm just saying, I'd like to see that scientific study myself that says above  
16 where the bottom line says, homosexuality is caused by genetic factors and they  
17 are this." It does not exist. Okay, now we're going to address this on multiple  
18 levels, but must first of all, let's consider the question of whether in the intro,  
19 while we're waiting to see if this plays out scientifically ...

20 **[0:34:00]**

21 ... in the favor of those who want it to be true, should we in the meantime,  
22 assume that is true? Should we assume that homosexuality is innate unchangeable

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1 | people are born that way? Absolutely not because frankly, if it is not true then  
2 | that means it's acquired, right? If homosexuality is not caused by genetic factors  
3 | beyond everyone's control, then that means it can be acquired and if it can be  
4 | acquired and we've heard a lot of testimony about family factors and things like  
5 | that. If they can be acquired, shouldn't we be doing everything in our power to  
6 | protect people from acquiring it, right? Should we lean to the side of protecting  
7 | the children instead of affirming a scientific hypothesis that has no ...

8 | **[0:35:00]**

9 | ... actual truthful foundation? That's just, that's even if we're admitting that this is  
10 | an undecided factor, shouldn't we protect the children? Even if it is, I'll just give  
11 | them the benefit of the doubt. Let's just say that homosexuality is determined to  
12 | be genetically caused. Then the question to ask is, is this then a normal,  
13 | intentional, part of the human design or is it a deviation from the normal? Is it a  
14 | physical dysfunction that is the equivalent of some kind of a disorder? That's the  
15 | question. If it is, if it is by genetics, is it normal, healthy, good, intentional, or is  
16 | it something that's wrong that ...

17 | **[0:36:00]**

18 | ... should be looked at to be corrected? Where do you go for that? You know,  
19 | those are religious questions related to that, but there's also just simply self  
20 | evident the design of the human body. If someone is identifying themselves based  
21 | on their orientation for a person of the same gender, then that's seems to me, it's  
22 | the self evident disorder. I'm not Catholic but Pope John Paul, he defined

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1 homosexuality as intrinsically disorder. Meaning that's inherently self evidently  
2 disordered, right? Disordered because it doesn't fit the standard of the design the  
3 way things are supposed to be. We heard an example of what's called intersex  
4 right now, in the old days, that was called that they were called hermaphrodites.  
5 Hermaphrodites, that's a word that actually was invented by a German homosexual  
6 who was ...

7 **[0:37:00]**

8 ... a part of the gay movement before World War II. He invented that term to  
9 describe people that are born with both sets of genitalia. Are people born with  
10 both sets of genitalia? Do you think that that's an intentional part of the design  
11 of the human body, or is that some kind of a mutation that they're suffering  
12 from? Isn't it obvious? If someone is born with six fingers, are the six fingers on  
13 their hand – I'm just saying it's something that's normal, is that intentional? Is  
14 that he design of the human body? No, it's a disorder. It's a dysfunction.  
15 Something happened in their development in the womb that caused that to be  
16 born with six fingers or with both sets of genitalia. So it's easy to be able to  
17 differentiate between that and other things and so frankly, if someone is born  
18 with both sets of genitalia, I would say that it has a unique situation. There aren't  
19 that many ...

20 **[0:38:00]**

21 ... people that have this situation then it's a unique situation. They really have the  
22 choice of deciding which gender they want to be and they should have that

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1 choice. Maybe there's factors that made them far more obviously, a man than a  
2 woman and that should enter into it, but that's really the only category where  
3 you're talking about people that have a sexual minority that you are clearly where  
4 there's some opportunity for the person that exercise a choice that's not, there's no  
5 moral implications and that's really what we're talking about a lot of times. The  
6 moral implications of some of the issues like for example, the idea about being  
7 left handed. The idea that some people are discriminated against people that are  
8 left handed and that that's something that is equivalent to discriminate against  
9 someone who self identifies as homosexual. Now, a couple of things about that.,  
10 First of all, ...

11 **[0:39:00]**

12 ... that actual discrimination against left-handed people is a real thing. It isn't  
13 something that 's just sort of made up as a metaphor that people used to be  
14 discriminated against if they were left handed before the invention of toilet paper,  
15 right? Before the invention of toilet paper in Europe, the left hand was used to  
16 wipe the bottom after you had bowel movement. So if you were left-handed, then  
17 your natural inclination is to put forward your left hand because that's your main  
18 hand. But then no one would want to touch you because that was the dirty hand.  
19 That's what being left-handed meant is that you had something, it wasn't because  
20 you were left-handed, it was because your hand might be dirty, right? So, you  
21 know, there's no rational reason to be against somebody for being left-handed,  
22 right? Now, is that truly analogous to homosexuality? All right? Is it truly and

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1 analogous? Now let's bring in another thing at the same time so we can package  
2 it all together.

3 **[0:40:00]**

4 Let's bring in race, let's bring in skin color because this is really common in the  
5 United States and around the world in which race is being used as equivalent to  
6 homosexuality. People are discriminating against other people because of the color  
7 of their skin and they discriminate against homosexuals as well and that they're  
8 saying these two things are equal. Well, let's hear it from the audience here. How  
9 many people can tell me, what's wrong, what's morally, physically, behaviorally  
10 wrong with having a black skin? Can anybody tell me?

11 Female Speaker: Right.

12 Scott Lively: The color of your skin has nothing to do with what you do  
13 with your moral character, with any of those factors, right? Now tell me, without  
14 putting any judgment on homosexuality, just looking at it just what we already  
15 know about homosexuality, is homosexuality all about ...

16 **[0:41:00]**

17 ... something like skin color? Is homosexuality associated with behavior?

18 Female Speaker: Yes.

19 Scott Lively: Right, okay. Now, is the behavior that homosexuality has  
20 associated with, is it always good behavior?

21 Male Speaker: No.

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1 Scott Lively: Now, even if you accept this idea that homosexuality is good,  
2 valid, normal, healthy, you know that homosexuality also involves other kinds of  
3 behavior that's not healthy, that's not normal, right? So, if you say that  
4 discriminating against homosexuality is the same as discriminating against left-  
5 handedness or skin color, you're really saying that there's no moral judgment on  
6 homosexual conduct. You're not against homosexuality because the person, you  
7 know, it's not like skin color. There is no basis that you actually know even that  
8 anyone is homosexual unless they tell you. There's no blood ...

9 **[0:42:00]**

10 ... test you can take, right? There's no genetic test that you can take. The entire  
11 room here could be full of homosexuals, I wouldn't know. Now, some people act  
12 homosexual the way the homosexuals are supposed to act. A man who acts  
13 effeminately or a woman who dresses like a man or something like that and they  
14 may be, they're telling you by their conduct, by their demeanor, by their dress  
15 that they are homosexual or they want you to think that they are homosexual.  
16 But other than that, there's really no way to know whether. So what is  
17 homosexuality? What is it that we're talking about here? We're going to define  
18 the terms, right? A homosexual is a person who self identifies as such because  
19 there's no other way, right? If you walk into the doctors and say, "I don't really  
20 know what I am. I don't know what I am, a homosexual or a heterosexual. I  
21 just woke up this morning, I can't remember anything about my past and I really  
22 have got to know.

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 **[0:43:00]**

2 I got people, they want to date me on both sides. And I got to know which way  
3 to go. Doctor, please, please help me. Tell me whether I'm a homosexual or I'm  
4 a heterosexual". Doctors going to say, "Well, how do you feel?" Right? What  
5 he's saying is what's in your mind? That's all it is. What's in your mind? It's  
6 the identification with the homosexual identity that makes you a homosexual. It  
7 isn't really even the conduct that you engage in although that's sort of the proof  
8 of it over time. It's really the state of mind that you hold about your sexual  
9 identity. It's your personal, self-perception about your orientation toward other  
10 people which really what this makes it is largely emotional. Emotion based on  
11 perhaps physiological clues that you might have. So, you're having a sexual  
12 impulse and that impulse is oriented towards somebody ...

13 **[0:44:00]**

14 ... of the same gender instead of the opposite gender, right. And this is not all  
15 that uncommon, as many as 25% of young people in early adolescence have  
16 same sex attraction of some kind and here's the dirty little secret that the gay  
17 movement doesn't want you to know. The large majority of those people never do  
18 anything about it. If you catch them at 12 years old, which they're working very,  
19 very aggressively to do and you tell those children that if you have attraction  
20 toward someone of the same gender, that means you're gay. And because you're  
21 gay, you need to come with us because you can't go around regular society  
22 because they hate you. It's full of homophobes that want to hurt you. So you

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 | come with us where you're going to be safe and then what do they do? Now,  
2 | what happens with the first sexual act that you have as a young person, how  
3 | powerful is that? I mean, how many people here are married that know what an  
4 | orgasm is like?

5 | **[0:45:00]**

6 | It's like the best drug you can ever have. There's an explosion of pleasure in  
7 | your brain that changes all your thinking about who you are. It's an awareness of  
8 | sexuality and suppose you're a little 12 year old girl and you are feeling an  
9 | attraction to other girls, perfectly natural. It happens all the time. It goes away by  
10 | the time you're older, but there's that time when during that day when all boys  
11 | and girls will feel attraction to the other as they're starting to have puberty take  
12 | place. But instead of it naturally going away as the girl discovers boys and has a  
13 | normal life, all of the sudden there's another girl in the school and she comes  
14 | and says, "You know, come with me", and she ends up having an orgasm in a  
15 | relationship with that girl. That automatically, immediately, is like a huge stamp  
16 | boom boom, you're a gay, right? You walk away thinking, "I had pleasure and so  
17 | therefore I must be gay." And then ...

18 | **[0:46:00]**

19 | ... from then forward can self-identifying as gay and then think of yourself that  
20 | way and of course there's a whole network of people ready to simply inculcate  
21 | you and fold you into their world. And they want more and more people in their  
22 | world because they are in a campaign to change everything. And the more

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 people they have on their side, the less they feel abnormal because there's more  
2 of them. The more people you can have with you, that in something that society  
3 doesn't like, the easier it is to be able to deal with the shame of it or the  
4 knowing that you're disapproved off by other people. That's not to take away  
5 factors like sexual molestation and other things that may cause you to be even  
6 more vulnerable and you know predatory gays and there are a lot of - not  
7 everyone is and are not. Please don't misquote me, but there are number of  
8 people. They're very predatory, they are very sexually oriented.

9 **[0:47:00]**

10 That want to satisfy their sexual desires. Often these are people that were  
11 molested themselves and they are turning it around and they are looking for other  
12 people to be able to prey upon. And then when they see a child that's from a  
13 broken home, it's like they have a flashy neon sign over their head. You know,  
14 my dad doesn't love me or you know, I'm discouraged and full of fear about my  
15 future or whatever. That child is so vulnerable to a man like, I know a 14 year  
16 old boy for a man to come along and say, "You know, I care about you", right?  
17 Now, and then the next thing you know that child is now identifying as  
18 homosexual. These are very serious matters. So what does it mean to be  
19 homosexual? Define the term really, it's a state of mind. And more it is a pattern  
20 of behavior that its either a ...

21 **[0:48:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... desire to engage in sexual relations with the person of the same gender or the  
2 actual participation in that conduct. So you can really see if there's absolutely  
3 nothing that correlates between skin color and homosexuality. Now, what they  
4 want you to think when they say homosexuality, is that this is an innate  
5 unchangeable condition, right? That this is something that, let's just say, okay,  
6 let's take that they're born that way or the genetic factors out of it, or let's leave  
7 them in for a minute. There's a couple more things we need to deal with. Even if  
8 you were born this way, does the fact that you have an impulse to do something  
9 that isn't your choice, does that give you permission to do it? No, of course not.  
10 I'm a man, I was born with a very strong sex drive. I'm attracted to lots ...  
11 **[0:49:00]**  
12 ... of women. When I walk down the street and there's a beautiful women there,  
13 I have an impulse inside of me, right? But you know what? I'm married. I'm  
14 married and I made I promise to my wife. I'm not going to have sex with other  
15 women, right? I was born that way. I was born as a man. God gave me a sexual  
16 drive. Does the fact that I have that impulse legitimize my desire to indulge it?  
17 No, and we're not asking anything different from someone who would identify as  
18 a homosexual. We're saying, yes you may have an impulse in you that you can't,  
19 that you don't have much of a control over, but that doesn't mean that you  
20 should do it and what about people who have an orientation towards children,  
21 right? Now, you say if I'm in the US and I bring this up in an audience and all

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 of the sudden he screams in front of you. “How dare you say that homosexuality  
2 and pedophilia are equated.” Well, they are equated.

3 **[0:50:00]**

4 They are equated because this very same arguments that you can make for  
5 homosexuality apply equally to pedophilia in many ways, not in every way, but  
6 in many ways. For example, the pedophiles that have been studied, they don’t  
7 have. They don’t feel that they can control their sexual desire, right? This is  
8 something that is beyond their ability. It’s something inside of them, they are  
9 oriented towards children and they want to pursue this sexual desire. Now, we  
10 have a different legal standard saying children don’t have the right to consent to  
11 sexual behavior, but take that away and if you’re looking purely at the scientific  
12 side of this, there’s no difference between having that kind of orientation versus  
13 another as to whether or not is the way it ought to be clearly is not the way  
14 that it ought to be. It’s wrong and it should be discouraged. Now,

15 **[0:51:00]**

16 ... what two adults do in the privacy of their bedroom is a different matter. And  
17 frankly, my posture is if you want to be homosexual, if you want to live as  
18 homosexual person and you want to do that in private then I accept that, I will  
19 tolerate that. I don’t think that it’s my place to come and try to force you to  
20 stop doing something that you’re doing with a couple of conditions. One, that  
21 you’re not going to go out in the street and start promoting this and try to get  
22 other people to do it, to try to change all the laws and create a pro gay society.

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 Um, and we're not going to let you to do things that are going to harm the  
2 public. We are not going to let you engage in promiscuous sex with lots of  
3 people where disease is going to get spread and we're all going to have to pay  
4 for it for the public health service and all the consequences that are going to  
5 come from that. But we have the same standard on that for people who are not  
6 homosexual. We shouldn't be tolerating people sleeping with everybody that they  
7 meet anyway because it's hurting them, it's hurting all society.

8 **[0:52:00]**

9 Right? These are logical, rational standards that we just simply want to apply it.  
10 So there, there is a little difference but that isn't always the case either even  
11 though probably the majority of homosexuals are not oriented toward young  
12 people. There is a significant number that are - especially the men. Men, male  
13 homosexuality has historically been not adult to adult. It's been adult to teenager.  
14 It's called pederasty. Pederasty, I think that's what they're talking about in your  
15 June 3rd holiday, right? Someone mentioned that last night. I really don't  
16 know anything else that the June 3rd, what is it called?

17 Male Speaker: Marthos [ph].

18 Scott Lively: Marthos?

19 Male Speaker: Marthos.

20 Scott Lively: That when, when 21 boys refuse to submit to sodomy? That,  
21 that's called Pederasty, now pedophilia is sort of the over arching category. It's an

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 adult who had sex or wants to have sex with children, right. But really the sub-  
2 category is Pederasty ...

3 **[0:53:00]**

4 ... and pedophilia is much is more oriented toward younger children, pre-  
5 pubescent children, six, seven, eight years old. There a sort of different type of  
6 mentality of the people that go in for that. The ones that go in for the youngest  
7 kids, usually will go for both sexes, right? A pedophile who goes after little kids,  
8 will go after both of them often and these are generalities, these are broad  
9 generalities. But pederasty is when a man wants to have sex with a teenager,  
10 right? When they reach the age of puberty and this is actually been accepted  
11 throughout centuries in many cultures, right? It's wicked evil thing, it's terribly  
12 destructive, harmful but it's been a part of many cultures. In fact, I read an  
13 article that this was part of the Zulu warrior culture. Someone was defending gay  
14 marriage in South Africa on the strength of the argument that, that the Zulu tribe  
15 used to allow this, right? So therefore we should have gay marriage ...

16 **[0:54:00]**

17 ... but this is harmful to children, it's terribly harmful to children. This is what  
18 the Spartan culture did, you know, the Spartan army and ancient Greece had  
19 mandatory induction of eight to 12 year old boys. They would take them from  
20 their family, they would put them on the military and they would be given to  
21 adult homosexual soldier to be trained in the military arts and homosexuality.  
22 And, uh, this is not uncommon and it's very harming, and that's the thing. I was

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 hearing testimonies last night with the meeting I was in, with people standing up and  
2 saying, “With kind of homosexuality that’s, um, that is often like uh, we’re  
3 dealing with the in Uganda is Pederast adults sodomizing teenage boys. So, so  
4 there is a correlations to some degree. ...

5 Female Speaker: I guess it’s headed for us heads.

6 Male Speaker: Spelling?

7 Scott Lively: Spelling of pederast? Okay, uh, pederast is P-E-D-E-R-A-S-T

8 ...

9 **[0:55:00]**

10 ... pederast. Now, I think I got the five minute warning you for the end of the  
11 session. Is it actually five minutes or are we...

12 Female Speaker: About.

13 Scott Lively: You got five minutes, okay. Let me just take a couple of  
14 minutes now, uh, I just think what I haven’t addressed here. I was born that  
15 way issue. I want to move on after that. That, well here from spiritual  
16 perspectives, there’s this, God does not make people to have no choice in the  
17 behavior that he condemns, right? God doesn’t make people to have no choice in  
18 a behavior that he condemns. There’s no question that the bible does condemn  
19 homosexuality, right? And there’s no question that, that many people who struggle  
20 with homosexuality, it’s an overpowering urge in them. But God does not, never  
21 leaves a person without a way of escape, right? If you’re coming from a Christian

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 perspective, you know this. That's the biblical truth. So you're asking whether  
2 people are born this way or not than from, uh, from the Christian perspective ...

3 **[0:56:00]**

4 ... absolutely cannot be true. Now, it is true that every person has challenges in  
5 our lives to that, that we have to deal with. Same sex attraction is just one of  
6 them, right? If you're not dealing with same sex attraction then you're dealing  
7 with something else. You're dealing with greed or lust or envy or you're dealing  
8 with a personality problems or something that's yours, that God allows and uses  
9 in your life so that you can be shaped. Now, we don't put ourselves above  
10 people who struggle with homosexuality, I know better, I'm no, as a Christian,  
11 I'm just as, as much of a sinner or worse than any homosexual person. But the  
12 difference between me and them is that I admit that my sin is sin and they say  
13 their sin is actually a blessing from God. They're denying the truth of God and  
14 after, then in the next session I want to start by going the parallel sources of  
15 authority for the position we're taking.

16 **[0:57:00]**

17 The last word that I want to have in this session is that I want to make a very,  
18 very clear line of distinction between people and the movement. When we're  
19 talking about homosexuality, whenever we're talking about individual people then  
20 I have a personal duty and every other one of you do as well to be, uh, doing  
21 everything that you can, to be, to be helpful to that person, to be able to  
22 overcome they're problem, to not pile another burden on them. You know, if

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1 they're engaging in criminal behavior, they're messing with kids or something like  
2 that, it's a different story. But if someone is just simply dealing with  
3 homosexuality where they're struggling against it or not, our responsibility is to  
4 treat them as a human being, a fellow creation of God who deserves respect even  
5 if we disagree with them on everything that they do, everything that they say.  
6 And then that there's, there's a line you have to walk in that when you're  
7 dealing with people who are doing things you disagree with.

8 **[0:58:00]**

9 I look at it like, people that are drunk drivers or they're alcoholics like I used to  
10 be or drug addicts, or people that, or any type of thing - just put it in that same  
11 type of context. We care about the person even though we don't like what they're  
12 doing, but that's very different from what with we're dealing with the gay  
13 movement. The gay movement is an evil institution that's goal, the goal of the  
14 gay movement is to defeat the marriage based society and replace it with a  
15 culture of sexual promiscuity in which there's no restrictions on sexual conduct  
16 except the principle of mutual choice. Doesn't mean that every gay person knows  
17 that or they're actively pursuing it themselves, but the movement itself, its goals  
18 its implicit goals, its necessary goals. I'll talk about that as well. So we divide  
19 those between the person that we love and the movement that we hate and the,  
20 and I'll keep that really clear as we go forward. Thank you for being patient  
21 during the first session.

22 **[0:59:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 Male Speaker: To just get a few of ideas from what we heard yesterday  
2 and I wanted to ask that to all homosexuals who desire change, all of them are so  
3 proud of what they're doing and they want to promote it.

4 Male Speaker: Of course, I 'm so happy for the lesson. Before I ask what  
5 the question, I want you to, to clarify something about sexual orientation. Yeah,  
6 that is true. I've come to know that sexual orientation as a counsellor 0:59:37.9  
7 and has a lot. It is their closer route to re-approach them and to result into  
8 homosexuality. Sexual orientation theory. When, the pastor tells me that sexual  
9 orientation, yes, everybody sexually got the answer but if everybody is sexually  
10 oriented and you're telling me for you, you are sexual oriented to men so you  
11 are a homosexual. This sexual orientation I'd follow, all creations because you  
12 going to had a sexual orientation to get at him.

13 **[1:00:00]**

14 But not at him this sexual oriented, you are saying sexual oriented to the shoes  
15 so you're into everywhere. Sexual orientation is there that we are talking about  
16 sexual orientation to hear it to come around from a sexuality and sexual  
17 orientation, sexual orientation theory to gender identity because the pastor will say  
18 I'm a homosexual. Then he will carry these things, I'm a homosexual and say  
19 I'm a homosexual but we are homosexuality, I'm following such a task. I'm a  
20 transgender one, I'm a bisexual two, then we carried on to this sexual orientation.  
21 I'm sexual oriented, I'm a bisexual, then that will be in that, that will be in that  
22 if a pastor used to telling me he is sexually oriented to men and he tells me

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 he's a bisexual and transgender, then I will ask, "How are you becoming a  
2 transgender"? Then he can answer that, I'm in a transition to my sexuality ...

3 **[1:01:00]**

4 ... then in question.

5         Scott Lively: Uh, I'm going to do the last one first because I think that  
6 whole stance of some of the other ones and that's the whole idea of sexual  
7 orientation theory and brings up one of the things that the gay movement does.  
8 They uh, they use hidden false assumptions in their arguments. Like for example,  
9 whenever they're talking about homosexuality, it's always assumed in everything  
10 that they say that homosexuality is innate unchangeable and that that's proof,  
11 that's proven, that's assumed in their arguments. So, if you are not careful, if you  
12 are not, uh, analytical thinker, you're not going to realize you're being trapped in  
13 an argument where part where the one of the conclusions has already been  
14 assumed to be true and then you're stuck dealing with the context that's false. So  
15 a part of that is the idea of the equivalency of homosexuality and heterosexuality.  
16 When the gay movement says homosexual, what they're saying is that especially  
17 used in sexual orientation theory ...

18 **[1:02:00]**

19 ... is that, if they are homosexual, you are a, an equal, uh, person on the scale  
20 of sexual orientations. That whether your homosexual or heterosexual, you're both  
21 made to be that way that the two full status, the two forms of status are  
22 exclusive, you're either a heterosexual or you're a homosexual, right. That's very

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 | important deception, uh, that's included in there because it, because all the  
2 | assumptions of the born that way and all that are built into that idea. But in  
3 | reality, is that true? Yeah, of course everyone is equal in worth under God, but  
4 | are we equal and in terms of design, and this is something not true.

5 | Homosexuality is the deviation from the norm, are you either a homosexual or  
6 | heterosexual exclusively? Then what about bisexuality, how does that fit into this  
7 | mix? What's, what's ...

8 | **[1:03:00]**

9 | ... the orientation of bisexuality? You're oriented toward both, right? Or where  
10 | does this idea come in? What you're talking about then, is that person a  
11 | homosexual or heterosexual? No. There's another category? What if you're  
12 | oriented toward more than one person? Is polygamy? Is polyology or what do  
13 | you call it? polyamory? You know, is that a, a legitimate, equal orientation,  
14 | right? So that's how it's presented on the scale. Heterosexual, homosexual and  
15 | they don't, they really don't talk much about bisexuals at all. It's included in the  
16 | GTB whatever all the letters that they run together. And I'm going to talk about  
17 | how all those sexual categories interrelate together on a scale of gender identity  
18 | disorder. Uh, before I, let's just deal with this that, that the fact of the matter is  
19 | every single person is heterosexual. That's the design ...

20 | **[1:04:00]**

21 | ... of the human body. You have, you're either male and with the exception of  
22 | hermaphrodites, we've already established, this is a dysfunctions. It's a biological

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 dysfunction mutation, right, but other than that every person is either biologically  
2 male or female. You have a – and you, you’re defined by that by your genetics  
3 and your reproductive system. And as a matter of fact every sexual impulse that  
4 you have originates in your body because you have a reproductive system, right?  
5 You’re a man or a woman, you’re getting that impulse to have sex because you  
6 have a penis or a vagina because your body is made in a way to make babies,  
7 right? Now, whether you, you use that sexual impulse for making babies or to  
8 indulge in sexual pleasure with your husband or your wife, that’s a choice that  
9 you have. But there’s no question that the impulse itself comes from your  
10 reproductive physiology, right. What happens in the homosexual person, a  
11 homosexual.?

12 **[1:05:00]**

13 It’s a heterosexual person who when they receive the impulse to have sex or to be  
14 attracted toward someone sexually, instead of turning toward the person that  
15 they’re designed to mate with, they turning the opposite direction to the person  
16 that they’re not designed to mate with, for all different kinds of factors, right?  
17 That’s clearly is not so the real it doesn’t look like this, right? This isn’t either  
18 homosexual or heterosexual and all other things are equal, no. Every person is a  
19 heterosexual and you, you can also be any one of the number of other things.  
20 You can be heterosexual and a polygamist, you can be heterosexual and a  
21 pedophile, you can be a heterosexual because that’s who you are. You are simply  
22 using the impulse of your sexual drive in a direction that it shouldn’t go and

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 whether or not you have control over that, that's another question, but just  
2 physiologically, that's the, that's the answer to that. Now, dealing with the issue  
3 of the America Psychiatric, you know ...

4 **[1:06:00]**

5 ... that you can't always count and rely on people based on credentials and, right,  
6 just because something has a PhD or they have a status that's high in society.  
7 doesn't mean that you can trust what they say, right, right, if a different PhD,  
8 and there are PhD's in the world were to come into this room right now and to  
9 began arguing on behalf of why adults should be able to have sex with children,  
10 right. And lay out a whole case for why it's true and all that. And if he brought  
11 in hundreds and hundreds of other people that agreed with him, would it be  
12 right?

13 Female Speaker: No

14 Scott Lively: Whenever he brings ambassadors, he brings presidents, he  
15 brings college professors, he brings, uh, he brings archbishops, right, into the  
16 room with him, they all share the same opinion. Is it ever true? No, it's not true.  
17 Because the truth is something all of us have the ability to know and recognize  
18 with our own thinking minds. God has given us the ability ...

19 **[1:07:00]** ...

20 ... to have intelligence, right, and when there's something that's self evidently  
21 true, you simply don't accept the idea just because someone with credentials  
22 comes along, but the average person doesn't have that perspective. And so they're

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 easily manipulated. If someone gets to a place of power in his own organization,  
2 and then they begin to use that position of power in order to be able to change  
3 society. Now, that happened in my country and before the civil war in America.  
4 The leaders of my country were racists, right? They believed that black people  
5 were inferior, they were a lower step in the evolutionary scale. They had degrees,  
6 they had credentials and they had all the places of power and in the United  
7 States Supreme Court there was a ruling, the Dreads Taft decision in the 1800's  
8 that said that black people were really 3/5 human for the purpose of taxation so  
9 that they wouldn't be given full stature as an, as a person, right. Was that right?

10 **[1:08:00]**

11 ... Was the fact that all those people agreed together on something was wrong, did  
12 that make them right? No. That's the same situation we have with the American  
13 Psychiatric Association and all of these bigshots that are coming down from  
14 Europe. The, the European Union. We're talking about people that hold an  
15 ideology that is directly contradictory to the things that we believe and because  
16 they have been aggressive at seeking to change society, they manage to put  
17 themselves in the seats of power. You know what happened to the American  
18 Psychiatric Association? In 1973, after a four or five year campaign by extremely  
19 aggressive homosexual activists, this is what had happened. They first, in the  
20 60's, they came forward and they said, "We need to take homosexuality out of the  
21 list of mental disorders. They had to do that politically because that was the

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 thing that was stopping them from pushing down the rest of the barriers. That  
2 was what's ...

3 **[1:09:00]**

4 ... allowed people to say "I'm sorry we're not going to let you be", you know,  
5 you're, you're engaging in this, we're not going to let you be, uh, uh, childcare  
6 worker in this daycare center, things like that. And so they needed in order to get  
7 legally in anti-discrimination policy based on sexual orientation, they needed to be  
8 able to knock that down and so they started going to conferences like this  
9 anytime there was psychiatric conference of when anybody on my side, anybody  
10 on our side, most people in here agree with my perspective, had gone out to  
11 speak and said "Why homosexuality should still be considered to be a disorder,"  
12 and why they would, they would shutdown the conference. They would engage in  
13 civil disobedience, they'd yell at them, they wouldn't let them talk, right, and they  
14 wore them down. They would accuse them of hatred, they accused them of  
15 genocide against gay people or something like that. Now, most people can't take  
16 that kind of thing, right and the average person. I 'm a little different, I got really  
17 thick skin and the more it prepared me for this battle. But the average person, if  
18 you took a college professor from over here at the university ...

19 **[1:10:00]**

20 ... and you brought them in here, you put them and they were subjected to that,  
21 they wouldn't come back and do it again, right? Why would they? It's not that  
22 important to them. Yes, you know, to me, the truth is important enough to die

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 for, right? But for most people, it's just an issue, right? So they drove people out  
2 of the process, they shut down all the conferences and then they forced a vote  
3 among the membership of the American Psychiatric Association, a vote by mail,  
4 right? This was a secret ballot, right, this was a vote by a mail where the mailing  
5 that was controlled by the gay and lesbian taskforce, right? And so they've  
6 changed the definition, they've changed the stature of whether homosexuality was  
7 a disorder or not on a politically driven vote where the mailing list of the people  
8 voting was controlled by the gays, right? Well, once they got control of it, they  
9 had used psychological manipulation of their own kind, political manipulation to  
10 make sure everybody's into what. You know, today it's so bad ...

11 **[1:11:00]**

12 ... in my country, but there's in Utah the, the state of Utah is one of the most  
13 conservative states in the whole United States. Mostly, Mormons, they're a very  
14 very legalistic state very, very strongly oriented toward their faith mostly based  
15 on the bible. And the, and, and a senator, state senator in this state stood up and  
16 said nothing but homosexuality is, is abnormal and it's dangerous to society. He  
17 was forced out of his post as the chairman of the appropriations committee in  
18 one of most conservative states in the country with a constituency that all agreed  
19 with us, right? That's the same kind of thing that they did to everybody that  
20 dares to speak and right now they are trying to push through a policy in which  
21 people who are trying to treat gays, right. Who tried to provide therapy for them,  
22 the ones, just the ones who want to change that comes to the therapist and say,

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 “I don’t like this, I want out of it”. They’re trying to change the policy so that  
2 would be not allowed and if you do it, you will subject ...

3 **[1:12:00]**

4 ... to criminal and civil prosecution. That’s what control of the APA has done and  
5 a few years ago, the APA also changed the definition of pedophilia. And said  
6 that is not really a problem unless it’s interfering with your work life or other  
7 things. So they, they’re doing the same thing with pedophilia that they did with  
8 that. Now, all the activists all over the world now use the APA which is like the  
9 elite at the elite organization which is everyone points to. Okay, well the APA  
10 says this, it must be right. So now the UN and all these other organizations,  
11 they simply referring back to this. You know what? There’s an incredible article by  
12 a Dr Jeffrey Satinover. This guy is one of the most brilliant people on the face of  
13 the earth today, right? He wrote an article called the Trojan Couch. That’s the  
14 beginning the Trojan Couch, I excerpted it in by new book, but if you want to  
15 write, if you want go to the NARTH website right here. And you Google the  
16 Trojan Couch or even just Trojan.

17 **[1:13:00]**

18 You’ll probably find it in there. This guy, he was teaching Law at Yale and  
19 Physics at another ivy league university when he wrote this, this genuine  
20 renaissance man. A medical doctor, a therapist, a scientist, he went back and he  
21 studied, he looked at the studies that were used by the gay or by the APA to  
22 justify the change. And you know what, even today after decades of additional

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 scientific studies that they've done, the number one study that they used to justify  
2 the decision was done in 1957 by a woman named Evelyn Booker who  
3 manipulated the data intentionally. It was based on 30 people that she handpicked.  
4 She handpicked them and took out all of the people out of population before she  
5 did the study, anybody that had any mental health problems. She took them out  
6 of the study.

7 **[1:14:00]**

8 And then she based the study on 30 people and that study was the scientific  
9 basis for the change of the APA and that has been brought forward to the – and  
10 nobody knows this stuff because if you dare, if you dare to say that  
11 homosexuality is wrong and abnormal, you get crucified and I'm one of the few  
12 people that has the ability to actually stand up and say I've insulated myself from  
13 attacks to a very large extent. I'm not on any official university staff, I'm not, I'm  
14 not, I don't have a boss sitting over me that is subject to political pressure. You  
15 know, I have the Holy Spirit in me that makes me invulnerable to intimidation.  
16 But there aren't very many people like that and that's why the APA did this and  
17 their position has absolutely no validity at this point. Uh, and then, uh, do all  
18 homosexuals desire to change? Clearly they don't. Uh, and one more thing ...

19 **[1:15:00]**

20 ... on you in that regard is that one of the reasons that they accuse you and they  
21 accuse me of being haters of homosexuals, of being homophobes is not just to  
22 silence you from speaking. It's also to intimidate the people that are already in

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 the gay movement, right? Many of them don't want to be there, they don't want  
2 to have an orientation toward the same sex. Now, they may, that's one of the  
3 reasons why they're such enormously high levels of alcoholism and drug addiction  
4 in the gay community. They're drowning out the fact that they are really truly, it  
5 isn't gay. It's miserable for many of them. Now some of them are perfectly happy.  
6 But some of them, many of them are not and the reason that they then always  
7 saying everybody outside our community is a hater that wants to hurt you. So  
8 that they will be afraid to leave that community and go and talk to somebody  
9 else who disagrees. So, uh, I think that covers most of what you had asked for ...

10 **[1:16:00]**

11 ... learning about the two questions that we can always use when we're  
12 addressing this topic and frankly you can use it in any, uh, setting. Uh, it's really  
13 it boils down to the Socratic Method. The Socratic Method is Socrates' System  
14 of, uh, leading a person to challenge their own presupposition, their own thinking  
15 by simply asking questions and we've boiled it down into the two questions.

16 What do you mean by that? And how do you know that to be true? And now,  
17 we're going to address how do you know that to be true is the, is the beginning  
18 of this session. We're talking about sources of authority. How do you know that  
19 anything that you believe is really true? And I'll, I'm going to be very  
20 philosophical for a few minutes and then I'm going to get practical because I'm a  
21 believer in the creation of the universe by Jesus Christ. That the ...

22 **[1:17:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... universe, it operates according to logic and rationality because God has built  
2 moral and physical laws into it, that all of us are subject to. That's actually the  
3 meaning of Genesis 1:1. In the beginning, God created the heavens and the earth  
4 and he did it, it's called ex nihilo from nothing, he created from nothing and if  
5 you, if you accept that, then everything else in his creation make sense, right?  
6 And but if you don't then you have to ask some other explanation for how we  
7 got here and how everything works together. And the primary alternative  
8 challenges the evolutionist perspective, it said that really with the cry of random  
9 chance. That, uh, that evolution is just simply a series of various different, uh,  
10 accidental occurrences that culminated in this very ordered universe somehow.

11 **[1:18:00]**

12 And, uh, you can go on the opposite way and, and you and this is something I  
13 learned in the very beginning of law school. I had a, uh, very brilliant  
14 constitutional law professor and, uh, he taught on this topic of about how  
15 everything that you can conclude, anything that you can believe rests upon a  
16 series of presupposition. Anyone know what a presupposition is? Something that  
17 you have to believe first before the next they can be true, right? So starting at  
18 the end of the process and looking at a conclusion, right? That conclusion rests  
19 on a whole series of presupposition. In order for this to be true, this must be  
20 true. In order for this to be true, this must be true, right? And, uh, if you are a  
21 Christian and you accept the authority of the Bible then the ultimate source of all  
22 the authority, the final presupposition at the very bottom of the stack ...

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 **[1:19:00]**

2 ... of all there is, right? If each one of those presuppositions is a brick, right, at  
3 the very bottom holding it all up is something called the prime reality. The prime  
4 reality is the presupposition that itself does not depend on any other  
5 presupposition, right? It's the ultimate foundation and for a believer in the  
6 scripture that's Genesis 1:1. You don't have to go any further than that. That  
7 explains everything. It's the rock on which everything else rests. God made it.  
8 God exists outside the time and who has all power, made all of these things.  
9 Now, if you're coming from a different perspective, you're coming for the  
10 evolutionist perspective, right, the idea that we're the product of random chance that  
11 there's no built-in set of rules in the universe that we're subject to, that the rules  
12 are really just random, right? We just happened to be lucky to come ...

13 **[1:20:00]**

14 ... to this place where everything seems to be fit together and work, right. And  
15 then it's, it's, you know, if, if that was really true, if we're really operating  
16 according to random chance, at any given time, right, any person in this room  
17 could just spontaneously explode into flames or any one of the number of other  
18 things could happen. Because random chance is random, right and it doesn't  
19 really produce order at the end, but some people believe that, and when you  
20 challenge somebody in that kind of thinking, and then they say something, they  
21 make some assertion, like, um, you know, that, that the sun's going to come up  
22 tomorrow. They already know there's no foundation of anything that they believe.

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 You test them on their presuppositions, one of the other, what's the prime reality?

2 What's the original presupposition that depends on nothing else? There isn't one.

3 It just has to keep going down and down, back and back, further and further.

4 That's why, when you're dealing with someone, an evolutionist, they're always  
5 pushing the timeline ...

6 **[1:21:00]**

7 ... farther away. First, it's a few billion then it's many billions it's trillions of  
8 years and keeps going and going. And then when they, you finally calmly ask  
9 how it goes about the Big Bang. The Big Bang is the beginning. Well, where  
10 did that come from, right? All of that was aliens, aliens came from another  
11 universe and seeded this universe. Well, where did they come from, right? See,  
12 there's no beginning, there's no ultimate presupposition, right? So I happen to  
13 hold to the belief that God's word is true. And that there's a logic to all these  
14 things and everything I conclude therefore make sense, right? It's, it's logic. So  
15 you don't have to be a Christian to believe in logic, right? There are lots of  
16 people in this world who operate according to just simple observation and truth.  
17 Then we're going to be, we're going to be, we have to really keep our  
18 discussion within those two kinds of categories of people. Because if you're  
19 talking it with someone who doesn't have a source of authority, except their own  
20 opinion, right? Then that opinion can change ...

21 **[1:22:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... at any time and it's really based on nothing, it's something that they heard.  
2 They can hear something else tomorrow and completely change it and why  
3 shouldn't they? Because there's no, because it's all randomness, it doesn't mean  
4 anything. So we have to really keep between the two different sources of  
5 authority that actually have, uh, reasoning behind them. One of them is religious,  
6 and one of them is non-religious. And I'm going to start with this the, the  
7 sources of authority that we can use to be able to make our way through the  
8 world and then in especially dealing with the subject of homosexuality, family  
9 life, society, health, how things should operate. Um, that, that the one is called this  
10 observation in logic, you don't have to be a religious person at all. In fact, the  
11 number one person in the history of civilization in my perspective that, that really  
12 taught logic and critical thinking was Aristotle, the ancient Greek Philosopher.

13 **[1:23:00]**

14 Aristotle was purely secular man. He was not religious at all. He was just a  
15 person that observed things.. You know, he, he looked at the universe, he said  
16 "This must be true because that's true," whatever, he and he's really he is a  
17 foundation for Western Civilization and, and his way of thinking. What he  
18 invented or what he, uh, wrote, his philosophy that he articulated, he wasn't the  
19 first one, he wasn't the last one. He's the one who really did the job to be able  
20 to explain how you can look at things and understand them. And he, it was  
21 called teleology and what it means is that you can tell the purpose of anything  
22 from the way that it's designed and the way that it functions, right? You can sort

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1 of back engineer, you can sort of figure out why is this thing the way it is, well  
2 you look how it's made, what does it do, right? Therefore the purpose of the eye,  
3 what's the purpose of the eye? The purpose of the eye is to see. That's what it  
4 does.

5 **[1:24:00]**

6 That's how it designed, it really doesn't function for anything else or you can try  
7 to drink milk through your eye, all right but it won't work that way, right. You  
8 can make something that's designed a certain way do other things, right? You  
9 can drink milk through your nose, right but that's not what your nose was made  
10 for. And if you use it in a way that it wasn't intended, you're going to,  
11 potentially do damage to yourself and so there's principles that are sort of built  
12 into this. So teleology is this idea, you can look at anything, you know, the  
13 purpose of this cup, is to hold liquid, I mean it could hold other things. It can  
14 hold solids, it could hold sand, etc. but that's really what is made for. You could  
15 use it for a lot of other things, there's different variations by the way. Some  
16 things are more very specifically than the cell. The cells that your body is made  
17 of, they're very, very specifically designed to do things and the inner part of the  
18 cell. You know that the human cell is like a, a country filled with factories ...

19 **[1:25:00]**

20 ... that the sub-parts of the cell are little factories doing things that are beyond  
21 our comprehension. If you ever study molecular biology, it's astonishing, the  
22 complexity and at that, how could that come from random chance, just simply

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1 absurd. But anyway, I'm getting off the topic. What Aristotle created was called  
2 natural law. Natural law has a lot of different definitions today and over the  
3 course of the centuries, there are different people have called it one thing or the  
4 other and its simplest form, natural Law is just simply recognizing that there is a  
5 design and an order in the universe. That there are physical laws, you know if I  
6 pick up my pen, if I drop my pen it's going to fall to the table that is there  
7 because of the principles that are built in there, gravity and you know, things  
8 that interrelating orientation of, of bodies in space, all this kind of things that the  
9 scientists have since explained ...

10 **[1:26:00]**

11 ... by another one of Aristotle's, uh, things that he inspired is called we today  
12 call it the scientific method, right? His approach really laid the groundwork for  
13 what we call the scientific method, the idea that you can actually study something  
14 and that you know that it's true because the same test repeats. You get the same  
15 result following the same, you know, in the whole idea keeping a controlled  
16 study and all those things, all originate from Aristotle. And none of them could  
17 be true or could work unless his first principle was true that you can, that you  
18 can read the order in the universe, right? Once you read the order in universe  
19 then Natural Law make sense. The scientific method makes sense and that's the  
20 basis for everything. All this technology that we have in the room, the computers,  
21 the cameras, you know, the, the, uh, the building that we're in, the ability to

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 actually construct the building that stands up straight. Those are all, exist because  
2 of these principles ...

3 **[1:27:00]**

4 ... that human beings have actually looked that, understood, and applied. It's one  
5 of the most in science, it's one of the most arrogant and foolish things that you,  
6 that we see around us as people who take and say that they invented something,  
7 right? When all their simply doing is taking something that God built into his  
8 universe and they're reverse engineering it so that they can copy it in some way  
9 and then they say they're the inventor of it and, and this isn't something from  
10 God. It's arrogance to the extreme but, anyway. This is the, this is the logical  
11 approach based on observation and along with that comes various things like, uh,  
12 self evident truth. Self evident truth is something that comes from this, right?

13 When you see, right, and now, we have ultrasound another incredible technology,  
14 you look in the womb, when you see a little unborn baby, right? You know, a  
15 month from being born, right.

16 **[1:28:00]**

17 It's a self evident truth that that is a human being, that that's a real person, but  
18 that is a human creature, right, that is like the, that's a, is alive. If someone  
19 comes along and says, "Well, no, that's just roll of tissue, we can kill him,"  
20 right. We can kill him through abortion, its self evidently wrong, right. Because  
21 you know, just from simple observation and then, you know, the, the fundamental  
22 moral laws, that almost everybody agrees with. You know, where do they come

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1 from? You know, if this isn't a way to actually sort of consider this. If there isn't  
2 an external moral law, if there isn't a law that we're all subject to because we're  
3 not just talking about the physical laws. We're talking about the way things are  
4 supposed to be in terms of relationships as well, right? Where bodies are  
5 designed the way human beings are supposed to interact with each other. All of  
6 this things are covered, under this design ...

7 **[1:29:00]**

8 ... but if you don't believe that, right? You reject that idea and you come  
9 forward and you make some kind of assertion, where's your authority for that,  
10 right? If you say, I was, I was on a radio show in Washington DC and a lesbian  
11 attorney called in the radio show. She was very good, she was an, a prosecutor.  
12 And she started hitting me with questions, bam, bam, and, you know, what one  
13 thing after the other. And I'm pretty good at answering these questions. Like I told  
14 Steven during the break. It's been 10 years since I've heard anything new and or  
15 original from advocates of the gay position. There's only so many questions,  
16 there's only so many aspects of the issue that you can come up with. And there's  
17 nothing new under the sun. So I answered all those and I said, "Wait a minute,  
18 now it's my turn," right? I said, "Do you believe that it's inherently, morally  
19 wrong for someone to kill an innocent person?" "Of course." "Well, it's  
20 inherently, morally wrong for ...

21 **[1:30:00]**

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1 ... an adult to have sex with a child.” She said, “Of course it is.” I said, “It’s  
2 inherently, morally wrong to own another human being as a piece of property.”  
3 She said, “Of course it is.” I said, “Where do you get those ideas?” She said,  
4 “That’s just my opinion.” I said, “Wait a minute, if that’s your opinion what  
5 happens? When you’re standing with the pedophile, and the pedophile says, I  
6 have a right to have sex with children.” And she said, “I got you there, more  
7 people believe the way I do than believe the way, he does.” I said, “Well, that  
8 may be the case in that situation, but suppose you’re standing in Nazi Germany,  
9 right? And you’re talking with Adolf Hitler about whether or not the Jews should  
10 be sent to concentration camps.” She said to shut up. Because more people  
11 believe the way Adolf Hitler believe than the way that she believes. So I said,  
12 All your describing is the power to enforce your will ...

13 **[1:31:00]**

14 ... by the number of people that you can get to back you up, that’s called might  
15 makes right and that’s a no authority at all. That just simply is imposing what  
16 you want by Mob rule on anybody else.” I don’t have that problem because I  
17 know where the source of my authority comes from, right. It’s the God who built  
18 all this into the universe and the same person, the same place of authority that  
19 guides me to the knowledge that murder and slavery and the, and pedophilia are  
20 wrong, also guides me to the knowledge that homosexuality is wrong and that  
21 was it. She had no place left to go. And that’s the same with anybody that  
22 doesn’t go, you see these both lead to the same place, they lead to the same

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1 conclusion because when you look at the way things are made. It's obvious as  
2 Aristotle did, he looked, he was of complete full supporter of the family  
3 structure, you know, he look at the way that human body is made, it's obvious  
4 what it's for.

5 **[1:32:00]**

6 And doesn't mean some people don't struggle with things beyond their control,  
7 make them want to go in different direction, but that's an abnormality. It's not  
8 part of the design, it's not made that way, there's no third sex of human beings,  
9 right?. Heterosexual, no, male, female, it, there's no third sex, there's only two  
10 and they fit together and that's by design. And that that fundamental building  
11 block brings children into the world and collection of those families together make  
12 up communities. And those communities together make up nations. That's what  
13 Aristotle observed of, in, in the early Greek philosophical period, where we have  
14 show so much respect, but that idea actually didn't originate with him and it's all  
15 through the history of human rights in the world, right? See, the people coming  
16 into Africa now and are advancing the idea that human rights serves the  
17 homosexual interest.

18 **[1:33:00]**

19 Are absolutely wrong, they have got the logic turned on his head, many of them  
20 are outright liars and they are manipulating history and they're manipulating facts  
21 in order to be able to push a political agenda. In the history of the world there  
22 are – and I want to talk about the human rights of documents in history as I've

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 addressed this. I actually wrote on my website. Uh, up in the left hand corner  
2 there's a button this says defend the family international, if you push that button  
3 then you will, what will come up would be a document I wrote called declaration  
4 on religious freedom, family values, and human rights. And it basically challenges  
5 the European Union and the international community to stop lying about human  
6 rights history. Because, what they've done is invent, uh, human rights for  
7 homosexuality that never existed before. They invented it based on case law by  
8 judges that are in their ...

9 **[1:34:00]**

10 ... political camp. That's what they've done. But if you look through the history  
11 of the world, human rights documents have always, always defended and  
12 acknowledge that natural family, marriage, and religious freedom, my God. Not  
13 every document encompasses all of them, but all of the documents cover at least  
14 one of them, right, going all way back the code of Hammurabi, the code  
15 Hammurabi with 2,400 years. I don't, the date's escaped me right now, but it's  
16 an ancient, ancient code. It acknowledges marriage, marriage structure and, and  
17 the laws built into it about dealing with marital relations, right? You step forward  
18 the next major human rights document, the Old Testament is a human rights  
19 document. It establishes what's right, you know, the, the principle of, uh, of an  
20 eye for an eye and tooth for a tooth. That's not a principle of revenge, that's a  
21 principle of restraint.

22 **[1:35:00]**

## LIVELY SECOND SUPPLEMENTAL PRODUCTION

1 That's basically saying you cannot take more than was taken from you. That's  
2 actually the reverse of what most people think it is and the, the other things of  
3 the Old Testament, that's a human rights document that establishes what, how  
4 human beings are supposed to be, the cities of refuge, and things like that.  
5 Amazing human rights provisions and then of course the New Testament, Jesus  
6 Christ walking on the earth was the – a walking human rights encyclopedia and  
7 the things that came from his teaching. Then you have the Magna Carta. The  
8 Magna Carta of Britain, how many people are familiar with that? This was a  
9 British colony for a long time, a lot of people probably aware. This is one of  
10 foundational documents of human rights history, international law. You know, the  
11 first principle of the Magna Carta is that the church of England shall have  
12 freedom that cannot be restricted by government. Well, you know, that that lasted  
13 for, how many years was that?

14 **[1:36:00]**

15 When they? They did that at 1200. 1200? That document, that foundation stone  
16 of human rights lasted all the way through the centuries until this century. And  
17 who knocked it down? The gays knocked it down with, with sexual orientation  
18 regulations that now remove the freedom of the church and impose punishment on  
19 the church for going against homosexuality in British society. The church of  
20 England is now restricted by imposition of a false interpretation of human rights  
21 that now has broken the Magna Carta. You're talking about respect for human  
22 rights. That's spitting in the face human rights and human rights advocates all

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 through the centuries. The declaration of independence of the United States, an  
2 incredible, incredible human rights document, right, establishing ...

3 **[1:37:00]**

4 ... this a, the right of the people to overthrow British rule based on nature and  
5 nature's God recognizing self evident truths, right? This is all built, this is  
6 language built in and this language was drawn upon for the establishment of the  
7 universal declaration of human rights. You know, the universal declaration of  
8 human rights, the first half is really divided in two parts. There was a  
9 philosophical, political, sort of conflict going on between the Americans and the  
10 Soviets at the time the universal declaration was written. And so the Soviets  
11 weren't going to let human rights be defined by the things that the Americans said  
12 they were. So the first half of the universal declaration of human rights is based  
13 on the declaration of independence and it's very, very heavily, freedom of speech,  
14 all sort of thing. And then the second half that was based on stuff that the  
15 Soviets put in there. And then that was broken up in 1966 into the two  
16 covenants. There was the covenant on, you probably know this better ...

17 **[1:38:00]**

18 ... what are the two covenants? There's the covenant on civil, political, and  
19 something rights and there was another one. The law then was passed well  
20 before the other. That was the part that was based on the declaration of  
21 independence. The second was based on the, uh, Soviet model. That's where all  
22 the socialist stuff, the communist stuff, the workers days, and all that kind of

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1 thing. But built into the universal declaration of human rights is the principle that  
2 it follows throughout history. Now, and at the beginning those terms they're  
3 written legal documents and this type of legal documents are often written very,  
4 very broadly. You know, they don't get into real specifics. That happens in  
5 statutory law, etc. but the principles are supposed to be understood and there were  
6 principles present about preserving family structure and morality in the universal  
7 declaration of human rights. And it wasn't until the course of Europe started  
8 interpreting those clauses in favor of the gays that there was ever in the history  
9 of the world civil rights established ...

10 **[1:39:00]**

11 ... on the basis of homosexuality and now those rights are being given a higher  
12 status than any other rights in the world, right? They're getting that this enormous  
13 money, there's enormous political power that is pushing so that the protection of  
14 homosexuality rises above virtually any other thing. Well maybe not the right to  
15 life, but any like the religious freedom for example is being trampled everywhere  
16 in order to be able to establish, uh, civil rights based on homosexuality. It is  
17 completely legitimate. There is a no historical right to it and it's turning human  
18 rights on its head. So that's the sort of the history, the sources of authority and  
19 the real authority in the secular world is on our side. Except for the interpretation  
20 of these clauses by politically oriented judges, uh, who have been using them for  
21 their, to support their own ...

22 **[1:40:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... political ideology. On the scriptural side, that the source of authority, it's a  
2 number of scripture, this is really important for people even though you're  
3 Christian, you might think "Oh I know all the stuff anyway," you need to pay  
4 attention of this because we're dealing with what's called gay theology around the  
5 world right now. You're probably don't have it that much here, but there have  
6 been, beginning in the 1980's there were homosexual political activists in the  
7 church that begin creating an alternative to the gospel and they took the scriptures  
8 and interpreted the various clauses dealing with homosexuality in order to create  
9 the conclusion that the Bible supports homosexuality, that and various, a couple  
10 of major things that they say in the process. One, that, um, that the all of the  
11 places where homosexuality is dealt with in the Bible are really just dealing with  
12 ritual homosexual prostitution or this or that or the other thing. It's every ...

13 **[1:41:00]**

14 ... single instance they twist the scripture to misrepresent what it says and there  
15 have been some really, really good refutations of those. A friend of mine in  
16 Western Conservative Baptist College in Portland, Oregon has written a book that  
17 just the title is homosexuality examined in the light of ancient documents and I  
18 forget the subtitles, were very long and complicated. He goes through and there are  
19 others who've got step by step, gay theology is built on misrepresentations of the  
20 Gospel but, and you're not unless you want to really get into a deep study of  
21 this. You're not going to be able to deal with every nuance, but just going  
22 though the scriptures themselves, seeing what they say will empower you to be

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1 able to counter gay theology when it's presented to you. Believe me, that's going  
2 to be coming and to God is, that's one of the forces that they use. They pit the  
3 gay church against the Christian church in order to be able to confuse ...

4 **[1:42:00]**

5 ... people about moral authority and that the whole point of it is to sort of cloud  
6 the issue. They even admitted this, there's a 1987 article called The Overhauling  
7 of Straight America. It was written by two gay strategists and published in a  
8 magazine. It was called gay magazine of The Overhauling of Straight America. It  
9 was a remarkably frank and insightful look at what the gay's were going to do.  
10 It later came out in a book called After the Wall and it laid out whole blueprint  
11 for the social engineering program that they've been following ever since and if  
12 you have an opportunity, it's actually, you can find it on my website. If you go  
13 in the Resources section, just search for the term overhauling. You read it, it will  
14 blow your mind and it says right out clearly. It says we will use talk to muddy  
15 the moral waters. That's the language that it uses. It said we will pit liberal  
16 churches against conservative churches.

17 **[1:43:00].**

18 It's frankly states there, so anyway we're going to go through these scriptures  
19 just so you understand what the scriptural authority is here and what God really  
20 intended for us to know about homosexuality. First of all, Genesis 1:27, this is  
21 the model of the design of the human being, we're going, this is important. I'm  
22 bringing it up now, but I'm going to bring it up in the next segment as well.

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1 It's very fundamental. It says that God created us in his image male and female,  
2 right? We are two parts of one whole by design and then it says that there or  
3 close by it says therefore shall a man leave his mother and his father and cleave  
4 unto his wife and they shall become one flesh, right? That is God's standard.  
5 That is his principle laid out in his word. Genesis is the book of foundations and  
6 it's the place for most of the main and most important ideas are introduced for  
7 the very first time and it begins with the ...

8 **[1:44:00]**

9 ... ultimate presupposition that underlines all logic which is Genesis 1:1 and very  
10 close following that is the design of God for human beings. Male and female, he  
11 created us, it's a self evident truth even if you don't follow the scripture. Genesis  
12 19 is of course Sodom and Gomorrah. This is the story of homosexuality in the  
13 first major incident and I've read, I worked on a book with the famous orthodox  
14 rabbi named Samuel Dresser. He was dying of cancer. He'd written a book called  
15 The Case Against Homosexuality in Jewish View and um, he was dying. He  
16 wasn't able to work on it. He hired me while I was in law school to actually  
17 help him finish that book, to rewrite parts of it and I sat under his teaching  
18 parole. This is a brilliant man. He knew the Old Testament better than anyone  
19 that I'd ever known and one of the things he told me that just struck right to  
20 my bones was that, that in the book of Genesis and in the Old Testament ...

21 **[1:45:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... that God teaches principles of sexuality one after the other in the negative,  
2 right? He says, this is, every single one of these things is taught in the negative  
3 about why it shouldn't be done, that Sodom and Gomorrah, the incestual situation  
4 between the Lot and his daughters of the, uh, the adultery that took place with  
5 Sarah and with Abraham and, um, and Sarah's handmaiden, you know, on and on  
6 and all these things are really presented to us in the scripture as guideposts,  
7 "Don't do these things." The first one is Genesis 19 and which we are shown that  
8 homosexuality has a special place in God's anger, right? God is angry at the  
9 expression of homosexuality as a culture, right? And what happened in that  
10 society, is that it overwhelms, this is male homosexuality in that instance and  
11 overwhelm, how many?

12 **[1:46:00]**

13 All of the men in the city, when the two angels came to Sodom, they went to  
14 Lot's house. They were in the form of a man. All the men in the city it said,  
15 came and wanted to have carnal relations with them and even after they were  
16 struck blind, they continued to scrape and claw the door and that shows us the  
17 spirit that is behind this and God destroyed the city. Remember Abraham talking,  
18 if there's even 50 righteous, if there's even 10 righteous, remember all of that.  
19 This was, this is a real story. This is a real thing that happened. It's a historical  
20 event and then in Leviticus 18:22, the one that's used a lot as a cloak against  
21 gays, you know, which I think you need to take a whole a scripture and not to  
22 be too, you have to have love and you have the tough love in this process.

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1 Leviticus 18:22 says a man shall not lie with a man as with the woman. It is an  
2 abomination. That's another one of the things that rabbi dresser taught me. He  
3 said ...

4 **[1:47:00]**

5 ... that we're in abomination. It's To'evah in the Hebrew, To'evah. It's the harshest  
6 possible term in Hebrew. There is nothing, there is no word in Hebrew that can  
7 convey greater amount of condemnation by God. It's interpreted abomination and  
8 he says that and right shortly after there. It says that for these sins including  
9 homosexuality, adultery have ordered sexually sins primarily. For these sins, the  
10 land will actually vomit out its inhabitants. There's something, there's a spiritual  
11 dimension to violating the design of God and not just in a personal level, but on  
12 a social level that will actually cause the land to vomit out its inhabitants. Now,  
13 Judges 19 is almost a repeat of Genesis 19. It's the, it's the case of the man  
14 with his concubine were passing through the land of the Benjamites and the, um  
15 ...

16 **[1:48:00]**

17 ... once again, the men of the village came and wanted to have sexual relations  
18 with the men, but instead then ones that came to rape the men, they accepted the  
19 concubine as an alternative, right? After she had been raped, she died on the  
20 doorstep then there it was such an outrage and the people eventually, such an  
21 outrage that they cut her body into 12 pieces and they sent a piece to every one  
22 of the tribes of Israel to show look what has happened among us. This was a

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1 result of the Sodomite culture and out of that came the Benjamite civil war. Civil  
2 war in Israel as a result of that. So every time you see homosexuality addressed  
3 in scripture, you're either dealing with individual or social disaster, not just  
4 problems but disaster, terrible calamitous things. The, well I didn't put out in the  
5 list here but the story of Noah ...

6 **[1:49:00]**

7 ... and Ham, is a story according to Rabbi Dresser. Now I understand this and I  
8 believe this is true. It's a story of homosexuality. In fact, it's a Jewish tradition.  
9 One of the schools of Jewish traditions says that the cause of the flood, that the  
10 last straw for God was when the Jews or the people on the earth began writing  
11 wedding songs to homosexual marriage. I'm not exactly sure where they get that  
12 out of the scripture. These guys, they dig deep into the Hebrew itself and may  
13 not be as relevant in the English translation but that's the, that's what he said  
14 but, and it makes sense because when you think about it, what happened when  
15 they came off the arc and they establish their settlement, Ham was banished  
16 from the camp.. Why? Because he uncovered the nakedness of his father or he  
17 saw the nakedness is there. That's a Jewish idiom for sexual and sexual  
18 encounter when you look in Leviticus, you look in Deuteronomy was talking about  
19 uncovering nakedness.

20 **[1:50:00]**

21 You're talking about intercourse, sexual intercourse and that when Noah woke up  
22 and saw what his son had done to him, he was enraged. Now could it, is it

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1 possible that Noah was enraged that his son has simply seen his nakedness with  
2 his eyes? What a ridiculous idea. We're talking about people that live in a tribal  
3 setting. They must have seen each naked all the time, right? That's ridiculous so  
4 when you, when you think about and say "Oh, oh, Ham must have been  
5 corrupted in the society that they lived in before the flood and he brought that  
6 with him as a corruption in himself through the arc and then he did this thing to  
7 his father and then he was condemned by his father and sent away. Now Ham is  
8 interesting. Ham's name was changed to Canaan, right? Canaan, where were  
9 Sodom and Gomorrah in the land of Canaan, right? This is, this is basically the  
10 descendants of Ham who were the ones who established Sodom and Gomorrah,  
11 right? This is a trail ...

12 **[1:51:00]**

13 ... of homosexuality. It came in through the arc from the pre-flood society. Now,  
14 that's, uh, that's a, uh, interpretation in dispute by some, I happen to believe it,  
15 you know, it's not necessary for this case but it does make sense to me. Second  
16 Kings, 23:7 we're talking about Old Testament and this, this, it is talking about  
17 male visual prostitution, right? And, and you see all through the Judges, you see  
18 the cycle of judgment and restoration over and over again and whenever you're  
19 talking about the, the Kings being wicked, what were they doing? They were, they  
20 were putting up, uh, uh, altars on the high places and they were doing things in  
21 the sacred groves. Now, where these very important symbols. This is still relevant

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1 today. There's still paganism in the world today and still influenced by what's  
2 going on there. You know, in the United States we have a custom that ...

3 **[1:52:00]**

4 ... you put mistletoe, however mistletoe is a, is a sort of a parasite fungus that  
5 grows on trees. You put it over doorways because, and if you walk under the  
6 mistletoe you have to kiss the person that, you know, of the opposite sex that  
7 you're with because it's a symbol of love, you know. What it was is that the  
8 Oak-rose in the Old Testament replaces of ritual prostitution and perversion and  
9 then and the mistletoe grew in those trees and so it follows the custom and  
10 nobody understands it anymore. and the high places they would go and engage in  
11 these things and the Kings were identified as good or bad based on worshipping  
12 false idols in relation to this practices because sexual perversion was usually  
13 involved in the pagan religions. Uh, very, very common, most of them I can  
14 think of and sexual perversion is part of their actual religious practices. Well,  
15 Josiah, this is actually the mention of Josiah in Second Kings where Josiah is  
16 identified ...

17 **[1:53:00]**

18 ... as the most righteous of all the Kings, why? Because he broke down the high  
19 places and he broke down the houses of the Sodomites and he crushed them and  
20 he threw their dust in the river, right, and the houses of the Sodomites were  
21 basically places where they were engaging in male, uh, prostitution, not men with  
22 women but men with men and that's, uh, that term homosexual in that case as a

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1 dog, as a daughter known as dogs. There's another place, I don't have the  
2 reference handy, that says, you shall not bring the wages of the dog into the  
3 Temple of the Lord. You shall and its parallel so you shall not break the wages  
4 of a female prostitute into the house of the Lord either. It's, and the God is  
5 great, uh, strong enough on those points. Okay, here's other places, there is a lot  
6 of other references. There's too many really to go into, I want to just touch the base  
7 ones. Romans one, this is one of the most important passages of scripture for  
8 Christians to be able to understand not just ...

9 **[1:54:00]**

10 ... what God's perspective is about homosexuality, but how things get in the way  
11 that they are and have got in the way that they are in the world. Romans 1:18  
12 through 32 is really passage and in a nutshell is that the truth of God is revealed  
13 from Heaven clearly, so clearly that people have no excuse if they fail to  
14 recognize God, but that because they're unrighteous, they suppress the truth, they  
15 don't want to follow the Laws of God, right? It usually has to do the sex, it  
16 doesn't say that, um, injecting that as an editorial comment and that because they  
17 suppress the truth, their, they, their minds become darkened. Over time they have  
18 become more and more darkened, the more falsehood they take in place of truth  
19 and in the end the scripture describes what's called the reprobate mind. What's  
20 the reprobate mind? It's the mind that is filled with so much air, so many lies  
21 that it can't understand the truth anymore. That's the reprobate mind. Now, who  
22 is given in the scriptures ...

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1 **[1:55:00]**

2 ... as the example of the reprobate mind? Homosexuals. Why? Why? God could  
3 have used murderers. He could have used child molesters. He could have used  
4 thieves. He could have used drunkards. He could have use Sadducees. He could  
5 have use Pharisees. He could have used any group of people to make his point,  
6 but who did he pick to be the representation of the reprobate mind? He picked  
7 homosexuals. Why? Because it starts the truth of God is revealed from heaven so  
8 clearly that people have no excuse and that includes, the creation includes you. It  
9 includes the way that you're made. Your body is very self-evidently designed as a  
10 heterosexual person to engage in a relationship with a person of the opposite sex  
11 and if you stand there, how can you stand there looking at the evidence of you  
12 own body and conclude that God intended you to be something else?

13 **[1:56:00]**

14 You cannot do it without a reprobate mind. Your mind has to be filled with so  
15 much air that you don't accept the witness that is built into you and therefore,  
16 God gives you over to a reprobate mind to do those things which are unseemly,  
17 men with men, women with women. There's absolutely nothing in this passage  
18 that had anything to do with male ritual prostitution or any of the other things.  
19 This is very clearly encompasses all aspects of people who identify as  
20 homosexual because it's addressing just simply the state of mind. The state of  
21 mind of identifying as homosexual, now the gay theology says all that, doesn't  
22 mean it that way because it's only talking about people who aren't really

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1 homosexual who are engaging in homosexual acts which is ridiculous. In order to  
2 get here, you have to accept all the lies that I disproved in the first section.

3 That's the only way you can get there. The homosexual is an innate  
4 unchangeable. God made them that way, is a good healthy normal thing ...

5 **[1:57:00]**

6 ... which has no basis at all in truth. Then the examples after that, the scripture  
7 goes in and lists about 20 or 30 things that said, these are the consequences and  
8 it also says, they will receive in themselves the penalty of their error which is, is  
9 appropriate which is doom. This a natural law of concept. It's basically saying  
10 there are built-in consequences to doing wrong things. If I picked up the bottle  
11 of poison and I read on the label, don't drink and I take the thing off and I  
12 drink it down. Is it God's fault if I die? No. It's my fault. The warnings were  
13 clearly there and that's what it means to receive in yourself the penalty of your  
14 error that's appropriate because there are things simply built-in. If I decide, if my  
15 mind is filled with so many faults and I go to a new age seminar. Let's just say  
16 instead doing this ...

17 **[1:58:00]**

18 ... we're all here to talk about astral projection and the ability of people to  
19 conquer physical laws and all that and I decide as the result of that, I'm going  
20 to fly over that building, right? I know I can do it. It's just simply of matter of  
21 believing it and I plunge out that window, right? What's going to happen? I'm  
22 going to receive the penalty of my error which is appropriate. I'm going to land

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1 on the side walk underneath and I'm probably going to die, right? It's the same  
2 thing is true if you deny and reject the design of your own body and you engage  
3 in conduct that is self evidently wrong and harmful to you then you're going to  
4 receive in your body the penalty of your error which is appropriate. Did anyone  
5 say, AIDS? AIDS is the penalty for error that is appropriate, that is natural, that  
6 is predictable based on the conduct that leads up to it. Doesn't mean that  
7 everybody has it got it that way but the ones ...

8 **[1:59:00]**

9 ... who get it through voluntary behavior are fulfilling that scripture right in front  
10 of you eyes and the same thing with the other. Uh, Steven, uh, talked about a  
11 lesbian who just recently died of, uh, of throat cancer, right? You know, lesbian  
12 has been involved with a lot of oral sex and oral sex, putting your face in places  
13 that doesn't belong. You can pick up disease. All kinds of things can go wrong  
14 with you. There are, and we don't even know. You don't have to be able to  
15 understand why God said to do something, right? You just know because he's  
16 God he knows us better than we do and that you can trust him. That what he  
17 says is true and he says don't do that thing, you better listen and I do a little  
18 thing in some of my seminars and say, you know, it's like the little toddler,  
19 right, two years old and there is a candle burning out the table and God's law,  
20 God's bible that he's given us is full of all kinds instructions that are like what  
21 the father says to a two year old and the little two year old according to us ...

22 **[2:00:00]**

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1 ... compared to God, blows at the table and he sees the flame is so pretty. I want  
2 to touch that flame. I really want to touch that flame. Father saying, “No, no,  
3 don’t touch the flame you will receive in yourself the penalty of your error  
4 which is appropriate.” You don’t touch the flame, right? But the child still wants  
5 to do it and when dad is not looking or maybe daddy says, I guess you’re going  
6 to have to learn, right? You have free will after all. Right? You stick your finger  
7 into the flame and you get burned and that’s what happens when you indulge  
8 yourself in violating the design of God, it’s just that simple. Then, uh, I’ll do First  
9 Corinthians or Second Corinthians 6: 9-11 last and this jump ahead to Jude 1:7  
10 because one of the major things that’s said, especially about the story of, uh,  
11 Sodom and Gomorrah, is that, is that Sodom and Gomorrah were not destroyed  
12 for homosexuality. They were destroyed ...

13 **[2:01:00]**

14 ... for in hospitality. Well, it’s true that there is a passage in Ezekiel that does  
15 talk about that, but it was the inhospitality of wanting to rape people, right? It  
16 was the sin but it’s really clarified, uh, without any shadow of a doubt in Jude  
17 1:7. As the scripture said, why were Sodom and Gomorrah destroyed? Because of  
18 going after strange flesh, right? But what’s going after strange flesh mean and I  
19 think that’s pretty obvious, right? So, the scripture itself clarifies, what is meant  
20 there and, uh, so, that’s another aspect of gay theology that just crumbles under  
21 the testimony of scripture itself. You don’t have to go to any outside source and  
22 even challenge that and then lastly, and this is very, very important. This is

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1 probably the most important passage in the scripture for our purposes today,  
2 Second Corinthians 6:9-11. It talks about those who will not inherit the Kingdom  
3 of God. Don't you know, and then it lists the list, murderers, et cetera.

4 **[2:02:00]**

5 In that list, there's two people in the middle of the list, Sodomites and  
6 effeminate. The different versions of the scripture have different words but it's,  
7 what it is, is Sodomites meaning the, uh, probably the male dominated one, the  
8 penetrator, and effeminate being the penetrated one. Uh, and I think also pretty  
9 clearly, uh, could encompass the transgender. You're talking about men who have  
10 identified as homosexual, that's effeminate, but it's really not totally clear. We  
11 have two categories of people who are identifying themselves as so called sexual  
12 minorities and the most important thing about it is not, that the scripture says,  
13 they're not going to inherit the Kingdom of Heaven. It's that, the scriptures  
14 says but such were some of you, right? Who is this talking to? This is a letter  
15 to the early church and what is Paul saying? He's saying, you members of the  
16 early church ...

17 **[2:03:00]**

18 ... some of you were homosexuals. They were ex-gays right at the beginning,  
19 right? There's nothing new with Caleb standing up here and talking about. It's not  
20 something, uh, brand new and the, and astonishing it shouldn't be because it's  
21 right there in the Word of God. The very members of the early church, the ones  
22 that laid the foundation for the whole historical spread of Christianity, among

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1 | them were ex-gays and maybe ex-transgender too. We don't really don't know.  
2 | So that's the scriptural authority and between the two of those it's pretty  
3 | substantial and, uh, so when you deal with this you can now address this from a  
4 | Christian point view, you're going to address this from secular point of view  
5 | because when, when you're doing it from a secular point of view, you just use  
6 | the testimony of Aristotle in teleology self-evident truth. The self-evident truth  
7 | that is reinforced through the entire history of human rights documents. Okay. Uh,  
8 | ...

9 | **[2:04:00]**

10 | ... now, we're going to switch gears a little bit. How much more time do we  
11 | have to this segment and types of homosexuality? Now, we're going to switch  
12 | from dealing with the movement and we're going to start dealing with the people  
13 | and remember again, keep a clear line in your mind between dealing with the  
14 | movement and dealing with the people. When we're dealing with the people and  
15 | trying to understand what has caused these people to end up in this condition?  
16 | That God condemns, that is hurting them and that we want to help them to  
17 | overcome. So we're going to address those and I'm going to start at the  
18 | beginning. I am not a medical doctor. I am not a psychiatrist. I am a pastor and  
19 | I am an attorney, right? So I don't have any special, uh, training to treat  
20 | homosexual dysfunction, but I am an attorney. I am a scholar. I am very capable,  
21 | more than capable of being able to analyze professional documents, scientific

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1 studies, et cetera. This is the sort of thing a lawyer does all the time to be able  
2 to present ...

3 **[2:05:00]**

4 ... a case to a judge and so I'm fully qualified to be able to interpret all these  
5 types of things and, uh, and on top of that after 20 years of observing us as my  
6 primary emphasis of my ministry. I have seen things, I have understood things  
7 that few people really have, hardly don't, like I said not because of any special  
8 genius on my part just because, uh, this is, uh, there aren't that many people that  
9 take this on, but I'm going to show using, now the first part is not all that, uh,  
10 unusual, you're going to see parts of this at many places, but the three causes of  
11 homosexuality that I have observed, that I have observed personally and go in  
12 order of the number of people that fit into these categories and that is sexual  
13 abuse. The majority of the people that I have known that are homosexual were  
14 sexually abused as children either by an adult or an older child.

15 **[2:06:00]**

16 That the one that I was describing this morning the 19 year old that molested the  
17 four year old. He was himself molested, uh, when he was a child by a boy that  
18 was about two or three older, years older that he was. Uh, and so this is like an  
19 evil game of tag, right? An evil game, everybody saying play tag, bunch of kids  
20 running around and I tag you, now you're it and you tag somebody else, and  
21 now, you tag them now they're it. Well, this is like an evil game of tag. Sexual  
22 abuse of children, once you, once you have been sexually abused the likelihood

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1 or the chance of you actually doing it to somebody else is fairly high. It doesn't  
2 mean that every person that gets sexually abused becomes a homosexual. It  
3 doesn't mean that they ever abused anybody else, but it just the incidence is very  
4 high and then even if you don't enter into those other behaviors, even if you  
5 don't copy it yourself, you're damaged inside you. It affects you for the rest of  
6 your life. You can overcome it especially through Christ. You can overcome all  
7 the things ...

8 **[2:07:00]**

9 ... through Christ but, uh, but you're still going to have to suffer with it and  
10 actually while we're on this topic, lesbianism, I think I mentioned this before,  
11 lesbianism is really more than anything else a retreat from the company of men.  
12 It's an escape from men because sexual abuse by men. That's, not everyone but  
13 a very, very high percentage. I've never known personally, I've never known a  
14 lesbian that wasn't sexually molested when they were a child. Now, increasingly,  
15 lesbians are being molested by other women is actually becoming more and more  
16 common in the United States but, and that has its own characteristics but usually  
17 when you're talking about lesbians and you're talking about escape. Even the first  
18 evidence of lesbianism in, uh, the historical record the Island of Lesbos, why did  
19 they go in an island? They wanted to be alone, leave us alone, right? They went  
20 off to the island to be secluded so they don't have to be with men.

21 **[2:08:00]**

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1 Uh, so, anyway there's that, then the second is gender identity confusion and this  
2 is what Caleb was describing, right? The gender identity confusion is something  
3 that happens in early childhood, right? These are the people that, well actually  
4 when they say I was born that way. These are the ones that actually usually  
5 believe it because this is something that happens before they even can speak and  
6 with speech comes memory so this is something that occurs in their life before  
7 they even have memories that they can access, uh, and what happens is that  
8 when you're born, there's like a connection between you and your mom. You  
9 really don't even understand that you're separate people and then that comes a  
10 time when you realize that you're separate from your mom and then comes a  
11 time 18 months to two years very roughly ...

12 **[2:09:00]**

13 ... vary with people, when you realize that there's two kinds of people. There's  
14 mommy people and there's daddy people and you decide which one am I, right?  
15 Now, if you've got a dad like Caleb's dad who is emotionally distant maybe  
16 even hostile who was alcoholic, you're little boy, you know, 18 months old or  
17 two years old and you, "Oh no, I can't be like him, I can't be like him, I must  
18 be like mom", right? And then once you make that decision about what you're  
19 gender identity is then you began learning how to be a person by following their  
20 example. A normal little boy, you know, he'd learned to walk like daddy and  
21 talk like daddy and, you know, you know, we all see normal little boys. You  
22 know, what are they doing around the house. They're banging the hammer when

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1 they hear daddy working on the yard, you know, that kind of thing but the boy  
2 who has that, that problem, he turns in the other direction. He's following mom,  
3 so he's copying what mommy does. It isn't necessarily ...

4 **[2:10:00]**

5 ... uh, you know, if something really conscious about it. It's not making a choice.  
6 It's nothing sexual about it even. This isn't a decision about his future sex life,  
7 but what happens when you have identified yourself as a little boy or a little girl  
8 with the same gender, you know, when you reach that place where the trigger  
9 starts coming on or the puberty is just coming or society is, you're beginning to  
10 become aware of sexual things instead or it being oriented in to the right  
11 direction you're oriented into the wrong direction because how you got started and  
12 so when all of a sudden, the first sexual inclinations arise or the sexual thoughts,  
13 you're naturally going to look at the sex of the person that up, is an object of  
14 your attention as the same type of person that your mom would do and so you're  
15 looking - if you're a boy. You're looking at another boy because that's what a  
16 girl would do and the same is true for the girls. They look at other girls instead  
17 of a boy. There's nothing sexual about it until then ...

18 **[2:11:00]**

19 ... and then they begin as they develop it from a sexual person is in the wrong  
20 direction and that explains why people say I was born this way, they say, "I  
21 always had these feelings, right? So I must have been born that way." No, you  
22 weren't born that way. You didn't choose to do it. You didn't wake up when

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 | you were 12 years old and say I'm going to be a homosexual, but you did have  
2 | something happen to you and there's good news in that because it means if you  
3 | acquired that through environmental factors, you can overcome it, right? There's  
4 | tremendous hope in all of this and let me bring up something while I'm on the  
5 | subject because – I'm going to lose it. I lost it. Uh, the third is rebellion against  
6 | authority, rebellion and this is where – is often the case ...

7 | **[2:12:00]**

8 | ... where you've got family dysfunction as well, you know, why do young people  
9 | rebel against authority, Usually something that has happened to them, you know,  
10 | otherwise they would want to follow the track that they started in their family  
11 | but something happened, you know, the parents got divorced or they suffered  
12 | some tragedy or something, they – may have nothing to do with sexuality but  
13 | because of that they have an attitude. They have a bad attitude. They're not  
14 | going to go along. They're going to be anti-social, not social and so how do you  
15 | show your anti-social behavior? Depends on where you are, right? When I was  
16 | growing up, my way was I grew my hair long. I wore ratty clothes. I was rude  
17 | to people, right? That was my rebellion as a teenager. Most teenagers rebel in  
18 | some way, uh, but for others, especially where homosexuality starts to become  
19 | normalized. Once – when it's still totally rejected, there are very few people  
20 | that'll go that far in their rebellion ...

21 | **[2:13:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... but the more it becomes sort of almost acceptable, now the young people who  
2 are on the cutting edge of new things, right? Like they're the ones who are  
3 seeing this and they're experimenting with it, now, in America, in England, the  
4 new way to show you rebellion and shock your parents is to act gay, you know,  
5 maybe even enter into in a gay identity. You might not even practice homosexual  
6 conduct. You may just act that way so you can shock people and that's more  
7 and more is happening and, uh, so but even before even in America, while  
8 homosexuality was still unacceptable was illegal, there were still people doing it  
9 out of rebellion. People who just think of themselves iconic class, you know,  
10 they're the maverick, they're the freest types of thinkers, you know, beatnik types  
11 or something like that. I don't know if you know American history, but that's the  
12 third area and so, uh, everybody that I've ever encountered or know ...

13 **[2:14:00]**

14 ... falls into one of those categories. Sometimes on both because if you're a  
15 gender identity confused child and you're a little boy who's manifesting  
16 effeminate traits and there's a homosexual guy that actually is immoral enough to  
17 want to have sex with kids and he sees you. You're an easy target because he  
18 knows you don't have a good father figure and he knows you're probably lonely,  
19 if he could hook you a lot easier. The same thing with a lot of other kids in  
20 other lifestyles but, okay. So that addresses that and then now we're going to  
21 deal with the types of homosexual dysfunction. This is something that I have  
22 invented. This is a scale – it's called the scale of gender, uh, normalcy and it

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 involves a little bit of laying the foundation because I only came to understand  
2 this by – I was – I’ve been dealing with this for a very long time and I was  
3 looking at this little strain of letters, you know ...

4 **[2:15:00]**

5 ... the lesbian, gay, bisexual, transgender question and, you know, LGBTQ,  
6 whatever and I was wondering why is it that really connects all these groups of  
7 people, you know, aside from just being a political convenience because really,  
8 we’re talking about sexual deviants. Deviants from the heterosexual norm, you  
9 know, and then it just suddenly struck me in my mind is what characterizes every  
10 single one of these groups is their degree of deviance from gender normalcy and  
11 then, wow, and I went back and I remember Genesis 1:27 that God created us in  
12 his image, male and female and there’s a principle in that, we talked about, you  
13 know, everybody served – especially America as we understand it, you know, we  
14 all have sort of masculine and feminine qualities in us and that’s the reality of  
15 things. We all do, you know, super macho societies don’t, you know, don’t ...

16 **[2:16:00]**

17 ... want to admit this sort of thing, but men have a feminine side, women have a  
18 masculine side, that’s the way we’re made so not only are we made in his image  
19 as male and female to join together to become one flesh but we’re also in his  
20 image inside of ourselves and if you want to jump to the scripture for a second,  
21 just think about it from the model of Christ. Jesus himself showed this gender  
22 duality in himself and the one hand when he’s talking about Jerusalem’s, “Oh,

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 Jerusalem, Jerusalem, how I wanted you, to hold you under my wing like a  
2 mother hen, right?” Now, what could be more nurturing than that? What could be  
3 more feminine identifying than to identify with the mother hen with chicks, right?  
4 And when he said, you know, suffer the children to come unto me, right? You  
5 know, calling, he was showing the nurturing side. And then on the masculine side,  
6 you know, kicking over the tables of the money changers, making a whip with  
7 his own hands ...

8 **[2:17:00]**

9 ... right? Jesus, the God of Love, right, showing that sometimes our definition of  
10 love really isn't comprehensive enough to be true to the scripture. He, the God of  
11 Love made a whip with his own hands that drove the money changers out  
12 showing forcefulness, aggression, right? Qualities associated with masculinity so  
13 when it came to the feminine side, he was more nurturing than any woman.  
14 When he went into the masculine side, he was more masculine than any man,  
15 right? He showed that and we have that in us as well. Now, naturally a woman  
16 has more feminine qualities and a man has a more masculine qualities on average,  
17 but we all have some of both, it's a balance. That's how we can understand each  
18 other, right? And there are degrees of how much masculinity do you have versus  
19 femininity varies in people, right? We all know men that are more feminine. We  
20 all know women that are more masculine, but they're perfectly normal, right?  
21 They may be married, they may have children.

22 **[2:18:00]**

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1 There's nothing wrong with that. It's just they got a little bit more than – like  
2 just like somebody's taller than somebody else. It's perfectly normal, right? And  
3 when I'm talking about these qualities, you know, really talk about the feminine  
4 qualities or relationship oriented, nurturing, et cetera, masculine qualities,  
5 assertiveness, goal orientation, right? This is a broad, generalizations and we all  
6 had that in us, right? So there is sort of a category in the middle of gender  
7 normalcy and which where that line is and this can be either men or women that  
8 is the same scale for both, but when you're looking at it, when you're talking  
9 about masculinity in women or femininity in men, it's going to the opposite  
10 extreme, so against your primary identity so if gender normalcy is here in the  
11 center and we have – then you have extremes on both sides of gender  
12 abnormality and what do I mean by that? Let's take the example ...

13 **[2:19:00]**

14 ... of the man again. Let's go all the way to the feminine extreme over here and  
15 let's say that this person right here is a transsexual man, right? What is a  
16 transsexual man? A man who wants to be a woman, right? This is a man. He  
17 doesn't want any masculinity, right? He doesn't want to be a man. He wants to  
18 be a woman and so what does he do? He goes to a surgeon. He has his penis  
19 removed. He has breast implants put it into his chest and he starts taking female  
20 hormones in order so that people will think that he is a woman and so that he  
21 can get as close as he can to being a woman in this life. He'll never really be a  
22 woman because it takes more than that, that that is genetic, right? You cannot

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 | change your chromosomes. You're always going to be a woman – I mean a man,  
2 | you're just going to look like a woman and you're going to have the, uh, sort of  
3 | ...

4 | **[2:20:00]**

5 | ... sexual attributes of a woman by plastic surgery. That's what as a transsexual  
6 | that's the furthest extreme of a effeminacy in a man. Now you go one step  
7 | closer toward gender normalcy, because we're not talking about if this is a scale  
8 | this is a continuum it goes from one side to the other. So, if that's transsexuals,  
9 | the TS and this the transvestite. What's a transvestite? It's a man who dresses  
10 | like woman right? He wants people to think he's a woman. He won't go so far  
11 | as to have surgery right? But he still wants to live like a woman, so he'll dress  
12 | in women's clothing and he'll wear makeup and he'll go out in public maybe not  
13 | even full time. Maybe only does it in the evenings after work or something like  
14 | that. I've known people like that. I actually hire a receptionist at my business  
15 | funds, that it was Doug during the day and Rita at night just before I become a  
16 | Christian I was very, very liberal about all this ideas. I knew lots of people in  
17 | this lifestyle.

18 | **[2:21:00]**

19 | My auto mechanic was lesbian so I have personal knowledge of a lot of these  
20 | things. Anyway, so, a transvestite is man who dresses like a woman and he's not  
21 | quite so far along the scale but he is, it's an abnormal gender balance. He just  
22 | doesn't have enough masculinity in here to feel normal and then you have an

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1 effeminate homosexual man. An effeminate homosexual man, right? They don't  
2 want to be a woman. They don't even want to dress like a woman but they are,  
3 they wanted to exhibit feminine mannerisms, for whatever reason. You know it  
4 could be different reasons for different people, but these are the ones if you say  
5 homosexual, right? If you say homosexual you're almost always thinking first of a  
6 man and also always thinking of this type because they are there the ones that  
7 are in the media they're in comedies, right? Whatever you think you know it's the  
8 most obvious the man acting like a woman you know right? You know limp wrist  
9 you know ...

10 [2:22:00]

11 He is obviously a caricature of feminine attributes and characteristics. And he's  
12 closer to the gender normalcy, but he's not and his dysfunction causes him to be  
13 oriented sexually toward other men. It isn't necessarily true the transvestite types,  
14 it's sort of a strange thing that often you'll find people that are just extremely  
15 confused. You'll find transvestites and to transsexuals who are married. Actually  
16 you'll find people across the whole spectrum that are married. In fact, almost all  
17 the gay leaders in the United States were married before they came out and  
18 started being activists. If anything, they would have to identify themselves as  
19 bisexual, but of course they don't want to do that because that would confuse the  
20 issue. Anyway, we're getting back in this track and now we're going to enter into  
21 some territory that most people really don't recognize, they don't think about very

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 much or might not even know they exist and we're still talking about a man again

2 ...

3 **[2:23:00]**

4 ... but now we're going to talking about masculine qualities, right? Where there  
5 isn't a problem with too little masculinity. It's a problem with too much  
6 masculinity that's twisted, right? Is it normal masculinity? It's a masculine identity  
7 that goes to the hard side where there's less identification with the feminine side  
8 and more with masculine side and so, and we're going to once again, were going  
9 to have three spots going that way on the scale and these are the butches. In the  
10 US, the term feminine butch is usually associated with lesbians, right because it's  
11 butch lesbians and whatnot, but I have sort of adopted the terms. I'm not using it  
12 derogatorily they're just for labeling purposes. And the butches, these are really  
13 bullies and you want to think about who is the homosexual man, who is going to  
14 the masculine side. What is he like? He's a bully, he's someone who usually  
15 hides his homosexuality. Doesn't want people to know and these are once again ...

16 **[2:24:00]**

17 ... broad generalizations based on my observations, but this is generally the case  
18 and he is the most often, if you hear of a gay man being beaten up, it's this guy  
19 usually that's doing it. He doesn't like homosexuality himself and so he doesn't  
20 like effeminacy. He's really hostile to effeminacy and when he sees another, a  
21 gay man acting girlish he beats him up as a way really to deal with his own.  
22 He's a guy with genuine homophobia. Homophobia which is basically fear of his

## LIVELY SECOND SUPPLEMENTAL PRODUCTION

1 own homosexual inclinations. It doesn't mean that it could ever be right  
2 inclinations, but he's a guy who really sort of fits that. That original psychiatric  
3 term then you came into the category where you're getting to extremes again.  
4 Just as transvestites and transsexuality are really getting to extremes - very far  
5 from the norm. Now you're getting on the masculine side and I call these the  
6 first category super machos. Super macho ...

7 **[2:25:00]**

8 These are men with very little restraint. They're under, they have very little sense  
9 of mercy you know nurturing aspect to them. These are men well if you want,  
10 these were the Nazis. The Nazis were super macho. The ones that the  
11 Sturmabteilung, the storm troopers are the ones that helped Hitler come to power at  
12 the beginning. The ones that would go and smash windows and you know the  
13 jack booted thugs, right? You also see them in prisons. The super macho's are  
14 very often brutish, brutish animalistic men that want to hurt other people you  
15 know there's no mercy and that they are often, uh, will think, well they hate  
16 effeminacy, right? That's one of the thing about the early Nazis, the movement  
17 they came out of was called the Gemeinschaft Community of the elite. They  
18 actually have a philosophy they taught ...

19 **[2:26:00]**

20 ... that all the nation states of the world have come from people like themselves.  
21 This is a warrior cults. We're talking about an effort here when sodomy, when  
22 pederasty was happening as part of the cultures of Africa this is what you're

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 talking about, right? This is super macho, men having sex with boys and other  
2 men usually in some sort of aggressive way and motorcycle gangs, prisons,  
3 military units you find a lot in there and then lastly we have what I call the  
4 monsters. This is a category, fortunately there's very few people like this, these are  
5 men who don't have anything they are involved in. They are so far from  
6 normalcy that they're killers They're serial killers, mass murderers, they're people  
7 they're sociopaths, right There's no mercy at all, there's no nurturing, there is no  
8 caring about anybody else. This is the kind of person that it takes to run a gas  
9 chamber ...

10 **[2:27:00]**

11 ... right? Or to do a mass murder, you know, like the Rwanda stuff probably  
12 involved these guys. And sometimes when you get to the furthest extremes,  
13 sometimes it's not very much in regards to the sexual sexuality, but it's just  
14 animal behavior there's such a deep level of confusion and such a lack of  
15 balance that they really are very unusual category of people. So and once again I  
16 have pity, I have pity and sympathy for people who struggle with these things. I  
17 enjoy gender normalcy, I enjoy being with a woman and normalcy I guess the  
18 best that God can give us the family life that we have, the children that come  
19 from, but when you see someone who's in one of these situations you're looking  
20 at somebody like a paraplegic, somebody with the use of none of their limbs, it's  
21 in a wheelchairs, that kind of thing except having psychically and ...

22 **[2:28:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 ... psychologically and emotionally instead of physically. So, I don't want anyone  
2 to get the wrong idea when I'm putting these down. I don't want dehumanize  
3 these people. They are human beings suffering extreme forms of dysfunction and  
4 that, this, this is a causes and types of homosexual dysfunction and it helps to  
5 understand when you see this, how it all fits together, right? That these are, these  
6 sexual minorities really have something in common and it's this lack of gender  
7 balance. And wherever you see the gay movement going forward, you also see an  
8 attempt to re-define gender so there isn't one no longer the two genders right?  
9 And actually they passed that in the United States in many places, many  
10 jurisdictions. But as soon as they get gay rights and they immediately moved in  
11 transgender rights and what that means is that you no longer are being categorized  
12 as male and female. Now that they say that there are many you know five or  
13 seven I don't how many different genders that they're identifying now as legal  
14 policy. Well, all they're doing is just simply saying

15 **[2:29:00]**

16 ... okay, where not going to, We're going to take this entire scale and were going  
17 to normalize all of it in the law, right? So there's no sense of this being right and  
18 that being wrong and now, that's the male side. Let's go to female side because  
19 that's the same thing and there's a lot of it just simply is intuitive to it that  
20 makes sense and we'll go, we'll just put them out in the same direction. We'll  
21 put the masculine over here. This is the reverse to the, this is the reverse to the  
22 male scale because when you're talking about women going to the masculine

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1 extreme what do you have? You've got transsexual again, right? The transsexual  
2 was a woman who wants to be a man. It's the exact reverse of the man who  
3 wants to be a woman. Now they should get together and trade off you know  
4 some of what they have. That would balance them out, right? But this is a woman  
5 who decides she's going to be a man. She has her breasts ...

6 **[2:30:00]**

7 ... removed. She starts taking male hormones, she grows a beard if she can and,  
8 uh, she has a penis attached in some cases and she wants to be a man because  
9 everybody will think of her as a man the same thing. She'll always be a woman  
10 genetically. But she's changed herself through cosmetic surgery. Then, what's  
11 next? Transvestite again. A woman she isn't going to go so far as to have  
12 surgery, but she dresses like a man. And there's a lot of women that dress like  
13 men, you would never know until they tell you they're women that have lived as  
14 men. Uh, for years and years and years, nobody ever knew it and they do all  
15 kinds of things. So that's the same and then now you get into the categories that,  
16 uh, start to be more recognizable. The butches, lesbian butches, uh, this is the one  
17 when you think of a lesbian this is what you think of. A woman who's acting  
18 like a man, right ...

19 **[2:31:00]**

20 ... that's the, uh, the most common thing person that comes to mind when you  
21 think lesbian, she is just got a sort of twisted version of femininity in her. She  
22 doesn't want to be a woman. She doesn't want to be a man, but she wants to act

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1 like a man. Same as this, same as the effeminate homosexual man is the  
2 masculine oriented, uh, lesbian. But there's also another side to lesbians. Lesbians  
3 is also it goes to the feminine extreme. Uh, this is a little bit less. This is  
4 something that's really, uh, hard to get information about. I know much more  
5 about this scale than I do about this one perhaps because I'm a man. But also  
6 because I think a lot of lesbianism is more hidden than the male side. But what  
7 I've been able to discern from this is, uh, three things. The first category, uh, are  
8 what's called ...

9 **[2:32:00]**

10 ... lipstick lesbians. You see in US they're called lipstick lesbian. It's a lesbian  
11 that doesn't look like a man, but she's a woman but she accentuates her feminine  
12 quality so she wears lipstick, the normal, uh, it's also in the US it's kind of  
13 wrapped up with the whole feminist movement, too which was against make up  
14 and all kinds of things but I think, uh, this is just what they're called - lipstick  
15 lesbians. It's a woman who is not, doesn't have gender balance, she's not in this  
16 category here at gender normalcy or her orientation is toward a man, toward the  
17 natural family model. She is oriented toward other woman, but she is feminine  
18 not masculine and, uh, and then the category next to that, actually sort of the two  
19 of them, I kind of, I lump them together really in terms of varying degrees of  
20 the same phenomenon is when you get here because when you think about it,  
21 what happens to a woman?

22 **[2:33:00]**

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 It's easy when you think, what happens to man who doesn't have any femininity  
2 you automatically understand he's going to be a more brutal person. He's going  
3 to be tougher and, uh, more aggressive or all those sort of thing. But what  
4 happens to a woman who doesn't have masculinity? What happens when she  
5 doesn't have it? Because what are those masculine traits, assertiveness, right?  
6 Assertiveness, goal orientation, the ability to be aggressive if you need to like  
7 that. So if a woman has less of healthy masculinity and kind of twisted feminism  
8 in her, what happens to her? She becomes extremely passive, right. And so the  
9 two categories that I sort of write together here I call them doormats and slaves,  
10 right because that's the mentality that happens. They kind of lump together in  
11 terms of extremes or degrees of lack of assertiveness. A doormat, this is  
12 common, in the US, the doormat is someone who just can't defend themselves,  
13 they don't stick up for themselves, they let people walk all over them, right, they  
14 don't have the ability to defend themselves or to assert themselves, right? And  
15 this becomes, this is really a phenomenon in lesbianism because the butches and  
16 the masculine oriented ones. They will take advantage of the ones on the other  
17 side and they will virtually enslave them, right? Lesbian relationships tend to be  
18 extremely possessive, right? When you think of any type of relationship or some  
19 of you very, very jealous or possessive with another person. Lesbianism, you take  
20 that times a hundred, in fact, when the domestic violence rate among lesbians in  
21 the United States is higher than this for a normal couples percentage wise that

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 because there's a intense jealousy is a sort about possession of that other person  
2 and if they dare to look at another woman.

3 **[2:35:00].**

4 Then, there can be a fight, there can be beatings and all that because you got a  
5 woman who now is wanting to be like a man so what does she do to express the  
6 masculineness that she wants to have. She's tough, right. I mean, I wouldn't want  
7 mess with a lot of this women that identify themselves that way. I mean they're,  
8 they work out, you know, they want to fight, right. And then when they get a  
9 hold of one of these on the other side then it's becomes a total control, right?.  
10 You're not going to do anything and unless I tell you. The furthest example of  
11 this is the slave mentality and this often, very often develops into sadomasochism,  
12 right? It's a sadomasochistic relationship in which, uh, there will be torture, there  
13 will be bondage, all kinds of things, a lot of it is not as awful as some of it  
14 sounds there's a lot of certainly sexual game playing but still it's a form ..

15 **[2:26:00]**

16 ... of interrelationship that's not healthy and that where the one person is not and  
17 the other one is submissive. And interestingly, when you get to this extreme,  
18 when you get the furthest extreme where a woman has almost no masculine  
19 qualities at all. She will, just as easily fall under the control of a man because  
20 she has no ability to say no to anybody, right? She can't say, no. She has no  
21 personality, no sense of personal power to be able to say, no, I will not do what  
22 you want. So she will often end up being a slave to man in a sadomasochism

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1 relationship just as well as a woman. In fact, it's one of the things about why  
2 the feminist movement is, there's a lot of lesbians in the feminist movement. And  
3 why there's a lot emphasis on female power, it's a reaction to this. It's a reaction  
4 to this powerlessness that really comes ...

5 **[2:37:00]**

6 ... from gender disorder that women, it isn't the fault of men that they don't  
7 have power. It's the fault of their own internal dysfunction that they don't have  
8 power because it isn't there. They don't have those qualities in there. They can't  
9 get them. That's the thing. That's the whole, it's in all of this because none of  
10 this is locked in stone. God did not create people to be transsexual. When a man  
11 decides that he wants to be a woman, it isn't God that made a mistake and put  
12 him in the wrong body. Something happened to him. He was hurt and the same  
13 way to somebody gets malaria or sickle cell anemia or falls down and gets their  
14 legs cut off or something. That he's had something terrible happen to him. But in  
15 this case, it can be fixed, it can be corrected. The people are really the most at  
16 fault for this, are doctors who willingly participate in the mutilation of the bodies  
17 of their clients in order to fulfill ...

18 **[2:28:00]**

19 ... this craziness. So when you're looking in the future for your legal standards  
20 that you have, be aware that these things exist, have sympathy, have balance in  
21 your approach, but be firm in standing for the fact that everyone can heal and  
22 that there is a standard that must be held up. Children will follow the example of

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1 the things that are around them, all right. Children will follow the example of the  
2 things that are around them. And if you allow in your society, the presentation of  
3 all these bad values, all these ideas that you should can have sex without  
4 marriage without consequences that you can engage in sex with men or women  
5 indiscriminately. All those things, they're the ones that are going to do it. See the  
6 gay movement doesn't care about what you think, right.? They know they're not  
7 going to change your ways, they are focused on the young ones because if you  
8 can put the ideas into their minds it's just ...

9 **[2:39:00]**

10 ... a matter of time before you die off and they take your place and their value  
11 system will then allow all rules to be changed. So, with that, I've gone over time  
12 on this. The last segment, I'm going to talk about how the transformation  
13 process occurs in a society and how to effectively respond.

14 Male Speaker: At some point with the lack we may be pushing and I'm  
15 really annoyed to know how many other people somewhat been experiment on  
16 schools because of this kind of behavior, well, you could guess to be have it to  
17 understand themselves rather than to be surround in the society where they could  
18 completely each growing. I know we have, many of us here, you know, what Kahn  
19 says ...

20 **[2:40:00]** from schools which I think is very encouraging because I believe their  
21 approach will definitely change to these young people and so what I see ministers or  
22 pastors we need to be sure for many years now these are type of weakness

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 which I have been which was consecrated with Bishop which is 34 years. I chose  
2 to do a lot of counseling because I saw there was a lot of misunderstanding and  
3 people was afraid especially in this City of Mauritius site. So where I get more  
4 educated in this area, I'm very, very grateful in spite all the number of problem  
5 in which we have to face in my church ...

6 **[2:41:00]**

7 ... I believe I've chosen the right course and will continue in this area. I hope to  
8 work with other churches to share with them. We may have different views but  
9 we need to learn from each other. So, I thank you.

10 Male Speaker: I encourage you to continue forward in counseling with young  
11 people and just on the condition that the counseling always work to help a  
12 person to affirm God's intention for them and not what the political gay  
13 movement has told them that they should do. Uh, and that's, that's important and  
14 the question on heterosexism. That's another word that people, uh, that you will  
15 hear. How many people have already heard of the word heterosexism? Okay.  
16 Heterosexism means, it's actually supposed to ...

17 **[2:42:00]**

18 ....be a, uh, associated with a analogous to racism or sexism in both cases where  
19 one group of people affirms their superiority over another group of people and  
20 sexism men superior to women. In racism one race of people over another race  
21 of people and so it's once again this is a term that built into the logic of this  
22 term is the idea that homosexuality and heterosexuality are equal states of being

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 that have their own individual first grounding in normalcy and that is not the  
2 case. Heterosexism is simply the assertion of the superiority of the natural family  
3 model and there's nothing wrong with that. There's nothing wrong in fact it's  
4 necessary to assert the superiority ...

5 **[2:43:00]**

6 ... of the heterosexual norm. That is and we won't have a society if we don't  
7 have the heterosexual norm. If men and women are not coming together and  
8 marrying and raising children to replace them in the next generation then even if  
9 there was an equal number of people procreating and an equal number living in a  
10 homosexual identity, the society would collapse upon itself. You have to have an  
11 infrastructure, a foundation of families for society to be healthy and it's also  
12 there's nothing wrong with asserting the superiority of a man and a woman  
13 coming together as a family. That is superior, there's nothing wrong with  
14 asserting that and homosexuality is not equal to heterosexuality. There is no third  
15 sex. We've gone all through that. All of the teaching that I've done today. All of  
16 the component parts of that add up ...

17 **[2:44:00]...**

18 ... to that same conclusion. Now the people individually have equal worth in the  
19 sight of God. All of us are children of God. We're equal as a human being  
20 inside of ourselves, but we're not equal in what we do. We're not equal in what  
21 we teach or what we promote because all those things have to be measured

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 according to a standard of whether they harm or benefit the society or ourselves.  
2 Homosexuality does not benefit the society. It harms the people that engage in it.  
3 It harms the society that embraces it. Now that said, so we need public policy  
4 that discourages homosexuality, discourages it. Now you have, you do even more  
5 than that. You criminalize it and I think in your circumstance it's appropriate if  
6 you tie the criminalization with some kind of mandatory option for treatment or  
7 people if you get ...

8 **[2:45:00]**

9 ... convicted of, you get arrested for this that you can go through some kind of  
10 therapy. Now if you decide, no I'm not in favor of anyone breaking down  
11 somebody's doors and going into their bedroom to arrest them for engaging in  
12 sexual behavior. I don't care who they are. I don't think that that should be  
13 done. If you are a homosexual, if you have a homosexual identity and you're in  
14 a relationship with another homosexual person or other person who has a  
15 homosexual identity and the two of you are living together at some place and  
16 keeping it private, right? You're not telling people. You're not announcing to the  
17 world that you're gay. You want everybody to accept it and you want society to  
18 change I say I'm going to leave you alone. I wish you weren't doing that. I'm  
19 going to continue in my society to be explaining through the media and through  
20 the billboards and through education why that's wrong and harmful, but I'm not  
21 going to come and break down your door to arrest you and throw you in jail. I  
22 think that's bad.

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 [2:46:00]

2 I think that is counterproductive. People, as long as, like I said before you know  
3 they're not, is not breaking laws like violating children or spreading diseases that  
4 are harming other people so that deals with that and then the, uh ...

5 Male Speaker: Why is it so important for change other people that to I  
6 mean that if you are planning that idea ...

7 Male Speaker: Yeah, I don't think that it's someone who decides they  
8 don't want to be changed. That's what I'm saying. Leave them alone. If they  
9 keep it private. If they're coming in the public, if they're saying we're going to  
10 change all the laws. We're going to make everybody in the society be pro-gay  
11 then no. I'm not going to do that because that hurts children. That hurts families.  
12 That creates a contradiction to the marriage-based culture, right? There's always  
13 been homosexuals in society, always and it's ...

14 [2:47:00]

15 ... like this. I like to explain it this way. Society is like the human body, right?  
16 Every one of us we have diseases, harmful things that are in our blood right  
17 now, but they aren't hurting us because we have an immune system that's  
18 healthy, right? So we have malaria in our blood or we have this that or the other  
19 thing that is truly, it would be harmful for us. If they were to overwhelm the  
20 immune system and you know if we decide that we're not going to eat good  
21 food anymore. We're just going to eat candy and drink Coca-Cola, right? From

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 now on, no meat, no potatoes, no vegetables, right? Then after a while our  
2 immune system is going to breakdown, right? And those diseases that are in our  
3 body are then going to overwhelm our immune system and we're going to suffer  
4 the consequences of doing what we should know is not healthy to do. In the  
5 same manner society has an immune system ...

6 **[2:48:00]**

7 ... that is made up of the majority of healthy families that are there. Marriages or  
8 husbands and wives care about each other. Children being raised in homes where  
9 they get good standard, where they're learning to be take over the next  
10 generation, right? In that society there's things that are there are life diseases that  
11 are harmful. Alcoholism, drug addiction, homosexuality, uh, gambling ...

12 Male Speaker: Prostitution.

13 Male Speaker: ...prostitution. Many of these things as long as they are  
14 small in number, right? We don't like that they're there, but they don't threaten  
15 the existence of the society but if you come along in that society and say, "No,  
16 we're not, we're going to attack. We're not going to keep eating a healthy diet  
17 of remembering why the family is important and teaching our kids in the way  
18 that they should go and encouraging married people to stay together. [2:49:00] If  
19 instead we start embracing sexual promiscuity. You don't have to restrict yourself.  
20 You can do whatever you want to. Go ahead and eat candy all day, right? All  
21 week, all month but after a while what that does is that it elevates those harmful

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 parts of the society until they reach a place where they're doing great damage,  
2 great damage. Can you imagine if this casino here in town. Can you imagine if  
3 instead of the small percentage of people that go in there. If now 50% of the  
4 population was taking their paychecks into that casino and losing the money at  
5 those tables and losing the money in those slot machines, what would happen to  
6 the society? It would fall apart. It's the same analogy. If all of the children in  
7 the school system began thinking that they don't need to care about marriage and  
8 they start engaging in sexual behavior with each other. There's going to be  
9 diseases that sweep through the whole population. You're going to have girls ...

10 **[2:50:00]**

11 ... becoming barren because of the things the diseases that they get. They won't  
12 be able to bear children even if they decide to get married later and I'm not  
13 even talking about homosexuality. I'm just talking about heterosexual promiscuity,  
14 right? So, do those things exist? Yes. Are children in the schools having sex with  
15 each other? Of course they are. They always have done, but if we don't actively  
16 discourage it, if we went to those schools and we said, "We're no longer going  
17 to tell all of you children that you have or that you should wait until marriage.  
18 That you shouldn't get married at all and we're just going to tell you that sex is  
19 free, you have the right to make your own choices. Now, go ahead. Here's some  
20 condoms." Alright, what would happen? That's what they're doing in the United  
21 States. You can see what's happening. We have in my country, this infuriates me.

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 We have come to a place where the children. We're in the third generation after  
2 the sexual revolution ...

3 **[2:51:00]**

4 ... and the children in our country, eleven and twelve year olds are having orgies  
5 together. They aren't just engaging in promiscuous sex, they're having group sex  
6 together. There are stories in the newspaper of children eleven, twelve years old  
7 having oral sex on the school bus, on the way to work I mean on the way to  
8 school and these are in family newspapers. That's how open it is. That's how uh  
9 ...

10 Male Speaker: AIDS.

11 Male Speaker: That's what happens right? When the immune system  
12 becomes overwhelmed, the body begins to suffer, disintegrate so that's what this  
13 is about, you know? Let the gay subculture exist. If they mind their own business  
14 and don't try to change the rest of the world.

15 Female Speaker: Yes.

16 Male Speaker: And that's the next segment I'm going to do. I'm going  
17 to talk about how they do that. How they make that change, how they transform  
18 a society in their own image. They satisfy the gay culture. They're just ...

19 **[2:52:00]**

20 ... too important. Children need a mother and a father to take care of them. Now,  
21 is it possible for some children to be raised by homosexuals and not be damaged

**LIVELY SECOND SUPPLEMENTAL PRODUCTION**

1 beyond control? Yeah, I think it's possible, but is it likely? As a standard policy  
2 of we allow it across the board. If we're dealing with people who are struggling  
3 with some, with an internal problem that causes them to do the things personally  
4 and politically that they do? Do we really want to subject children to that and the  
5 stories that I have seen. I've heard testimonies of people that are now adults that  
6 were raised in gay households and they speak out. They say, "No, don't let that  
7 happen to any other children," So it's just a wrong policy

8 [2:52:41]

9 **[Audio Ends]**

# **EXHIBIT 195**

## **Part 1 of 3**

## UGANDA

Uganda, with a population of 32 million, is a constitutional republic led by President Yoweri Museveni of the ruling National Resistance Movement (NRM) party. The 2006 presidential and parliamentary elections were marred by serious irregularities. An influx of arms continued to fuel violence in the Karamoja region, resulting in deaths and injuries. The Lord's Resistance Army (LRA), which relocated to the Democratic Republic of the Congo (DRC) in 2005, continued to hold children forcibly abducted from the country. The governments of Uganda, Southern Sudan, and the DRC continued military actions against the LRA in the DRC, Southern Sudan, and the Central African Republic (CAR). There were instances in which elements of the security forces acted independently of civilian control.

Serious human rights problems in the country included arbitrary killings; vigilante killings; mob and ethnic violence; torture and abuse of suspects and detainees; harsh prison conditions; official impunity; arbitrary and politically motivated arrest and detention; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial and on freedoms of speech, press, assembly, and association; restrictions on opposition parties; electoral irregularities; official corruption; violence and discrimination against women and children, including female genital mutilation (FGM), sexual abuse of children, and the ritual killing of children; trafficking in persons; violence and discrimination against persons with disabilities and homosexual persons; restrictions on labor rights; and forced labor, including child labor.

### RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed politically motivated killings; however, security forces killed demonstrators, suspects, detainees, and other citizens. Some deaths occurred as a result of torture.

Security forces killed suspects while in custody or during questioning. For example, on March 23, police in Hoima District arrested Ibrahim Massa, officer in charge of Songa Police Post in Kyangwali subcounty, together with

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junior officers David Barongo and Samuel Turinawe, for beating to death suspect Gilbert Mukonyezi. Following a police investigation Massa was released, while Barongo and Turinawe were charged with manslaughter and released on bail pending hearing of their case.

On May 17, police in Kampala arrested Rapid Response Unit (RRU) police officers Disinga Abangu, David Mulwanira, and Alex Muhiirwe for killing suspect Henry Bakasamba during questioning. Bakasamba died in police custody at the Kireka Detention Center on May 14. Police reported that investigations into the case were ongoing at year's end.

On August 20, police in Gulu District arrested police officers Joe Okello, Steven Otim Mulema, and Collin Ayella for the death of Calvin Oewee, who was arrested and allegedly tortured to death for stealing a motorcycle. A court charged the officers with murder and remanded them to prison pending trial.

Security forces' use of excessive force, including the use of live ammunition, to carry out law enforcement operations or disperse demonstrators resulted in deaths.

For example, on March 17, members of President Museveni's advance team fired into a crowd gathered at the Buganda Kingdom's Kasubi Tombs, after a fire destroyed the tombs on March 16. Cornelius Kayanja, Haruna Kakumba, and an unidentified person were killed, and five others injured. On December 2, a government commission began investigating the incident, but no action was taken by year's end.

On April 2, two special police constables (SPCs) in Kisoro beat to death Evaristo Mihigo for allegedly resisting arrest. On April 7, a court in Kisoro charged the officers with murder and remanded them to prison. On July 9, the court dismissed the case due to lack of evidence.

On September 12, police in Bugiri fired live bullets to disperse a crowd during the NRM party primary elections. One person was killed. There were no reports of an investigation or disciplinary action.

On September 7, police in Hoima used live ammunition to break up a strike at the British America Tobacco (BAT) Uganda. Dennis Bazara and Benard Byabasaija were killed, and several others wounded. Authorities arrested police officers Augustine Kasangaki, Luke Mbusa, and Romeo Ojara for excessive use of force. On September 15, the Hoima Police Disciplinary Court charged Kasangaki,

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Mbusa, and Ojara with manslaughter and remanded them to prison (see section 7 b.).

Excessive force and the indiscriminate use of live ammunition by security forces and the Uganda People's Defense Forces (UPDF) resulted in deaths during cattle recovery and disarmament operations in the Karamoja Region in the east.

For example, 13 Karamojong citizens, including six children, one woman and two elderly persons, died during a January 4-7 UPDF operation to recover rustled cattle in Kotido District. Witness statements alleged that a helicopter gunship fired indiscriminately into livestock and persons. During this operation the UPDF arrested 32 persons, some of whom were allegedly tortured or mistreated while in detention.

At least five Karamojong citizens died during a January 22 UPDF cattle recovery operation in Rengen subcounty of Kotido District. Eyewitnesses reported that individuals killed were not armed and included children. The UPDF reported that five alleged rustlers were killed and one UPDF soldier wounded in the engagement.

At least 10 persons were killed in an April 24 cattle recovery and disarmament operation in Lokitela'Angilam town in Rengen subcounty, Kotido District. According to a joint UN Office of the High Commissioner for Human Rights (OHCHR) and the Uganda Human Rights Commission (UHRC) statement, the dead included six children and two elderly men. During the operation, the UPDF allegedly fired small arms and rocket propelled grenades indiscriminately. An internal UPDF investigation of the incident reported that UPDF soldiers were responding to an attack by 30-40 armed assailants.

In August the UPDF killed 29 Jie cattle rustlers in Nadunget, Moroto District. UPDF's third division commander Brigadier Patrick Kankiriho confirmed the incident, saying the rustlers refused to surrender.

There were developments in some 2009 cases involving deaths caused by government security forces.

In January 2009 security agents in Bukedea District reportedly tortured to death David Okwi, a member of the opposition party Forum for Democratic Change (FDC). In February 2009, the FDC petitioned the Uganda Human Rights Commission (UHRC) to investigate Okwi's death. In November 2010, the UHRC

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concluded its investigation, and the case was pending a hearing before the UHRC tribunal at year's end.

At year's end investigations continued in the following 2009 cases: the February killing of William Byamugisha and Daniel Tumwine, the February killing of Mucunguzi Katongole, the February beating and subsequent death of prison inmate Emmanuel Tindimwebwa, the March shooting deaths of Joseph Denaya and Cosmas Data, and the August death of Ali Katende while in police custody.

The government took no action to investigate security force handling of the September 2009 riots in Kampala that resulted in at least 40 deaths. On September 8, the High Court denied an appeal for bail by 23 individuals who were arrested during the riots and charged with the capital offence of terrorism. In January civilian Abdallah Byabasaija petitioned the High Court to compel the inspector general of police (IGP) and the government to compensate him for the death of his wife, who was killed during the riots. The petition remained pending.

In June police in Arua District arrested Mobile Police Protection Unit officer Ben Kiwanuka Drici, Charles Obuci, Celestine Mutahingwa, and Patrick Okiror for allegedly torturing to death suspect Taban Ramadan in December 2009. An investigation into the case was pending at year's end.

Government security forces were punished for killings committed in 2008 and previous years. In January a court in Kabale District sentenced police officers Difasi Buko and Michael Karuhize to 14 years' imprisonment for the 2008 killing of Dalas Innocent Mutekanga. On July 6, a court in Kabarole District sentenced SPC Christopher Bahemuka to nine years' imprisonment for the 2007 killing of Godfrey Bitamazire. In January the UPDF's fifth division court martial sentenced to death UPDF private Africano Abono Lino for the 2006 killing of seven civilians in the Laguti Internally Displaced (IDP) camp. On April 13, a court in Kabarole District sentenced former UPDF officer Moses Musinguzi to 16 years imprisonment for the 2006 killing of Erasmus Kalyega. On September 27, the High Court in Gulu sentenced UPDF soldiers Michael Onek Oloya and Francis Oryem each to 45 years in prison for the 2003 killing of Bicentina Lakot.

Unlike in previous years, there were no reports that members of Local Defense Units (LDUs) were responsible for killings; however, there were developments in several cases from previous years. On February 5, the High Court in Lira District sentenced Peter Onini, Geoffrey Engur, Alex Okaka, Ronald Adupa, and Moses Oyuku, former members of the Amuka militia, to 25 years' imprisonment for the

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2006 murder of David Odong at the Otwal Internally Displaced Persons (IDP) camp. In November police submitted the file of LDU member Moses Kabagambe to the state attorney for committal in the High Court for allegedly killing Lauren Arinaitwe in 2009 in Kabarole District.

One terrorist attack occurred during the year. On July 11, an attack by the Somali terrorist group al-Shabaab killed 76 persons in Kampala. Al-Shabaab bombs killed individuals assembled to watch the World Cup finals at an Ethiopian restaurant and a rugby club. The government arrested several dozen individuals in connection with the bombings including, on September 15, Kenyan human rights activist Al-Amin Kimathi and Kenyan attorney Mbuga Mureithi. On September 18, authorities released Mureithi without charge and deported him back to Kenya. On December 1, authorities charged 17 persons, including Kimathi, with terrorism, murder and attempted murder in relation to the bombings and released 18 others. Hearing of the cases was pending at year's end.

As in previous years, ritual killings of children and adults resulted in deaths. The 2009 Police Annual Crime Report recorded a total of 29 suspected ritual killings (see section 6).

Mob attacks against criminal suspects resulted in deaths during the year. The 2009 Police Annual Crime Report recorded a total of 332 mob action cases, many of which resulted in deaths. Witnesses rarely cooperated with police, making investigation of such incidents difficult.

For example, on February 22, a mob in Obopi village, Arua District, beat to death a suspected witch doctor who was accused of killing two persons from the same village.

In May a mob in Bugobi Trading Center in Namutamba District beat to death three suspected robbers for allegedly breaking into a shop.

The trial of 11 suspects implicated in the beating death of landlord Sam Kubo in 2009 was pending.

There were reports of increased cattle raids and societal violence in the Karamoja Region. According to the UPDF and human rights groups, cattle raids and the UPDF's forced disarmament campaign resulted in the deaths of at least 90 civilians and 32 UPDF soldiers during the year.

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As in the past five years, there were no reports of LRA attacks within the country; however, the LRA killed numerous persons in the DRC, CAR, and Sudan.

### b. Disappearance

There were no reports of politically motivated abductions or kidnappings, but there were developments in past disappearance cases.

In February the High Court ordered the Ministry of Internal Affairs to conduct an inquiry into the disappearance and presumed death of Lutaya Saidi, a street vendor allegedly arrested by the Joint Anti-terrorism Task Force (JATT) in 2007. The Ministry of Internal Affairs failed to conduct the inquiry within the prescribed 90 days, and there were no further developments.

The whereabouts of at least six individuals identified in Human Rights Watch's April 2009 "Open Secret" report remained unknown. These individuals were allegedly arrested in 2008 and detained in the Kololo Detention Facility (see section 1.d.).

As in the past five years, there were no reports of LRA abductions in Uganda; however, the LRA abducted many persons in the DRC, CAR, and Sudan.

### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, there were credible reports that security forces tortured and beat suspects, some of whom died as a result (see section 1.a.).

The UHRC, the Foundation for Human Rights Initiative (FHRI), the African Center for Treatment and Rehabilitation of Torture Victims (ACTV), and other human rights organizations reported incidents of torture by security forces, including caning, severe beating, squeezing of private parts, stabbing, kicking, tying of limbs in contorted positions, forced marching, and rape. From January to April the ACTV registered 29 allegations of torture against the police, 19 against the UPDF, three against military police, six against the Violent Crime Crack Unit or Rapid Response Unit (RRU), 20 against unspecified security personnel, and 59 against prison officials. In September the government approved payment of over one billion shillings (\$431,592) owed to victims of torture and other abuses;

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however, the government still owed victims 1.9 billion shillings (\$820,025) at year's end.

In its 2009 annual report released in October 2010, the UHRC reported registering 785 human rights complaints against 858 individuals, including 106 UPDF members, 285 police officers, 86 other security agencies, 29 prison warders, and 343 private citizens. Of the 785 complaints, 31 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment.

There were numerous reports of torture and abuse in unregistered detention facilities operated by the JATT and the Chieftancy of Military Intelligence (CMI). Torture victims included political activists and detainees.

FHRI cited two cases of torture in its August report "Overview of the Human Rights Situation in Uganda January-July 2010." On May 6, for instance, police in Kampala arrested, detained, and allegedly tortured Segilinya (full name withheld) for two weeks at Kitebi police post. On May 21, a court in Nsanji charged Segilinya with stealing a bicycle and remanded him to Kabasanda Prison. On May 15, police in Jinja arrested Mayinja (full name withheld) on robbery charges. Mayinja claimed he was beaten during three days of RRU detention.

On April 4, UPDF soldier Lt. Justine Engwau allegedly tortured Nelson Okurut and Joseph Ikimiyom after arresting them on robbery charges in Kasoka village, Bukedea District. The UPDF allegedly denied the victims access to medical care, even though they were in critical condition. UHRC concluded its investigation into this incident, and the matter was pending hearing before the UHRC tribunal at year's end.

The 2009 torture case filed by Hoima Mayor Francis Atugonza against the CMI for alleged illegal detention and torture in a CMI "safe house" was pending a Constitutional Court ruling at year's end.

Security force use of excessive force resulted in injuries during arrests and law enforcement operations.

For example, on January 20, SPC Alfred Achikane allegedly shot and injured local musician Moses Ssali, his body guard Abbas Kayoyo, and Allan Masengere, Godfrey Kayiza, and David Oluka in Kampala. On February 9, a court in Kampala charged Achikane with five counts of attempted murder. On February 23, he was released on bail, and hearing of the case was pending.

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On March 22, SPC Patrick Tumusiime shot and injured civilian Abdul Nsubuga during an operation to round up criminals in a Kampala suburb. Police arrested Tumusiime and charged him with unlawful wounding. Police later released Tumusiime pending an investigation of the incident.

On March 19, police severely beat Forum for Democratic Change (FDC) and Inter-Party Cooperation (IPC) women's leader Ingrid Turinawe and assaulted other FDC members at the Kabale police station. A police investigation accused Turinawe and others of trying to forcibly enter the police station and claimed the officers' actions were justified. An independent medical report confirmed that Turinawe suffered blows to the head and body, and a lawsuit against the police filed by Turinawe was pending at year's end.

Police beat and used pepper spray or mace against 33 female IPC supporters on June 14. Four of the women were hospitalized due to blunt force injuries and ingestion of a chemical substance. On the same day, police charged two of the women, Ida Namukwaya and Eyoru Asala, with assault of police officers. Hearing of the assault case began on November 14 and was pending at year's end. On July 2, the IPC women filed a counter suit in the High Court accusing the police officers of assault. This case was pending hearing at year's end.

In July police arrested more than 60 members of the National Alliance for Free and Fair Elections (NAFFE) and the Inter Party Cooperation (IPC) for staging nationwide demonstrations against the Electoral Commission. Police in Mbale and Bushenyi districts reportedly beat protestors. Police confirmed that one officer beat protestors in Mbale and said they would investigate the officer's actions. Results of this investigation were pending at year's end.

In December Inspector General of Police General Kale Kayihura suspended the Rapid Response Unit's Commander, Nathan Byona, and senior police officers Nixon Karuhanga and Julius Kwikirizi over allegations of torture, extortion, and mismanagement. There were no reports of findings of the investigation at year's end.

There were no developments in any of the 2009 cases of security force use of excessive force during arrests, law enforcement operations, or to disperse demonstrators.

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There was no update, for instance, on the March 2009 case in which UPDF Major Otim Demoi Latek allegedly tied up and seriously beat residents David Obonyo and Walter Okeny over a land dispute in Gulu.

Court proceeding into Corporal Swaleh Swaib and SPC Henry Mukasa's alleged beating of four persons in July 2009 remained ongoing. One of the four individuals died of his injuries.

The UHRC received complaints from individuals who sustained injuries during the September 2009 riots (see sections 1.a. and 1.d.). For example, a petition filed by Ssemukala Ismail alleged that security force members shot him while he was closing his shop in Nateete, disabling his left arm. Investigations into the incident were pending at year's end.

There were no developments in the 2008 shooting of Masaba Bakari in Muzulu village, Namutamba District, by SPC Eric Kiirya for defying traffic police directives to stop.

In May the Uganda Law Society sued the attorney general for the Director of Public Prosecution's (DPP) failure to prosecute Assistant Prisons Superintendent Sam Etoru and senior police officer Ivan Nkwasiwe for allegedly assaulting members of the society during the paramilitary takeover of the High Court in 2007. The government paramilitary group known as the "Black Mambas" forcibly occupied the court to prevent FDC leader Kizza Besigye from being released on bail. A hearing of the suit was pending.

As in previous years, mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths and injuries. Motivated in part by lack of confidence in law enforcement and the judicial system, mobs beat, lynched, burned, and otherwise brutalized their victims (see section 1.a.).

The government continued to prosecute citizens for their alleged involvement in the 2009 September riots. The 2009 Police Annual Crime Report recorded 210 offenses against public order during the September riots. Of these, 112 cases were prosecuted, with 20 convictions and one acquittal. 91 cases remain pending.

#### Prison and Detention Center Conditions

Prison conditions remained poor and, in some cases, life threatening. There were reports that security forces tortured inmates, particularly in military facilities and

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unregistered detention centers. Abusive forced labor in prisons countrywide remained a problem.

Prison conditions came closest to meeting international standards in Kampala, where medical care, running water, and sanitation were provided; however, these prisons were among the most overcrowded. Serious problems in prisons outside Kampala included long remand periods, overcrowding, inadequate staff, and lack of food, water, medical care, and bedding.

The Uganda Prisons Service reported there were 30,312 prisoners in the prison system at the end of August, approximately three times capacity. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala Remand Home, designed for 45 children, held 110. The Naguru reception center, designed for 30 prisoners, held 150 juveniles. The Prisons Service recorded 103 prisoner deaths nationwide from torture, overcrowding, malnutrition, poor sanitation, disease, overwork, and lack of medical care.

Information was unavailable on conditions in unregistered facilities, although authorities allowed the UHRC and some international NGOs access to selected unregistered facilities.

Prison authorities reported that the three suspects who allegedly strangled to death prisoners Geoffrey Akandwanaho, Fred Mugisha, and Ephraim Nankunda in 2008 were released on court bond in March 2009, and their trial hearing was pending at year's end.

Female prisoners in central prisons were held in separate facilities; however, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some areas. The Prisons Service had no budget for accommodating pregnant women or mothers with infants; the number of infants in women's prisons increased during the year. Due to lack of space in juvenile facilities, minors were held in prisons with adults. Pretrial detainees in Kampala prisons were separated from convicted prisoners, but pretrial detainees and convicted prisoners in the rest of the country were sometimes held together. Local NGOs reported that prisoners and detainees had reasonable access to visitors and were allowed to submit complaints. Prison authorities acknowledged a backlog in the investigation of complaints. Authorities allowed international NGOs, foreign diplomats, and local NGOs, principally the FHRI and the Uganda Prisoners' Aid Foundation, to conduct prison visits during the year but required advance notification.

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## d. Arbitrary Arrest or Detention

The constitution and law prohibit such practices; however, members of the security forces arrested and detained citizens arbitrarily during the year.

## Role of the Police and Security Apparatus

The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has primary responsibility for law enforcement. The UPDF is charged with external security but had significant responsibility for preventing violence resulting from interclan cattle raids in the Karamoja Region. The Internal Security Organization (ISO) and External Security Organization (ESO), which are security agencies and intelligence-gathering entities under the minister of security, occasionally detained civilians. The CMI is legally under UPDF authority, although it often acted as a semiautonomous unit in detaining civilians suspected of rebel and terrorist activity, as did the ISO and ESO. The Joint Anti-terrorism Taskforce (JATT), an interagency paramilitary group under the CMI, has no codified mandate but illegally detained civilians suspected of rebel and terrorist activity. The JATT is a joint command whose members are drawn from the UPDF, police, ISO, and ESO.

The UPF continued to be constrained by limited resources, including low pay and lack of vehicles, equipment, and training. The UPF Human Rights Desk investigated complaints of police abuses, including mismanagement of case papers, torture and harassment, unlawful arrest and detention, abuse of office, irregular or discreditable conduct, and corrupt practices. The UPF reported receiving 1,296 allegations of human rights violations and unprofessional conduct between January and September and stated it took action in response to 330 of these cases.

The UPDF continued efforts to transfer responsibility for law enforcement in the north and in the Karamoja region to the UPF. During the year the UPF deployed an estimated 2,000 additional police officers to Karamoja.

In conjunction with the UHRC and international organizations including the ICRC and the OHCHR, the UPDF and police continued to train officers on internationally recognized human rights standards. During the year 224 police officers attended human rights and constitutional workshops. The police, UPDF, and Prisons Service also used human rights manuals in their training programs.

## Arrest Procedures and Treatment While in Detention

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The law requires that judges or prosecutors issue search warrants before arrests are made; however, in practice, suspects often were taken into custody without warrants. The law requires suspects to be charged within 48 hours of arrest, but suspects frequently were held longer. Suspects arrested under the Antiterrorism Law must be brought to trial or released on bail within 120 days (360 days for a capital offense); however, if the case is presented to the court before the expiration of this period, there is no limit on pretrial detention. Detainees must be informed immediately of the reasons for their detention, although authorities did not always do so. The law provides for bail at the discretion of the judge, and bail was generally granted with stringent conditions. Detainees are required by law to have access to a lawyer; however, many went without legal representation. The government provided attorneys for indigent defendants accused of capital offenses.

The law provides for family visitation, but incommunicado detention remained a problem. According to the African Center for Treatment and Rehabilitation of Torture Victims (ACTV), the military police held three civilians incommunicado in January. In its April 2009 report, Human Rights Watch (HRW) noted that "JATT personnel frequently blindfolded, handcuffed, and sometimes beat suspects being taken to the Kololo detention facility. Detainees had no access to lawyers or family members and only learned of their whereabouts from other detainees or by spotting Kampala landmarks visible from the Kololo facility."

Mass arrests during police sweeps for criminals remained a problem, as did arrests based on alleged sedition, treason, incitement of violence, or terrorism.

Local NGOs received complaints of illegal detention from four individuals allegedly detained by the RRU at the Kireka Detention Center following the July 11 terrorist bombings in Kampala. Three suspects were released without charge. The fourth suspect was still detained at year's end.

On March 25, police and the UPDF arrested 200 persons in Mubende, allegedly to curb insecurity stemming from increased local burglary and murder rates. Police reported that four persons were charged with murder and robbery, while the rest were released without charge.

On August 30, police in Lwengo District, in the central region, arrested more than 30 citizens allegedly hired to incite violence during NRM primary elections in Kinoni. Police released the suspects on September 1 without charge.

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Persons suspected of sedition, treason, incitement of violence, or terrorism were subjected to numerous abuses, such as detention without charge, detention in unofficial locations, and mistreatment, including torture (see subsections 2.a. and 2.b.).

The Prisons Service held 16 pretrial treason suspects during the year. Fourteen of the suspects were arrested in 2009 for allegedly forming the Uganda Patriotic Front rebel group.

The UHRC received complaints during the year from persons who claimed they were arbitrarily arrested. The government paid compensation to some victims of arbitrary arrest during the year, but compensation was often slow. There were no developments in the 2008 petition filed by former UHRC chairperson and current UN Special Rapporteur for Human Rights Defenders Margret Sekaggya to establish a national fund to pay victims. Past compensation payments were made from general government funds administered by the Ministry of Justice and Constitutional Affairs.

Human rights groups continued to express concerns about the treatment of individuals arrested by the UPDF in Karamoja in conjunction with the UPDF's response to cattle raids and the government's disarmament campaign (see section 1.a.).

Local and international human rights groups reported the government detained civilians in military facilities and unregistered detention facilities known as safe houses, where they often were held incommunicado.

The UHRC reported progress in inspecting military places of detention including Kigo, Makindye, and Gulu fourth division military barracks. The UHRC reported it can access these military facilities but only with advance notification. The UHRC also reported that it was able to visit the Kololo safe house and found no evidence of torture or abuse, although a formal report was not published.

There were developments in some cases that occurred in 2009. For example, the RRU's director, Commandant Emmanuel Muhairwe, and two deputies, Peter Kakonge and Emmanuel Bwembale, who were placed on leave in October 2009 following allegations that RRU members illegally detained the wife of a government employee at an unknown location for more than a week, were reinstated and transferred to a different office.

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On September 21, the High Court rejected a bail application submitted by a group of 14 prisoners arrested between September 2008 and May 2009 for allegedly forming a rebel group entitled the Uganda Patriotic Front and plotting to overthrow the government.

During the year police arbitrarily arrested over 100 opposition and civil society demonstrators demanding a new Electoral Commission, electoral reforms, and free and fair elections (see section 2.b.).

Case backlogs in the judicial system contributed to pretrial detentions of two to three years but sometimes as long as seven years. The Prisons Service reported that more than half of its approximately 30,000 inmates were pretrial detainees. The UHRC heard several cases brought by prisoners challenging the length of their detention.

#### Amnesty

Since 2000, the government has offered a blanket amnesty to former LRA and Allied Democratic Forces rebel combatants to encourage defections. On June 14, parliament extended the mandate of the Uganda Amnesty Commission for two years. Over 26,000 individuals, more than half of whom are former LRA combatants, have benefited from amnesty.

#### e. Denial of Fair Public Trial

The constitution and law provide for an independent judiciary, and the government generally respected this provision in practice; however, the president has extensive legal powers of judicial appointment. The president appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, who make recommendations on appointments to the judiciary. The judiciary ruled against the government on several high profile cases during the year. Lower courts remained understaffed, weak, and inefficient. Judicial corruption was a problem (see section 4).

The military court system often did not assure the right to a fair trial. Although the accused has the right to legal counsel, some military defense attorneys were untrained. The law establishes a court martial appeals process; however, sentences, including the death penalty, can only be appealed to the senior UPDF leadership. Under circumstances deemed exigent, a field court martial can be convened at the

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scene of a crime. The law does not permit appeal of a conviction under a field court martial. The military general court martial can try civilians charged with crimes listed under the UPDF Act.

#### Trial Procedures

An inadequate system of judicial administration and a lack of resources resulted in a serious backlog of cases and limited the right to a fair trial. All nonmilitary trials are public, but juries are not used. Defendants have the right to be present and to consult with an attorney in a timely manner, but cases may proceed without defendants in civil cases. The law requires that the government provide an attorney for indigent defendants accused of capital offenses, but there were rarely funds to retain adequate counsel. By law defendants may confront or question witnesses against them and present witnesses and evidence on their behalf, but this right was not respected in practice. In 2008 the Constitutional Court ruled that suspected criminals have a right to obtain documentary evidence the state intends to use against them before the start of their trial. The ruling struck down the practice of "trial by ambush." However, the ruling stated that the right of disclosure is not absolute in highly sensitive cases. There is a presumption of innocence, and defendants have the right of appeal.

Suspects complained of long remand periods. For example, in February three UPDF soldiers facing murder charges--Emmy Namanya, Moses Keriri, and Yason Babishanga--protested long detention in civilian cells without charge. The soldiers alleged they were arrested in Kampala between 2002 and 2004 but by year's end had not been tried. The UPDF reported that the suspects were offered and applied for a plea bargain that would permit the court martial to deduct pretrial time served from their sentences; a hearing of the case was pending.

In September a total of 12 persons who were convicted of crimes as minors but not sentenced sued the attorney general and the minister of justice and constitutional affairs over their continued detention. The individuals were arrested, charged, and convicted by various courts between 1991 and 2001. After conviction their cases were referred to the justice minister for sentencing because they were minors at the time. Due to the minister's failure to determine a sentence, the individuals were detained far beyond the maximum three years stipulated in the 1998 Children's Act.

In September the Ministry of Justice and Constitutional Affairs reported that more than 124,000 cases were prosecuted from previous years and another 113,850 cases

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were registered in 2009. Of these, 100,084 cases were disposed of, while 137,689 were pending at year's end.

#### Political Prisoners and Detainees

There were no reports of political prisoners during the year; however, over 100 opposition politicians, supporters, or journalists critical of the government were detained on politically motivated grounds for short periods.

On October 12, the Constitutional Court cleared FDC leader Kizza Besigye of pending treason, terrorism, murder, and illegal use of firearms charges. The court determined that illegal detention, torture, and other unconstitutional abuses by security services and the government irrevocably undermined the presumption of innocence and right to a fair trial of Besigye and the nine coaccused.

In March lawyers representing treason convict Bright Gabula Africa requested the High Court to declare Africa eligible for amnesty. Africa's death sentence for treason was upheld by the Supreme Court in 1995. He remained imprisoned pending the outcome of his appeal to the Presidential Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body. The High Court had not responded to the request by year's end.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. In the case of a human rights violation, there is access to the UHRC, which has the powers of a court under the constitution. These powers include the authority to order the release of detainees, payment of compensation to victims, and other legal and administrative remedies, such as mediation. There were problems enforcing domestic court orders.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law prohibit such actions, and the government generally respected these prohibitions. However, police did not always obtain search warrants, as required by law, to enter private homes and offices.

The Antiterrorism Act authorizes certain law enforcement officials to intercept communications to detect and prevent terrorist activities. The government

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continued to monitor telephone conversations. On August 5, President Museveni signed into law the Regulation of Interception of Communication Bill, which authorizes government security agencies to legally tap private conversations as part of wider efforts to combat terrorism-related offenses.

The government continued to encourage university students and government officials to attend NRM political education and military science courses known as "chaka mchaka." The government claimed the courses were not compulsory; however, human rights activists reported that civil servants and students were pressured to attend.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and of the press; however, the government at times restricted these rights. The police Media Crimes Unit and government officials closely monitored all radio, television, and print media, and the government at times harassed and intimidated journalists, who continued to practice self-censorship.

On May 2, HRW released a report that documents violations of press freedoms by the government and ruling National Resistance Movement party officials. The report says the government "deploys a wide range of tactics to stifle critical reporting, from occasional physical violence to threats, harassment, bureaucratic interference, and criminal charges." The report warns that use of these tactics "threatens to fatally undermine media freedoms necessary for free and fair elections."

On August 25, the Constitutional Court upheld a petition submitted by the *Independent's* managing editor Andrew Mwenda in 2005 and declared the sedition law inconsistent with article 29 (1) of the constitution, which provides for freedom of speech. According to local NGOs, 15 journalists, civil society activists, and political opposition members face pending sedition charges.

Government officials detained and interrogated political leaders who made public statements critical of the government and used libel laws and national security as grounds to restrict freedom of speech (see section 3). The President's Office reportedly monitored political talk shows, and the government occasionally attempted to block participation of opposition members on radio talk shows.

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On March 29, police in Masaka District arrested Democratic Party supporter Muhammad Kigongo on allegations he accused President Museveni of being responsible for the March 16 fire that destroyed the Buganda Kingdom's tomb site at Kasubi. A court in Masaka charged Kigongo with sedition and released him on bail on March 31. The case hearing was pending at year's end.

On April 1, police in Kasese District questioned and released on police bond FDC supporter Joram Bintamanya for alleging that President Museveni was responsible for the 2008 death of former Ministry of Defense permanent secretary Noble Mayombo. On April 22, the state prosecutor ordered the closure of the case for lack of recorded evidence.

On April 1, police in Kabarole District arrested FDC supporters Tom Mboijana and Prosper Businge for statements made on Better FM radio accusing President Museveni of being responsible for the killing of three civilians at Kasubi Tombs on March 17. Mbojaina and Businge recorded statements and were released on police bond. Police investigations continued, and hearing of the case was pending at year's end.

On April 16, police in Kasese arrested Messiah FM Radio presenter Charles Tumusiime and politicians Joram Kitembo and Isaac Hakiza over statements made regarding the Kasubi Tombs fire during a radio talk show. The police held the three suspects for eight hours before releasing them without charge.

On May 8, Radio Nile FM radio panelist Titia Kamure allegedly accused President Museveni of using "guerrilla tactics" in redistricting decisions. Arua District police commander (DPC) Willis Mutabingwa said Kamure's statements abused the president and summoned her to record a statement. Kamure disregarded the summons, and the case was pending.

On September 10, a group of motorcycle taxi drivers beat to death freelance journalist Paul Kiggundu after he was seen filming the group demolishing the house of another taxi driver in the southwestern part of the country. The drivers accused Kiggundu of working for the police. On September 21, police arrested five suspects in connection with Kiggundu's murder and remanded them to prison. An investigation into the case continued at year's end.

On September 13, unidentified assailants beat and killed Prime Radio news presenter Dickson Ssentongo on his way to work in Mukono District. Ssentongo

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was politically active and was running for a position in the Democratic Party in the upcoming February 2011 elections. There were no arrests made in connection to the murder of Ssentongo; police said an investigation in the incident continued at year's end.

On November 5, police arrested Radio Hoima FM reporter Frederick Makuru Muhamba for allegedly inciting violence by broadcasting supposedly false information about the National Resistance Movement party's internal primaries. On November 6, police released Muhamba on bond, and hearing of the case was pending at year's end.

On October 5, a Kampala court dismissed the September 2009 sedition charge against former Radio One presenter Robert Kalundi Sserumaga in light of the August 25 Constitutional Court ruling on the unconstitutionality of the sedition law. The hearing of a December 2009 petition filed by Sserumaga in the High Court to challenge his dismissal and that of Radio Sapientia's Geoffrey Ssebagala was pending at year's end.

There were some developments in previous cases of government harassment of politicians.

On January 13, a court in Kampala postponed proceedings against Democratic Party (DP) spokesperson Betty Nambooze pending the Constitutional Court ruling on sedition. Nambooze was charged with sedition in December 2009 for making statements with the intent to generate public hatred, contempt, and dissatisfaction with President Museveni.

The hearing of the December 2009 case against Hussein Kyanjo, a parliamentarian and member of the opposition Justice Forum party, for inciting violence during a December 2009 Buganda Kingdom conference was pending, and he remained free on bail at year's end.

Several opposition politicians were denied access to the media.

For example, on January 30, Luo FM radio in Pader District refused to host FDC President Kizza Besigye. Several other radio stations also refused to host Besigye, including Beta FM in Masindi, Radio Hoima, and Kapchorwa Trinity Radio. Several radio stations also refused to host UPC President Olara Otunnu during his January tour of the western region.

# **EXHIBIT 195**

## **Part 2 of 3**

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On May 26, Ibrahim Abiriga, Arua resident district commissioner (RDC) blacklisted four regular guests of a Nile FM political talk show. In a letter, Abiriga ordered Nile FM Radio's management to stop hosting politicians Bernard Atiku (FDC), Nelson Cemari (UPC), former ambassador Harold Acemah (UPC), and Titia Kamure (UPC). RDC Abiriga claimed that some of the politician's statements threatened security. Nile FM stopped hosting the politicians.

On October 8, the government seized 500 copies of a new book critical of President Museveni written by FDC President Besigye's sister. On October 11, the government acknowledged confiscating the books for security reasons. The government released the books on October 20.

There were many privately owned publications and broadcast stations, and the independent media were generally active and expressed a wide variety of views, although they faced obstacles. Media laws require that journalists be licensed and possess a university degree in journalism or the equivalent. The law also grants the Media Council the power to suspend newspapers. The *Daily Monitor*, the *Independent Magazine*, and the *Weekly Observer* continued to publish articles critical of the government despite pending sedition cases against members of their staff. The government owned several daily and weekly newspapers.

Government agents and political leaders affiliated with the ruling party assaulted journalists during the year.

In June 9, police officer Mohammed Mundu assaulted and destroyed the camera of *Daily Monitor* journalist Yusuf Muziransa for taking pictures of a vigilante group known as the Kiboko Squad beating opposition supporters in Kampala. On June 24, a court in Kampala charged Mundu with assault and malicious damage to property and remanded him to prison. On June 25, the court released Mundu on bail, and hearing of the case was pending at year's end.

On September 6, Hassan Basajjabalaba, chairman of the NRM Entrepreneur League, assaulted journalist Arthur Kintu while he took pictures at an NRM conference in Kampala. On September 9, a court in Kampala issued a criminal summons to Basajjabalaba to appear in court over charges of assault; hearing of the case was pending at year's end.

The government also arrested and harassed journalists, some of whom were charged with criminal libel, sedition, and sectarianism.

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For example, on February 3, authorities charged *Daily Monitor* journalists Henry Ochieng and Angelo Izama with criminal libel for a December 2009 article that compared President Museveni to Ferdinand Marcos. On May 6, the magistrate's court in Kampala adjourned the case; a hearing was pending.

On March 25, police in Kampala arrested *Red Pepper* journalists Ben Byarugaba, Dalton Kaweesa, and Johnson Taremwa for publishing a story titled "Buganda Katikirro, Ministers Grilled at CID Headquarters for Five Hours." On March 26, the suspects were charged with sedition and released on police bond. On April 2, Inspector General of Police General Kale Kayihura ordered the withdrawal of the charges.

On July 19, security forces in Kampala detained Kingdom FM radio journalist Rogers Matovu under unclear circumstances. On July 24, police released Matovu without charges. Matovu reportedly made critical statements about President Museveni during a conversation with unidentified persons during the African Union Summit in Kampala.

On August 2, police arrested and charged Timothy Kalyegira, an online journalist, with sedition for publishing a conspiracy theory blaming the military for the July 11 terrorist attacks in Kampala. Police released Kalyegira on bond but confiscated his laptop and passport pending further investigations.

On November 4, security personnel in civilian clothes allegedly detained Radio Simba journalist Arafat Nzito for questioning about an alleged call he received from the Middle East in December 2009 and for posting antigovernment materials on the Internet. On November 11, Nzito's lawyer filed a habeas corpus request for the government to produce the missing journalist in court. On November 12, Nzito was released without charge (see section 1.b.).

On August 17, the Constitutional Court stayed an arrest warrant for UPC President Olara Otunnu that was issued by a district court on August 3 for his failure to respond to a police summons. Police issued the summons to question Otunnu over allegations of sedition and promoting sectarianism that arose from accusing President Museveni of intentionally prolonging the country's 24-year conflict with the LRA during an April 12 radio show.

Authorities also briefly detained a local radio journalist on July 19 for allegedly promoting sectarianism; a TV journalist on August 19 for filming immigration procedures along the country's border with the DRC; a newspaper journalist on

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August 22 for allegedly publishing an article critical of the government; a radio journalist on September 6 for allegedly inciting violence; and two newspaper journalists on September 25 for possible defamation charges.

The August 2009 case against *Daily Monitor* photo journalist Stephen Otage, who was charged with criminal trespass for photographing former inspector general of government (IGG) Justice Faith Mwendha outside a courthouse without her permission, was pending at year's end.

Forgery charges against *Daily Monitor* journalists Daniel Kalinaki and Henry Ochieng for the August 2009 publication of an alleged letter from President Museveni remained pending at year's end.

There were no developments in the August 2009 sedition case against *Independent Magazine's* managing editor Andrew Mwenda, senior editor Charles Bichachi, and assistant news editor Joseph Were. The suspects remained free on bail at year's end.

Local government officials restricted press freedom during the year.

For example, on September 15, former IGG Justice Faith Mwendha barred journalists from covering Jinja High Court sessions. Mwendha accused journalists Frank Mugabi of the *New Vision* newspaper, Aldon Walukamba of Uganda Radio Network, and Catherine Asiyo of Kiira Radio of stalking her.

On September 15, police in Hoima District barred journalists from covering the hearing of three police officers charged with killing two striking workers of British American Tobacco (BAT) Uganda (see section 7. b.).

On September 17, Jinja District Council officials barred journalists from covering a meeting in which the regional public accounts committee was questioning councilors and municipality technical team on possible cases of corruption.

In August Jinja Resident District Commissioner Apollo Bwebale instructed all radio stations to stop conducting talk shows that are critical of the government. Several warnings were allegedly sent to panelists who were regularly hosted on radio stations.

On August 16, the Nakawa Chief Magistrate Court issued an injunction against all print and broadcast media houses in the country prohibiting them from publishing

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information about the ongoing police investigation into the July 11 terrorist bombings. Local media houses vowed to ignore the ban, and the Magistrate's directive was not enforced.

The government restricted the operation of private media outlets.

In contrast with 2009, no radio stations were closed or suspended during the year; however, the government continued to restrict independent television and radio stations that hosted opposition political candidates critical of the government. The ban on new radio stations in Kampala was enforced reportedly because of limited available frequencies; however, the ban was widely disregarded without penalty.

Two of the four Kampala radio stations that the Uganda Broadcasting Council (UBC) closed in September 2009 were allowed to reopen. The government allowed Radio Sapientia to reopen in September 2009 with strict instructions not to broadcast political programs. The government allowed Ssuubi FM to reopen in January. On October 23, President Museveni ordered the immediate reopening of the two frequencies of CBS radio, and CBS began operation. The High Court hearing of a December 2009 petition filed by CBS employees seeking 3 billion shillings (\$1.3 million) in compensation and general damages related to the government's closure of CBS remained pending at year's end.

On April 26, Presidential Press Secretary Tamale Mirundi demanded apologies from a radio station for airing UPC president Olara Otunnu's accusations that President Museveni prolonged and politically profited from the LRA conflict. Mirundi warned there would be future consequences for the station if it refused to apologize. The station broadcast an apology on April 13 and 14.

*The Talk Show* on Radio Simba and the WBS television program *Kibaazo on Friday*, which the Uganda Broadcasting Council shut down in September 2009, were not reinstated during the year. Several journalists, including UBC TV Manager Mark Walungama and Charles Odongotho of Vision Voice, who were fired after the September 2009 riots were not reinstated to their jobs. Other journalists, including Manyo Matono and Andrew Ben Kiwanuka of Radio Simba and Matayo Laoyisius and Ircnc Kiscka of Radio Sapiente, were reinstated but instructed not to report on political issues.

There were developments in several 2008 cases of press freedom.

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For example, on March 24, the High Court ordered the government to pay 30 million shillings compensation (\$12,947) to WBS Television journalists Timothy Sibasi and Francis Tumekwatsize for their 2008 beating by SPCs under the command of Laban Muhabwe. Payment to the victims is pending.

There were no developments in the 2008 case against former *Daily Monitor* editors Joachim Buwembo, Bernard Tabaire, Emmanuel Gyezaho, and Robert Mukasa, who were charged with sedition in 2008 for articles alleging that former IGG Justice Faith Mwendha filed false salary claims. The suspects remained free on bail.

There were no developments in the 2008 sedition case against the *Independent Magazine's* managing editor Andrew Mwenda, contributing editor Charles Bichachi, and reporter John Njoroge, who published an article alleging UPDF atrocities in 2003.

#### Internet Freedom

Individuals and groups could generally engage in the peaceful expression of views via the Internet, including by e-mail; however, at times the government restricted access. The 2006 ban on access to radiokatwe.com, an antigovernment gossip Web site, remained in place. Access to the Internet continued to increase during the year, although due to lack of infrastructure, only 7.8 percent of the population used the Internet at least monthly.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom; however, research clearance was required in certain academic areas, such as history and political science, and was difficult to obtain.

On December 13, Ethics and Integrity Minister Nsaba James Buturo prevented the UHRC and OHCHR from screening a documentary on Ugandan human rights defenders. Buturo alleged that the film promoted homosexuality. In the film, one human rights defender criticized Uganda's draft "antihomosexuality bill" for violating the rights of Ugandan citizens by forcing health care workers to report individuals believed to be gay or lesbian to authorities. In a December 15 press conference, the UHRC defended the documentary and criticized Buturo for violating the UHRC's constitutional independence.

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## b. Freedom of Peaceful Assembly and Association

## Freedom of Assembly

The law restricts freedom of assembly, and security forces used excessive force, including live ammunition, to disperse demonstrators during the year. Police permits are required for all public meetings, demonstrations, and processions. In 2008 the Constitutional Court nullified section 32(2) of the Police Act, thus eliminating the requirement to obtain the written permission of the inspector general of police before holding an assembly of 25 or more persons. However, the Ministry of Justice and Constitutional Affairs appealed the court's decision, which in effect stayed any action on the court's ruling. By year's end no decision on the appeal had been made, and police and local government authorities used the Police Act to disrupt opposition party activities (see section 3).

The use of excessive force to disperse demonstrators resulted in injuries (see sections 1.a. and 7.b.).

For example, on January 4, police deployed in the early morning hours to prevent IPC members from assembling to protest the continued closure of CBS radio and the government's refusal to change the Electoral Commission's top management.

On March 18, police in Kabale beat IPC women leader Ingrid Turinawe and other IPC members for allegedly trying to enter a police station to visit several IPC members arrested earlier in the day for alleged unlawful assembly. Turinawe was subsequently hospitalized for several days, and an independent medical evaluation confirmed that she had received blows to the head and body. A police investigation determined that police had acted appropriately, and no charges were filed.

On April 9, police in Mbale arrested UPC supporters Abas Wetaka, Mike Kasola, Milton Wanambwa, and Andrew Kibongo for staging an illegal demonstration to protest the sale of public park land. On April 12, a court in Mbale charged the suspects with holding an unlawful assembly and released them on bail. Hearing of the case was pending.

On June 9, police in Kampala blocked three IPC-organized rallies to protest the composition of the Electoral Commission. Riot police and members of the vigilante "Kiboko Squad" beat opposition supporters while police looked on. Several supporters, including Sam Mugumya, an aide to FDC leader Kizza

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Besigye, were injured. Police reported that the IPC failed to notify authorities of the rallies and therefore assembled illegally.

On June 14, police in Kampala injured IPC women Ingrid Turinawe, Lilian Liz Masia, and Catherine Ddembe, as they demonstrated outside a court house following the fourth postponement of the hearing of pending illegal assembly charges. In July the injured women filed an application in the High Court seeking the dismissal of Police Deputy Director of Operations Grace Turyagumanawe and police officers Moses Kafero, Grace Akullo, and police spokeswoman Judith Nabakooba. Hearing of the application was pending.

On July 10, police in Kampala fired shots into the air and used teargas to disperse a rally organized by DP President Norbert Mao. Police beat a civilian and later detained him at Kira Road police station. The police said the DP had not sought permission to organize the rally.

There were developments in several prior cases of freedom of assembly.

In July 2009 in Luwero District, security forces shot and injured Bugema Adventist Secondary School students Wilber Kwamboko Omara and Miriam Adyelo, who were participating in a student demonstration against poor food and corporal punishment. The same day police arrested security force members involved in the shooting, including police commander Eddie Kulany, community liaison officer Ibrahim Odroa, CID chief Sulieman Kibuye, and SPCs Robert Oguti and Alex Ojambo. An investigation continued at year's end.

On April 16, a court in Kampala acquitted 11 FDC youth supporters who faced charges of holding an illegal assembly in August 2009. The youth were arrested following a foiled protest calling for electoral reforms. Grade 1 Magistrate Francis Dawa ruled the prosecution failed to provide evidence that they were involved in unlawful assembly.

On March 2, a court in Kampala ordered the police to arrest Kampala parliamentarian Erias Lukwago for disregarding three summonses to appear in court to face charges of inciting violence during the 2009 September riots. Lukwago remained free on bail, pending hearing of the case.

In March a parliamentary investigation into police conduct confirmed claims that police assaulted MP Nabila Sempala and acted unprofessionally while arresting other MPs in 2008. The report recommended disciplinary action against Senior

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Superintendent of Police William Muhairwe and the Senior Officer in Charge of Ndeeba Station Noah Onyango. There were no reports that disciplinary action occurred.

On December 20, Richard Buteera, the Director of Public Prosecutions (DPP) withdrew charges of unlawful assembly against 27 individuals. The suspects, including MPs Beatrice Atim Anywar and Hussein Kyanjo and 25 others, were accused of participating in a riot against the Mabira forest giveaway in 2007.

There were no developments in the 2008 case against opposition DP members Domic Matovu Savio, Emmanuel Mugandusi, Samuel Mulindwa, Margret Wazemba, and Ben Kiwanuka, charged with rioting, assault, and firearms possession during a rally at their party headquarters. The suspects remained free on bail.

The August 2009 unlawful assembly charges against MPs Hussein Kyanjo, Erias Lukwago, and Beatrice Atim Anywar; DP youth wing vice president Fred Mukasa; Issa Ssekito, chairman of the Kampala Traders Association; and 17 others were pending.

On November 17, Ethics and Integrity Minister James Buturo informed the Aga Khan-owned Serena Lakeside Resort Hotel in Kampala that the Serena would be "an accomplice to an illegality" if it allowed a November 18-20 regional NGO conference on health, HIV/AIDS, reproductive rights, and human rights for East African sex workers to proceed. Although there was no evidence of wrongdoing or illegality, the Serena asked conference participants to leave, and the event was cancelled.

#### Freedom of Association

The constitution provides for freedom of association, and the government generally respected these rights.

In April civil society organizations petitioned the Constitutional Court to challenge the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually. The Constitutional Court failed to hear the petition due to a lack of a quorum on September 3, and the hearing remained pending. The government established a committee to review the act in 2008, when enforcement of the law was temporarily suspended. By year's end no action had been taken on the petition or by the committee.

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c. Freedom of Religion

For a description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination based on religious belief or practice, and prominent social leaders took positive steps to promote religious freedom.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of movement, foreign travel, emigration, and repatriation; however, the government at times limited these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel restrictions were imposed on opposition party members, journalists, and others with pending charges of sedition and treason.

On October 12, the Constitutional Court cleared FDC leader Kizza Besigye of pending treason, terrorism, murder, and illegal use of firearms charges. The court determined that illegal detention, torture, and other unconstitutional abuses by security services and the government irrevocably undermined the presumption of innocence and right to a fair trial of Besigye and the nine coaccused.

Radio One presenter Robert Sserumaga's passport was returned following the dismissal of sedition charges against him on October 5.

A married woman must obtain her husband's written permission on her passport application if children are to be listed on her passport.

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The country has no law on forced exile, and the government did not subject anyone to forced exile during the year.

#### Internally Displaced Persons (IDPs)

According to the UNHCR, 147,401 IDPs remained in camps in northern Uganda's Acholi Region as of August. All IDPs in the Lango and Teso regions had returned to their homes by year's end. Conditions in IDP camps improved as a result of the lowered IDP population; however, remaining IDPs still lacked potable water, health care, schools and trained teachers, housing, and land.

#### Protection of Refugees

The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. However, in at least one instance, the government expelled refugees to a country where their lives or freedom could be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

On July 14-15, Ugandan authorities forcefully deported approximately 1,800 Rwandan asylum seekers from the Nakivale and Kyaka II settlements under a bilateral arrangement with Rwanda. At least two individuals were killed after jumping from trucks, and reports indicate that approximately 40 children were separated from their parents.

The government provides temporary protection to individuals who may not qualify as refugees under the 1951 Convention and 1967 Protocol; however, no individuals received such protection during the year.

As in 2009, some Kenyan refugees complained that the government's self-sufficiency policy, which requires refugees to become self-sufficient by providing them with land to cultivate, was ineffective because most refugees were merchants and businessmen, not farmers.

There is no path to naturalization for refugees in the country. The government's stance on local integration is that the constitution does not allow time in country as a refugee to count toward the residency requirement for naturalization. Between January and July, the government assisted the UNHCR in the voluntary repatriation of 2,246 refugees to Southern Sudan.

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## Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens with the right to change their government peacefully, and citizens exercised this right in practice through generally free and fair elections based on universal suffrage.

## Elections and Political Participation

The 2006 presidential and parliamentary elections, the first multiparty general elections since President Museveni came to power in 1986, were marred by serious irregularities. Police recorded 450 cases of election-related violence during the electoral period. More than 100 election challenges were filed in the High Court and the Constitutional Court following the 2006 elections, including charges of bribery, intimidation, violence, multiple voting, and ballot stuffing. The Ugandan Supreme Court agreed that irregularities occurred but found that these irregularities did not alter the 2006 presidential outcome and upheld President Museveni's reelection by a 4-3 margin. Four by-elections were held during the year to fill the seats declared vacant by the High Court in 2007, and election monitors reported some irregularities.

The ruling NRM party operated without restriction, regularly holding rallies and conducting political activities. Approximately 38 other parties were registered and allowed to function, although members of some parties were subjected to political violence, and authorities sometimes restricted opposition parties' ability to meet or demonstrate. Political involvement was primarily concentrated within the elite. Membership in the NRM conferred greater access to government positions and resources.

In preparation for the 2011 general elections, several political parties including the ruling NRM, DP, FDC, UPC, Peoples Progressive Party, Social Democratic Party, Peoples Independent Party, Conservative Party, and the Uganda Federal Alliance conducted primary elections during the year. The elections were generally peaceful; however, the primaries of the ruling NRM party were marred by bribery, other election malpractice, and violence. Some opposition leaders were denied access to the media during the year, but the government claimed radio stations that refused to air opposition views or candidates were privately owned stations acting on their own authority (see section 2.a.).

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Police arbitrarily arrested opposition members during the year (see also section 2.c.).

For example, on January 18, police in Kampala arrested 33 female IPC members after they tried to enter the Electoral Commission (EC) headquarters to protest the appointment of EC Chairman Badru Kiggundu. Police justified the arrests on the basis that the demonstration was blocking public access to the commission premises. On January 19, a court in Kampala charged the suspects with unlawful assembly; hearing of the case was pending at year's end.

On March 18, police in Kabale arrested six opposition activists for allegedly holding an illegal meeting prior to a March 22 parliamentary by-election. From July 25-27, police arrested and later released several dozen opposition supporters throughout the country for protesting against the Electoral Commission. On August 19, police in Kampala and Mbarara arrested and later released several opposition protesters.

On October 9, police in Kampala arrested three individuals for flashing the opposition FDC party's "V" symbol during Uganda's official independence day rally. Two of these individuals were released a few hours later, and the third was released on October 11.

On November 16, police in Moyo arrested and detained three persons overnight for allegedly inciting violence at a Museveni rally by carrying posters proclaiming "No Ferry No Vote" and "No Road No Vote."

On December 16, police in Gulu arrested four individuals for allegedly inciting violence by wearing blue galoshes, which police interpreted as a symbol for an opposition FDC party self-defense militia. Police released one of these individuals without charge on December 17, and on December 22 charged the remaining three with inciting violence and accepting a bribe from a political candidate and released them on bail. Their cases were pending at year's end.

The hearing of the July 2009 case in which 19 DP members were charged with criminal trespass, illegal assembly, and interfering in police work was pending at year's end, and the suspects remained on bail.

On October 25, Buganda Road Court cleared former Buganda Kingdom deputy information minister Medard Lubega Segona of sedition charges pending since September 2009.

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While the Constitutional Court found the sedition law unconstitutional on August 25 (see section 2.a.), hearings in the following cases were not held and the cases remained pending: the September 2009 case against UPC member Godwin Acai for statements he made during an August 2009 Unity FM radio talk show; the September 2009 case against Democratic Party parliamentarian Erias Lukwago; the 2007 and 2008 cases against Makindye West parliamentarian Hussein Kyanjo; and the 2008 case against Buganda Kingdom Deputy Information Minister Medard Seggona Lubega and Buganda Central Civic Education Committee chairperson Betty Nambooze.

The hearing of the August 2009 illegal assembly case against 11 members of the FDC youth wing was pending at year's end. The suspects remained free on bail.

During the year the director of public prosecutions withdrew all 2008 and 2009 charges against FDC youth leader Abedi Nasser Obole, who was first arrested in August 2008 for unlawful assembly and later charged with threatening the EC chairman and four commissioners.

There were 102 women in the 333-member parliament. Of these, 80 held seats designated for women. There were 14 female ministers in the president's 66-member cabinet. The deputy speaker and the deputy chief justice of the Supreme Court were women.

The law requires elections through electoral colleges for the seats reserved for special-interest groups in parliament: 80 seats were reserved for women; five for organized labor; five for persons with disabilities; and five for youth. However, the UPDF High Command and President Museveni selected the 10 army representatives, and the five persons with disabilities were selected by an electoral college organized by a single government-supported NGO.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government investigated offenders; however, corruption was a serious problem, and officials engaged in corrupt practices with impunity. The government selectively enforced financial disclosure laws. Government agencies responsible for combating corruption include the IGG, the Department of Public Prosecution (DPP), the Anticorruption Division of the High Court, the parliamentary accounting committee, the police CID, the Office of the Auditor General, and the Directorate

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for Ethics and Integrity. Political will to combat corruption at the highest levels of government remained weak, and corruption cases remained pending for years. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem.

A September 2009 study conducted by the Public Procurement and Disposal of Assets Authority, which reports to the Ministry of Finance, estimated that corruption in the public procurement process resulted in an annual loss of 474 billion shillings (\$205 million).

A number of government ministries, agencies, and high-level officials were implicated in corruption. On May 11, the parliamentary public accounts committee (PAC) completed a report of expenditures made to support Uganda's hosting of the 2007 Commonwealth Heads of Government Meeting (CHOGM). The bipartisan PAC report implicated several senior government ministers for approximately \$123 million in unexplained and unauthorized CHOGM expenses. The report was not debated in parliament or officially released to the public. During the year a mid-level engineer was prosecuted for CHOGM related corruption.

On June 21, police arrested former National Social Security Fund (NSSF) managing director David Chandi Jamwa as he was fleeing the country. Authorities charged Jamwa with abuse of office and causing a financial loss to the government and remanded him to prison. A 2008 IGG report implicated Jamwa and his former deputy Mondo Kangoyera in mismanaging NSSF money. On September 23, the High Court's Anticorruption Division cancelled Jamwa's bail and remanded him to prison pending prosecution in the High Court. On June 29, police also arrested NSSF's Chief Accounting Officer George Kyankunda for causing a financial loss of more than 3 billion shillings (\$1.3 million).

On July 7, President Museveni suspended the release of National Agricultural Advisory Services funds for the 2010/11 financial year after complaints of mismanagement, embezzlement, and corruption in the implementation of the program. The government had allocated 120 billion shillings (\$51.8 million) to help rural farmers. The president ordered an audit of the program, and a report of the findings was pending at year's end.

On August 29, the IGG reinstated the case against NSSF board Chairman Geoffrey Onegi Obel, who was accused of causing a financial loss to the government of eight billion shillings (\$3.45 million) between 2004 and 2005. On September 16, the High Court honored Obel's request to refer the case to the Constitutional Court

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for a determination as to whether the High Court's Anticorruption Division can try crimes that occurred prior to its 2009 establishment.

Corruption in the police force was a problem. Several officers implicated in bribery and corruption were arrested and prosecuted; by year's end, 17 police officers had been charged with corruption, and none had been discharged or dismissed for accepting bribes. Investigations into several police bribery charge cases were pending at year's end.

On June 27, the Police Professional Standards Unit in Kampala arrested traffic officers Jamil Kirunda, Innocent Obaa, Alfred Otim, Patrick Dratoo, Evans Talemwa, and Patrick Ocen for extorting money from motorists. In July the police released the suspects on police bond, pending an investigation.

In August police in Kampala arrested Assistant Superintendent of Police Gregory Mugisha on fraud charges. On August 25, the High Court charged Mugisha with abuse of office and tampering with evidence during investigations. The court released Mugisha on bail, and hearing of the case was pending at year's end.

There were developments in some previous police corruption cases.

On February 5, the High Court in Kampala released police officers George Kawuka, Robinson Okid, Samuel Wamakote, Livingstone Ojuk, Serafino Ogwanga, Peter Olegi, and James Kakuru. They were charged in December 2009 with accepting bribes from detainees to release them from Kiboga District Police Station.

In May police in Gulu District suspended Robina Ocheng, officer in charge of media and political crimes, after a court found her guilty of stealing 1.7 million shillings (\$733) that her supervisors had given her for use in an undercover operation in September 2009.

In August police in Kampala arrested Criminal Investigation Department (CID) detective Hope Atuhaire for stealing 19 million shillings (\$8,200) recovered from a suspect in 2008. In mid-August a court in Kampala sentenced Atuhaire to two years in prison for theft.

Judicial corruption was a problem. Several magistrates were arrested for soliciting and receiving bribes.

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On February 4, Entebbe District police arrested grade 1 magistrate Godfrey Bindeba for soliciting and receiving a bribe of one million shillings (\$431) from Felix Kintu to dismiss a forgery case. On March 9, a court granted Bindeba bail, and hearing of the case was pending at year's end.

On February 16, police in Kisoro District arrested grade 1 magistrate David Cheptuke Kaye for receiving 100,000 shillings (\$43) from suspect John Bosco Nyundo in exchange for bail. A court remanded Kaye to prison pending further hearings.

On July 21, police in Jinja District arrested grade 2 magistrate Okitwi Odutu for taking a bribe of 100,000 shillings (\$43) from Esther Nabulime to release her brother Emmanuel Sembule, who was facing robbery charges. On July 23, a court released Odutu on bail, and hearing of the case was pending at year's end.

Grade 2 magistrate Moses Ndifuna, who in November 2009 was sentenced to two years' imprisonment for soliciting and receiving 190,000 shillings (\$82), remained on bail pending the hearing of his appeal.

The anticorruption division of the High Court, which has three judges and five magistrates on staff and can only hear corruption cases referred by the IGG and DPP, convicted four individuals of corruption during the year.

On June 29, the ACD sentenced Samson Bagonza, the government chief engineer to five years' imprisonment for abuse of office and causing a financial loss of 1.6 billion shillings (\$691,742). Bagonza had approved unauthorized highway construction works during the 2007 CHOGM preparations.

On August 13, the ACD sentenced Ministry of Health official Joseph Isanga to five years' imprisonment for misusing 22 million shillings (\$9,495) meant to purchase medical drugs. The court released Isanga on bail pending an appeal.

On September 13, the ACD sentenced Kapchorwa District Town Clerk Chemisto Alfred Mashandich and former town treasurer Martin Swami to four years' imprisonment, and town treasurer Sammy Nelson to five years' imprisonment for abuse of office and for causing a financial loss of 66 million shillings (\$28,485). The court ordered the men to refund 28.6 million shillings (\$12,343) and remanded them to prison pending an appeal.

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The four individuals convicted by the ACD in 2009 for stealing money from the Global Fund to fight AIDS, tuberculosis, and malaria were free on bail pending hearing of their appeals.

On September 9, the ACC granted bail to Winnie Musoke Kabogonza, the police department's undersecretary and accounting officer, Dennis Nyagweso, Dennis Twinamasiko, Alfred Okello, Ashe Kawooya, Primo Nyokatere, and Harriet Kyomugisha, who were charged and remanded to prison in August 2009 for failing to remove duplicate names and bank accounts from the police payroll.

On May 17, the Constitutional Court rejected a 2009 petition filed by former minister of health Jim Muhwezi and deputies Mike Mukula and Alex Kamugisha, as well as former State House aide Alice Kaboyo, claiming the IGG did not have the legal mandate to investigate them over the alleged 2007 misappropriation of \$8 million in Global Alliance for Vaccines and Immunizations (GAVI) funds. In June the accused appealed the Constitutional Court's ruling to the Supreme Court, and the hearing was pending. The four have been on police bail since 2007.

There were no developments in the corruption case against solicitor general Lucien Tibaruha and acting litigation director Joseph Matsiko, who were indicted in 2007 for mismanagement resulting in financial loss to the government. Both Tibaruha and Matsiko remained suspended from their positions.

There were no developments in the 2008 parliamentary investigation into former IGG Justice Faith Mwendha's interventions in public tendering processes and allegations that her salary was higher than allowable under government policy; the IGG had not appeared before the committee at year's end.

An estimated 17,000 public officials are subject to biannual reporting under financial disclosure laws. The IGG reported that for the 2009-10 cycle 16,909 officials reported. On May 27, the High Court rejected an IGG application seeking the dismissal of the Ministry of Health's principal accountant Nestor Gasasira and the seizure of his assets for failing to account for his wealth. The judge opined that Gasasira had not received a judicial hearing and that the Leadership Code Tribunal, not the IGG, was mandated to recommend such dismissals. The Supreme Court upheld the High Court's decision on August 24.

The law provides for public access to government information, and the government provided such access to citizens and noncitizens, including foreign media.

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## Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were receptive to their views. Active, independent domestic groups included the FHRI, Human Rights Focus, Human Rights Network, Human Rights and Peace Center of Makerere University, the International Federation of Human Rights, the Justice and Peace Commission, the Uganda Journalist Safety Committee, the Uganda Prisoner's Aid Foundation, and the Uganda Association of Women Lawyers. Government officials continued to attend conferences and seminars hosted by NGOs on social problems and cooperated with NGOs on legal and prison reforms.

In 2008, in response to NGO criticism and after consultation with civil society, the government established a committee to review the 2006 NGO Registration Act, which requires most NGOs, including religious organizations, to renew their registration permits annually. Enforcement of the law remained suspended during the review process, pending the NGO petition in the Constitutional Court (see section 2.b.).

The government cooperated with international governmental organizations and permitted visits by UN representatives and organizations such as the UN Office of the High Commissioner for Human Rights and also the International Committee of the Red Cross (ICRC).

The UHRC is a permanent independent body with quasi-judicial powers, although the president appoints the UHRC's seven-member board. Under the law, the UHRC may subpoena information, order the release of detainees, and order the payment of compensation for abuses. The UHRC continued to pursue suspected human rights abusers, including in the military and police forces, and had branches countrywide; however, its resources were inadequate to investigate all complaints received.

In its 2009 annual report, released in October 2010, the UHRC reported registering 785 human rights complaints against 858 individuals, including 106 UPDF members, 285 police officers, 86 other security agencies, 29 prison warders, and 343 private citizens. Of the 785 complaints, 31 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment. The UHRC also examined the country's draft antihomosexuality bill and determined that the

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proposed legislation violates the Ugandan constitution and international law. The report called on the government to pass pending antitorture legislation; improve prison conditions, particularly for women and children; eliminate illegal detention and prolonged pretrial detention practices; use murder statutes to prosecute cases of child sacrifice; and provide security forces with increased human rights education programming.

In its April 2009 "Open Secret" report, HRW called on the government to end all torture and mistreatment of detainees; stop arrest and interrogation by unauthorized security forces, including JATT; and release all detainees from the JATT headquarters in Kololo and close it as a place of detention. For detainees in Kololo for whom there is a legal basis for detention, HRW urged the government to immediately transfer them to police custody, where they could be charged with a legally recognizable offense, if appropriate. HRW further urged the government to promptly inform the relatives of each detainee of their whereabouts, condition, and the charges against them. Those charged should be tried before courts that met international fair trial standards. HRW also called on the government to end impunity for human rights violations of the right to life and fair trial; the right to be charged before a judge within 48 hours of arrest; and freedom from torture and mistreatment, arbitrary arrest, and prolonged arbitrary detention.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not enforce the law in matters of locally or culturally prevalent discrimination against women, children, persons with disabilities, or certain ethnic groups.

##### Women

The law criminalizes rape; however, rape remained a serious problem throughout the country, and the government did not consistently enforce the law. Although the government arrested, prosecuted, and convicted persons for rape during the year, the problem was underreported, and most cases were not investigated. Police lacked the criminal forensic capacity to collect evidence related to sexual assault, which hampered prosecution and conviction. There were 619 rape cases registered with the police in 2009, of which 240 went to court, resulting in only 12 convictions.

# **EXHIBIT 195**

## **Part 3 of 3**

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On December 31, UPDF soldiers allegedly gang-raped Teddy Nakiru while on patrol at a trading center in Moroto district. The arrest of the soldiers and suspension of three unit officers, Major James Kasule, Lt. Walter Olum, and Lt. Sanyu Kaserebe, for failing to report the crime or take action against the soldiers were imminent at year's end, and investigations into the incident were ongoing.

Domestic violence against women, including spousal abuse, remained widespread, and reports of such incidents continued to increase. The 2009 police annual crime report listed 165 reported cases of domestic violence, compared to 137 reported cases in 2008, an increase of 20 percent. These statistics greatly underestimate the extent of the problem; in November United Nations Population Fund reported that 60 percent of women aged 15 and above experienced physical violence, 15 percent of women face violence during pregnancy, and 24 percent report that their first sexual encounter was a forced one. Many law enforcement officials viewed wife-beating as a husband's prerogative, as did the majority of the population, and rarely intervened in cases of domestic violence.

On March 17, President Museveni signed into law the 2009 Domestic Violence Bill, which criminalizes domestic violence, expands protection for victims, and provides penalties for abusers ranging from fines to two years' imprisonment.

Between January and August, the government arrested and prosecuted 15 persons for domestic violence offenses. For example, on February 2, police in Masaka arrested Francis Kasekende for killing his wife Grace Phoebe following a family argument. An investigation into the case was pending. On July 12, police in Oyam District arrested Richard Otto for killing his wife Janet Akot. On July 24, police in Kampala arrested Apollo Dalton Nyangasi for killing his wife Christine Dambio. Investigations into the cases were pending.

There were developments in domestic violence cases that occurred in previous years. For example, on February 18, a court in Mukono District committed former Mukono District police chief James Auriem to the High Court for trial for the 2008 killing of his wife Christine Opolot. The trial hearing was pending at year's end. In April the High Court in Kabarole District convicted and sentenced Reuben Asiimwe to 21 years' imprisonment for killing his wife, Peace Rodi, in 2005. On June 29, a court in Mbarara District sentenced Boniconsilla Kyaratuhe to 12 years' imprisonment for killing her husband in 2007. On September 16, the UPDF third division court martial in Moroto District sentenced Judith Koryang to death for killing her husband, UPDF Private Nelson Okello, in May 2009.

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There were no developments in the April 2009 case in which Richard Tito Okello killed his wife Scovia Acayo following a family argument.

The law requires that bride prices be nonrefundable gifts to the parents of the bride. Constitutional amendments in 2007 did not abolish the practice, despite recommendations from civil society groups. On March 27, the Constitutional Court dismissed a petition filed in 2007 by the Mifumi Project, a women's rights group that claims bride prices impede the rights of a woman and exacerbate domestic violence. The court dismissed the petition saying the group did not provide any scientific evidence to prove the connection between bride price and domestic violence. In April the Mifumi project appealed the ruling, and a Supreme Court hearing was pending.

Although sexual harassment is prohibited with penalties of up to 14 years' imprisonment, it was a widespread problem, and the government did not enforce the law effectively. In April 2009 IGP General Kale Kayihura created a committee to investigate allegations of abuse of female police officers by senior male colleagues. Findings of the committee had not been released by year's end.

No report was issued during the year by the committee established in 2008 to investigate allegations that male lecturers in Makerere University coerced female students into sexual acts as a condition for receiving good grades.

There were no reports of findings by a team from the Ministry of Health that investigated 2007 allegations of sexual harassment filed by 30 nurses against a senior staff member in Nakaseke Hospital.

There are no laws restricting couples or individuals from deciding freely and responsibly the number, spacing, and timing of their children; however, family planning information and assistance was difficult to obtain, particularly in rural areas, where there were few health clinics. A 2006 survey found that 41 percent of married women had unmet family planning needs. There was no indication of discrimination in diagnosis or treatment of sexually transmitted infections, including HIV/AIDS. A January 2010 United Nations Development Program (UNDP) report cites maternal mortality at 505 deaths per 100,000 live births.

The law requires that women be accorded full and equal dignity of the person with men. However, discrimination against women continued to be widespread, especially in rural areas where it was part of traditional culture. Many customary laws discriminate against women in adoption, marriage, divorce, and inheritance.

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Under local customary law in many areas, women cannot own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny, where one husband has several wives, is legal under both customary and Islamic law, and, in some ethnic groups, men can "inherit" the widows of their deceased brothers. Women also experienced economic discrimination. For example, a June study conducted by local NGO Actionaid found that although women did most of the agricultural work, they owned only 7 percent of the agricultural land. Women also experienced economic discrimination in access to employment, credit, income, business ownership, and senior or managerial positions.

Eliminating gender inequality remained a high priority for the government, which, in conjunction with NGOs and women's rights groups, sponsored workshops and training throughout the country to increase awareness of women's rights.

### Children

Citizenship is afforded to children born in or outside of the country if at least one parent or one grandparent held Ugandan citizenship at the time of the child's birth. Children under the age of 18 who are abandoned in the country with no known parents are considered to be Ugandan citizens, as are children under the age of 18 adopted by citizen parents.

The 2006 Uganda Demographic and Health Survey reported that only 21 percent of rural and 24 percent of urban children had their births registered; however, lack of registration generally did not result in denial of public services.

In 2008 parliament passed a law that provides for tuition-free and compulsory education for the first seven years of primary school or through high school for especially underprivileged students. Students, except for the most underprivileged, still had to pay for school supplies and some school operating costs, and many parents could not afford the school fees. Boys were more likely to finish primary school. The highest level of education achieved by most children was the fourth year of primary school.

Child abuse remained a serious problem, particularly rape and sexual abuse of girls.

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According to the 2009 police annual crime report, defilement remained the most common crime committed against children, with 7,360 cases recorded in 2009. The report also registered 3,126 cases of child neglect, 754 of child desertion, 550 of indecent assault, 552 of torture, 206 of child stealing, 49 of kidnapping, 46 of infanticide, 29 of child sacrifice, and 16 of child trafficking. The government worked with UNICEF and NGOs including Save the Children Fund and African Network for the Prevention and Protection against Child Abuse and Neglect to combat child abuse in the country.

There were isolated reports of corporal punishment in schools since the 2006 ban on the practice. For example, in March police in Buikwe District arrested Joseph Balyejjusa, a teacher of Progressive Primary School, for beating to death student Chrizeston Ssekatawa. An investigation into the incident was pending at year's end.

Sexual contact outside marriage with girls less than 18 years of age, regardless of consent or age of the perpetrator, is considered "defilement" under the law and carries a maximum sentence of death; however, such cases often were settled by a payment to the girl's parents. According to police statistics, in 2009 there were 7,360 reported defilement cases, of which 4,433 went to court, with only 467 resulting in convictions.

Perpetrators of sexual abuse often were family members, neighbors, or teachers.

In an effort to clear the backlog of cases, in 2007 the government amended the 2006 Magistrate's Courts Bill, giving chief magistrates the authority to hear cases of rape of girls between the ages of 14 and 17; the High Court continued to try cases involving rape of girls younger than 14 years. In February 2009 the UPF announced that it would provide free rape and defilement medical examinations throughout the country to ensure that investigations were effectively carried out and perpetrators prosecuted. Since the program began in March 2009, an estimated 3,000 victims of rape and defilement have received free medical examinations at Mulago hospital in Kampala.

The Sabinu ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya practiced FGM, despite local laws that prohibit the practice. On March 17, President Museveni signed into law the 2009 Prohibition of Female Genital Mutilation Bill. The law establishes that neither culture, religion, nor the consent of the victim are allowable defenses and establishes penalties of up to life imprisonment for the practice. The government, women's groups, and international organizations continued to combat the practice

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through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling. On July 29, the Constitutional Court declared the practice of FGM unconstitutional.

Despite the government ban, thousands of girls were subjected to FGM over the year, with one newspaper article reporting that approximately 820 girls were subjected to the practice in December alone in the districts of Kapchorwa, Bukwo, Kween, and Amudat. The police arrested several individuals involved in promoting the ritual. For example, on November 31, police arrested Jennifer Katungo, Patrick Chemonges, Flora Chebet, Juliet Cheseva, and Isaac Chemonges for their involvement in FGM practice in Binyiny subcounty, Kween District. Hearing of the case was pending. In December police arrested four girls under the age of 16 and five parents for their involvement in an FGM ritual in Kween District. The girls were released after questioning, and the parents were sentenced to two months community service. In December police in Bukwo District arrested Margret Chemutai, Brunei Chematene, Boniface Kabunga, and Julius Malinga for practicing FGM. On December 8, Chemutai pled guilty and was sentenced to four months in prison for circumcising eight girls. Chematene, Kabunga, and Malinga pled not guilty and were remanded to prison pending hearing of the case.

Marriage of young girls by parental arrangement was common, particularly in rural areas, although the legal age for marriage is 18. Local NGO Concern for Children and Women Empowerment reported that acute poverty forced some parents to give away their children, including girls as young as 14 years, for early marriage and sexual arrangements. A March 2009 UN report stated that 32 percent of marriages involved underage girls.

Reports of the ritual sacrifice of children increased during the year. For example, on June 18, police in Buikwe District arrested David Mukulu, Jennifer Night, Laubeni Mande, Yuda Nakacho, John Baptist Serwajjo, and Agnes Namanya for the ritual killing of three-year-old girl Evera Mudaali on June 6 in Nyenga subcounty. On May 18, police in Nakaseke District arrested Scovia Nalugo and Isma Kafeero for the ritual killing of a three-year-old girl in Ngoma subcounty. On July 19, police in Masaka District arrested John Lwahinda and Baker Muhwezi for the ritual killing of three-year-old Marvin Mukiibi in Kalisizo subcounty on June 30. The suspects from these cases were on remand in prison pending investigations and hearings of the cases.

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There were no developments in the March 2009 case in which Issa Wayibi, Sebastian Musana, Bbumba Aramazan, and Daudi Byendala were charged with the ritual killing of a girl, or the April 2009 case in which John Okech and six family members were charged with the ritual killing of a one-year-old girl. All suspects remained in prison pending investigations and hearings of the cases.

On April 23, a court in Masaka acquitted businessman Godfrey Kato Kajubi of charges of the ritual killing of 12-year-old Joseph Kasirye; however, government prosecutors appealed the acquittal, and the case was pending at year's end.

As in the past five years, there were no reports that during the year the LRA abducted or conscripted children within the country. However, an estimated 5,000 of 40,000 children abducted by the LRA in previous years for use as laborers, soldiers, guards, and sex slaves were reportedly still missing. There continued to be numerous reports of LRA abductions of children in the DRC, CAR, and Sudan during the year.

Poverty, unstable family relationships, rape, inadequate family planning services, and other social, health, and economic factors contributed to cases of infanticide. The 2009 police crime statistics report cites 46 cases of infanticide but does not provide an analysis of the crimes.

Since January police in Kampala rounded up approximately 331 street children, the majority from the Karamoja Region, and took them to Kampirigisa rehabilitation home in Mpigi District. Street children were often the victims of poverty, famine, and instability in Karamoja Region.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

#### Anti-Semitism

The Jewish community was very small, and there were no reports of anti-Semitic acts.

#### Trafficking in Persons

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For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

## Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory or mental disabilities in employment, education, access to health care, and the provision of other state services; however, the government did not enforce the law effectively. Persons with disabilities also faced societal discrimination and limited job and educational opportunities. There was no statutory requirement that buildings be accessible to persons with disabilities; however, the law requires that children with disabilities be given necessary special facilities.

The UHRC continued to receive complaints of discrimination in employment and access to transport, cell phone, and other public services from persons with disabilities. Most schools in the country did not accommodate persons with disabilities.

No action was taken to assist the 40 prison inmates with impaired hearing who had been denied a trial, health services, and education because they could not communicate.

The government supported the right of persons with disabilities to vote and participate in civic affairs. Five seats in parliament were reserved for representatives of persons with disabilities; however, a government-sponsored NGO managed election to these five seats in a process that was not transparent. Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons and the Ministry of Gender, Labor and Social Development, but both agencies lacked sufficient funding to undertake or support any significant initiatives. In August 2009 President Museveni appointed members to the Equal Opportunities Commission, which is responsible for enforcing laws that protect persons with disabilities and ensuring that they have equal access to public office. In April the government released 1.5 billion shillings (\$647,388) to accelerate ongoing projects being undertaken to increase incomes and improve livelihoods of persons with disabilities in 48 districts.

## National/Racial/Ethnic Minorities

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There were isolated reports of violence between ethnic minorities in some parts of the country. For example, in May five persons were injured and over 120 families displaced from Pera village following two days of clashes over land between the Alur and Madi ethnic groups along the Arua and Nebbi district border. Arua District police arrested and remanded seven suspects for inciting the violence, and the case continued at year's end.

The August 2009 case against suspects Dominictic Ningrea, Martin Etima, D.Adrani, Alex Mawa, William Walya, Lilno, Jessica Nenia, Zaayoru Yena, John Anguzu, and Johnson Munuru, who were charged with inciting violence when ethnic Madi forcefully evicted several families of the Alur ethnic group from Kasomenga village in Rhino Camp subcounty, was pending at year's end.

In August IGP Major General Kale Kayihura ordered an investigation of reports that police were harassing ethnic Somalis resident in the country. Ethnic Somalis accused the police of extortion, harassment and intimidation following the July 11 bombings in Kampala. There were no reports of findings of the investigation at year's end.

#### Indigenous People

The Batwa were the original inhabitants of land used by the government in 1992 to establish Mgahinga National Park, Bwindi Impenetrable National Park, and Echuya Central Forest Reserve. Numbering approximately 6,700 persons, the displaced Batwa lived in the districts of Bundibugyo, Kisoro, Kabale, Kanungu, Masaka, and Mbarara in the southwest and had limited access to education, health care, land, and economic opportunities. They were also prevented from pursuing hunting, gathering, and other traditional ways of life and often suffered food shortages. In March the United Organization for Batwa Development petitioned parliament to recognize Batwa rights to their former ancestral land to preserve their cultural values. The government did not effectively protect their civil and political rights.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Lesbian, gay, bisexual, and transgender (LGBT) persons faced discrimination and legal restrictions. It is illegal to engage in homosexual acts, based on a 1950 legal provision from the colonial era criminalizing "carnal acts against the order of nature" and prescribing a penalty of life imprisonment. No persons had been

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convicted under the law. On October 12, police in Kampala arrested one individual for alleged homosexuality, and on October 15 a court in Kampala charged the individual with homosexuality and released him on bail. Hearing of the case was pending at year's end.

In September 2009 parliamentarian David Bahati introduced a draft "antihomosexuality bill" that would impose punishments ranging from imprisonment to the death penalty on individuals twice convicted of "homosexuality" or "related offenses" to include "aiding and abetting" homosexuality, "conspiracy to engage" in homosexuality, the "promotion of homosexuality," or "failure to disclose the offense" of homosexuality to authorities within 24 hours. This draft legislation remained in the committee stage during the year but resulted in increased harassment and intimidation of LGBT persons. Although the government did not endorse the draft legislation, several senior members of government and President Museveni's Cabinet openly expressed homophobic sentiment despite the High Court's December 2008 ruling that constitutional rights apply to all persons, regardless of sexual orientation.

LGBT persons were subject to societal harassment, discrimination, intimidation, and threats to their wellbeing during the year. Individuals openly threatened members of the LGBT community and their constitutional rights during several public events. For example, on April 15 in Jinja, Pastor Martin Ssempe led a march against homosexuality, and during an April 17 event against homosexuality at a church in Kampala, Ssempe showed a pornographic slideshow to audience members, which included several children. During these rallies participants openly threatened LGBT individuals.

In its annual report for 2009, released in October 2010, the UHRC determined that the draft antihomosexuality bill violates the Ugandan constitution and international law.

On October 10, an obscure local tabloid published the names, photographs, and, in some cases, residential locations of several LGBT activists under the headline "Hang Them." On November 1, the High Court issued an injunction blocking the tabloid from further publication of information pertaining to homosexuality pending resolution of a court case filed by three LGBT activists, including David Kato. The case was pending at year's end.

On December 13, Ethics and Integrity Minister Nsaba James Buturo prevented the UHRC and UN OHCHR from screening a documentary on Ugandan human rights

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defenders that Buturo alleged promoted homosexuality. In the film, one human rights defender criticized Uganda's draft antihomosexuality bill for violating the rights of Ugandan citizens by forcing health care workers to report alleged gay and lesbian individuals to authorities. In a December 15 press conference, the UHRC defended the documentary and criticized Buturo for violating the UHRC's constitutional independence.

The April 2009 case against activists Fred Wasukira and Brian Mpadde, accused of involvement in homosexual acts, was pending. In September, police dismissed the June 2009 case in which Charles Ayeikoh was accused of homosexual acts.

#### Other Societal Violence or Discrimination

Discrimination against persons with HIV/AIDS was common and prevented such persons from obtaining treatment and support. International and local NGOs, in cooperation with the government, sponsored public awareness campaigns to eliminate the stigma of HIV/AIDS. Counselors encouraged patients to be tested with their partners and family so that they all received information about living with HIV/AIDS. Persons living with HIV/AIDS formed support groups to promote awareness in their communities.

#### Section 7 Worker Rights

##### a. The Right of Association

The law allows workers, except for "essential" government employees, including police, army, and management level officials, to form and join independent unions, but all unions must be registered either under the National Organization of Trade Unions or the Confederation of Trade Unions. The law allows unions to conduct their activities without interference. Union officials estimated that more than 1.2 million workers were potential union members but only 300,000 workers were paid-up members.

The law criminalizes any effort by an employer to obstruct the right of association; however, the government generally did not enforce this provision. Labor activists claimed certain companies continued to bar employees from joining unions, including Dot Services and Cementers and Multiplex (both road construction companies); Mansons, a clearing, forwarding and transport company; West Nile Rural Electrification Company; BIDCO Uganda Ltd., an edible oil company; Mukwano Manufacturing Industries; Kawere Coffee Ltd; Kibimba Rice Scheme;

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Roko; Uganda Cement; as well as several other construction companies, supermarkets, and private universities.

The law provides for the right to strike, and workers exercised this right; however, government policy required labor and management to make "every effort to reconcile labor disputes before resorting to strike action." The government did not always protect the right to strike, and police arrested persons who engaged in organizing strikes during the year.

For example, on September 5, police arrested 12 sugarcane cutters of Lugazi Sugar Corporation during a strike to protest low pay and poor working conditions. On September 6, police released the workers after the intervention of the National Union of Plantation and Agricultural Workers Uganda. On September 20, Lugazi Sugar Corporation management signed an agreement to increase the workers' pay 17 percent, from 80,000 shillings (\$35) to 104,000 shillings (\$45) per month for a period of two years. The workers also staged a brief strike in May 2009 to protest low pay and poor working conditions.

Police used excessive force to stop striking workers.

For example, on September 7, police in Hoima District killed Dennis Bazara and Benard Byabasaija and injured several others during a strike at British American Tobacco (BAT) Uganda. The workers were protesting the company's delayed payment of their August salaries. Authorities arrested police officers Augustine Kasangaki, Luke Mbusa, and Romeo Ojara, who were implicated in the shooting, and an investigation was ongoing. On September 15, the Hoima Police Disciplinary Court started hearing the trial of Kasangaki, Mbusa, and Ojara and charged them with manslaughter. The suspects were remanded to prison until September 28. On September 21, police fired live bullets to disperse striking cane cutters of Kinyara Sugar Works. The workers were protesting low pay. There were no reported injuries. Following discussions with the union, management agreed to pay the cane cutters.

b. The Right to Organize and Bargain Collectively

The law provides for collective bargaining; however, the government did not protect this right in practice. Some employers ignored the legal requirement to enter into collective bargaining agreements with registered unions; only a few employers recognized the agreements. On September 8, the Uganda Flower Exporters Association comprising 20 companies signed a collective bargaining

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agreement with Uganda Horticultural and Allied Workers Union. The agreement commits the companies to uphold workers' rights and enhance their salaries. No public service unions, including medical staff and teachers, were allowed to negotiate their salaries and employment terms. The government fixed the terms and conditions for all civil service workers.

As in 2009, there were no reports of antiunion discrimination during the year. The government denied the registration of the Central Organization of Labor Unions, a union umbrella organization that broke away from the only legally registered consortium due to leadership disputes.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred, particularly in prisons. While the law does not expressly prohibit prison labor, it states that such labor becomes forced if the worker is "hired out to or placed at the disposal of a private individual, company, or association." NGOs and the UHRC reported that forced labor was a problem in local prisons nationwide. Prison officials hired out prisoners to work on private farms and construction sites where the prisoners were often overworked.

Prison officials routinely supplemented their wages with cash crops grown by prisoners on prison grounds. Male prisoners performed arduous physical labor, while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often for 12 hours a day. Compensation, when paid, generally was very low. In July the government announced that it would provide funds to prison administrators to pay prisoners for work performed, but no funding was released. Some wardens reportedly used income generated from prisoner labor to pay prisoners. Prisoners do not have savings accounts, but prison accounting staff recorded wages owed in a book.

In June prison authorities began investigating allegations that police arrested over 1,300 individuals and forced them to work on large commercial farms. Reports alleged that police arrested citizens on idle and disorderly charges and sent them on remand to Butoro, Kasangati, and other prisons where they were forced into labor. A report of the investigation was pending at year's end.

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Exploitive child labor predominantly occurred in transport, mining, street vending/begging, scrap collecting, stone quarrying, brick-making, road construction/repair, car washing, fishing, domestic nanny/housekeeper service, bar/club service work, border smuggling, and prostitution. In all of these areas, there were likely occurrences of forced labor.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits employers from hiring workers below the age of 18; however, statutory orders issued by the Ministry of Gender, Labor and Social Development permit the employment of children between the ages of 14 and 18, and 13-year-olds are allowed to engage in "light work" provided it does not interfere with education. Children under the age of 12 are prohibited from being employed in any business or workplace, and all children are prohibited from being employed during school hours. Nevertheless, child labor was common, especially in the informal sector.

Many children left school and engaged in agricultural or domestic work to help meet expenses or perform the work of absent or sick parents, a situation common throughout the country. The problem was particularly acute among the large orphan population. In June 2009 the Bureau of Statistics estimated that more than 1.76 million or 17 percent of children between the ages of five and 17, including 798,451 girls, were involved in child labor.

In urban areas children sold small items on the street, worked in shops, begged for money, and were involved in the commercial sex industry. Children were also employed in stone quarries, cattle herding, brick making, and commercial farming of tea, coffee, sugarcane, vanilla, tobacco, and rice. The Ministry of Gender, Labor and Social Development reported new incidents of the worst forms of child labor, including children involved in illicit activities such as cross-border smuggling. Government officials noted that child exploitation in the informal sector was of particular concern and was difficult to investigate. Children were known to be working as subsistence farmers, and domestic servants. There were also known instances of children in prostitution.

The International Labor Organization (ILO) and the Federation of Uganda Employers sponsored a 2008 survey on child labor in the fisheries and tobacco

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industries which found that most of the 291 children sampled worked long hours and that 71 percent were involved in hazardous work. Of the children involved with fisheries, 31 percent worked at night, and all were exposed to waterborne diseases, fatigue, a high risk of contracting HIV/AIDS, and injuries. Children on tobacco farms worked long days, dropped out of school during peak periods of tobacco production, and were exposed to dangerous chemicals, smoke, and dust.

Institutions responsible for enforcing child labor laws and policies include the National Council of Children, the police force's Child and Family Protection Unit, the Industrial Court, and the Ministry of Gender, Labor and Social Development; however, financial constraints limited efforts. The ministry continued to offer social services to children working in the worst forms of child labor and other target groups, and it conducted training for staff, local leaders, and district labor inspectors. Sixty Ministry of Gender, Labor and Social Development district labor officers were responsible for reporting on child labor issues at the local level nationwide. The government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the Ministry of Gender, Labor and Social Development, the Ministry of Education and Sports, the Ministry of Local Government, the Federation of Uganda Employers, the National Organization of Trade Unions (NOTU), NGOs, journalists, and academics. The steering committee last met in January. However, due to lack of funds and logistical support, district labor officials have not conducted child labor inspections since 2004.

The government organized a number of child labor awareness workshops, disseminated printed information, and sponsored radio and television discussions to educate the public on child labor issues. The government also cooperated with the ILO, foreign governments, and NGOs on several initiatives to combat child labor, including the education and reintegration of children into their communities. Several human rights NGOs continued programs to remove children from hazardous work situations.

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

e. Acceptable Conditions of Work

The minimum legal wage was set in 1984 at 6,000 shillings (\$2.59) per month, a rate that did not provide a decent standard of living for a worker and family and was not effectively enforced. The government and the private sector negotiated a

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new monthly rate of 54,000 shillings (\$23.35) in 2003; however, the 2003 rate had not been implemented by year's end.

The law includes provisions for district labor inspectors to "secure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work;" however, no inspections were carried out during the year, due in part to financial constraints.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. The legal maximum workweek is 48 hours; however, exceptions can be made with agreement of the employer and employee. The law provides for an employee who works in excess of 48 hours per week to be remunerated at the minimum rate of 1.5 times the normal hourly rate for the overtime hours and two times the hourly rate on public holidays. The law also states that working hours may not exceed 10 hours per day or 56 hours per week, including overtime hours; however, an employee may work in excess of 10 hours a day if the average number of hours over a period of three weeks does not exceed 10 hours per day or 56 hours per week. Employees are granted a 30-minute break for every eight-hour work shift. For every four months of continuous employment, an employee is entitled to seven days of paid annual leave per calendar year. Many industries paid workers annual increments or bonuses as payoffs to avoid overtime.

The law establishes occupational health and safety standards, and the MGLSD's Department of Occupational Health was responsible for enforcement of occupational safety regulations. In practice inspections were very rare, primarily due to the lack of vehicles and funding for inspection trips, and standards were not effectively enforced. The law also provides workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their employment. However, there were reports that workers were dismissed for their refusal to perform dangerous work. All workers, including foreign and migrant workers, were covered under the law.

NOTU officials recorded seven deaths due to poor safety practices at several construction projects during the year.

**EXHIBIT 196**  
**PART 1**

## UGANDA 2012 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

Uganda is a constitutional republic led since 1986 by President Yoweri Museveni of the ruling National Resistance Movement (NRM) party. Voters reelected Museveni to a fourth five-year term in February 2011. While the election marked an improvement over previous elections, it was marred by irregularities. State security forces (SSF) generally reported to civilian authorities.

The three most serious human rights problems in the country were a lack of respect for the integrity of the person (including unlawful killings, torture, and other abuse of suspects and detainees); unwarranted restrictions on civil liberties (including freedom of assembly, the media, and association); and violence and discrimination against marginalized groups such as women (including female genital mutilation/cutting (FGM/C), children (including victims of sexual abuse and ritual killing), persons with disabilities, and the lesbian, gay, bisexual, and transgender (LGBT) community.

Other human rights problems included harsh prison conditions; arbitrary and politically motivated arrest and detention; incommunicado and lengthy pretrial detention; restrictions on the right to a fair trial; restrictions on freedom of press; electoral irregularities; official corruption; mob violence; trafficking in persons; and forced labor, including child labor.

The Lord's Resistance Army (LRA), driven out of the country in 2006, continued to hold children forcibly abducted from the country. The governments of Uganda, South Sudan, the Central African Republic (CAR), and the Democratic Republic of the Congo (DRC) continued military actions against the LRA.

The SSF and other government agents committed human rights abuses, generally with impunity. The government took minimal steps to hold perpetrators accountable.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

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There were several reports the government committed arbitrary or unlawful killings. In contrast to the previous year, the SSF did not kill opposition party demonstrators.

The SSF's use of excessive force and live ammunition during joint security operations in various districts, including Kampala, Bugiri, Amolatar, and Jinja, resulted in at least 13 deaths, according to media reports.

On January 22, police in Kampala arrested George Agaba, Kampala City Council Authority director for physical planning, and his bodyguard, Police Constable Santos Makmot Komakech, for killing John Onyango during an eviction in the city suburb of Luzira. Komakech allegedly fired his gun to disperse an angry crowd, resulting in Onyango's death. Authorities charged Agaba and Komakech with murder but later released them on bail, and their trial was pending at year's end.

On March 2, police in Masaka District dismissed from duty and arrested Assistant Inspector of Police Apollo Bamwesige, officer in charge of Criminal Investigations Division (CID) Enoch Bategyerize, Sergeant Joseph Migadde, Corporal Anatoli Andudia, and Police Constable Peter Bagonza over the alleged killing of a suspect. On February 12, the officers reportedly arrested motorcycle driver Swaibu Ssemaganda on robbery charges and beat him into a coma. Ssemaganda died in a hospital on February 14. The murder case against the police officers was pending court hearing at year's end.

On May 14, authorities in Bugiri District arrested police officers Raymond Mallinga and Walter Wandera for killing Fred Jingo along the Bugiri-Tororo Road the previous day. The two officers reportedly fired at a passenger vehicle after the driver failed to stop. Authorities charged Mallinga and Wandera with murder, and they were in custody pending a court hearing at year's end.

Excessive force and the indiscriminate use of live ammunition by the SSF, which includes the Uganda People's Defense Forces (UPDF), resulted in deaths during disarmament operations and cattle recovery in the Karamoja region in the east. For example, on May 15, security operatives trying to recover stolen cattle in Katakwi District killed a suspected Karamojong cattle rustler. Authorities took no action against the security operatives.

There were no further developments in the following 2011 arbitrary killings: the April killing of a two-year-old girl by reserve police officer Paul Mugenyi and the April killing of a 16-year-old girl in Kabale by James Babaranda. The trial hearing

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of Mugenyi was pending at the military court in Kampala at year's end. Babaranda remained in custody pending hearing of his case.

**b. Disappearance**

There were unconfirmed reports of politically motivated disappearances. For example, on October 15, the opposition Democratic Party (DP) publicity secretary reported that he had received complaints from family members that party activist Rogers Segujja had disappeared. Family members suspected security operatives might have kidnapped Segujja, whose whereabouts were unknown at year's end.

Unidentified individuals kidnapped DP activist Annette Namwanga in January 2011, and the Chieftaincy of Military Intelligence (CMI) acknowledged arresting her. In February 2011 authorities charged her and nine others with terrorism and remanded them to prison. On October 19, Namwanga and the nine terrorist suspects appeared in court. At year's end they remained free on bail and the case was pending trial.

**c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices. On April 26, parliament passed the Anti-Torture Bill to criminalize torture, which the president approved in June. Any person who commits an act of torture faces up to 15 years imprisonment, a fine of 7.2 million shillings (\$2,680), or both. The penalty for aggravated torture is life imprisonment. There were credible reports the SSF tortured and beat suspects.

The Uganda Human Rights Commission (UHRC) and international and local human rights organizations reported incidents of torture by the SSF, including caning, severe beating, and kicking. From January to September, the African Center for Treatment and Rehabilitation of Torture Victims registered 170 allegations of torture against police, 214 against the UPDF, one against military police, 23 against the Special Investigations Unit (SIU), 361 against unspecified security personnel, and 24 against prison officials.

There were numerous reports of torture and abuse in detention facilities operated by the CMI's Joint Antiterrorism Taskforce (JATT), and the SIU. For example, on October 4, security officers in Kampala arrested Moses Tumukunde, driver of opposition leader Kizza Besigye, for participating in an unlawful assembly.

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Tumukunde claimed the police tortured him with beatings before they released him without charge on October 10.

The SSF's use of excessive force resulted in injuries during arrests and other law enforcement operations. On February 2, a police officer shot and injured Cissy Mukasa, a student at Rainbow College, during a scuffle with residents of Budaka District. Authorities took no action against the officer.

On April 20, the SSF assaulted the leader of the opposition Forum for Democratic Change (FDC), Ingrid Turinawe, as the For God and My Country (4GC) activist group attempted to organize a public rally in Nansana, a Kampala suburb. Turinawe was injured and bedridden for two weeks. Authorities suspended Police Constable Irene Arinda, whom her colleagues identified as responsible for the assault. On November 6, the government officially apologized to Turinawe for police misconduct. A statement released by the prime minister stated Arinda would appear before a police disciplinary court on charges of discreditable conduct and behaving in a cruel, disgraceful, and indecent manner under the Police Act. Hearing of the case was pending at year's end.

There were no further developments in any of the 2011 cases involving excessive use of force by the SSF and the allegations of abduction and torture leveled against the CMI and JATT by a British national. The British national left the country for the United Kingdom, and there were no further reports as to whether he filed a petition against the CMI.

In 2011 the UHRC reported awarding 700 million shillings (\$261,000) to victims of torture and other abuses. The UHRC reported registering 272 human rights complaints against private individuals, 151 UPDF members, 457 police officers, 45 personnel of other security agencies, 40 prison wardens, and 128 government departments and 19 private companies. Of the complaints, 34 percent involved allegations of torture or cruel, inhuman, or degrading treatment and punishment.

As was the case in previous years, mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths. Motivated in part by lack of confidence in law enforcement and the judicial system, mobs beat, lynched, burned, and otherwise brutalized their victims (see section 6).

### **Prison and Detention Center Conditions**

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Prison conditions remained poor and, in some cases, life threatening. Serious problems included long periods of pretrial custody, overcrowding, and inadequate staff. There were reports the SSF tortured inmates, particularly in military facilities and unregistered detention centers. There were isolated reports of forced labor (see section 7.b.).

Physical Conditions: Prisons in Kampala included provisions for medical care, running water, and adequate sanitation, ventilation, and lighting; however, according to a Bureau of Statistics' *2012 Abstract*, Kampala prisons were among the most overcrowded. Prison authorities blamed this on the criminal justice system, which did not process cases in a timely manner. Prisons outside Kampala lacked food, water, medical care, means to transport inmates to court, and bedding, while also suffering from inadequate and poorly designed physical infrastructure and poor sanitation conditions. In April the media reported an increase in communicable diseases among inmates due to congestion and lack of proper isolation facilities.

In a system with an approved capacity of 15,000, at the end of November the Uganda Prisons Service (UPS) reported 34,940 prisoners, of whom 33,552 were males and 1,388 were females. Severe overcrowding was also a problem at juvenile detention facilities and in female wings of prisons. The Kampala Remand Home, designed for 45 children, held 148. The Naguru Reception Center, designed for 30 children, held 174.

Although there were separate facilities for female prisoners in central prisons, services and facilities for female prisoners in local prisons, including separate cells, were lacking in some areas. The UPS had no budget for accommodating pregnant women or mothers with infants, and the number of infants in women's prisons increased during the year. Due to lack of space in juvenile facilities, the UPS held minors in prisons with adults. The UPS separated pretrial detainees in Kampala prisons from convicted prisoners. Elsewhere they were held together due to lack of space.

The UPS held 67 political prisoners on treason charges; of these, eight were committed for trial in the High Court after they appeared in court, while 59 others remained in custody pending case hearings. The political prisoners faced conditions similar to those of the general prison population.

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Prison authorities reported the average pretrial custody period for prisoners decreased from 15 months in 2011 to 11 months for capital offenses and three months for minor offenders in 2012.

The UPS recorded 84 prisoner deaths from January to September from overcrowding, malnutrition, poor sanitation, disease, overwork, or lack of medical care.

Administration: Prison authorities reported improvements in recordkeeping by the introduction of computers up to the regional level, but inadequacies in record keeping persisted. Local nongovernmental organizations (NGOs) reported that prisoners and detainees had reasonable access to visitors, and authorities allowed them to submit complaints. Prison authorities acknowledged a backlog in the investigation of complaints.

Community service was statutorily available as a sentencing option. Prison authorities reported more than 6,200 persons were sentenced to community service.

Authorities gave prisoners the opportunity to pray on days appropriate to their faith. The prisons service has an officer of the rank of commissioner who handles, investigates, and mediates between management and prisoners. The prison ombudsman is responsible for ensuring that when complaints, disputes, or deaths occur, they are resolved and verified. Prisoners have five channels through which to submit complaints including through their leaders, regular staff meetings, prisoner's application book, meetings with top management to raise complaints, and via human rights agencies that visit the prisons.

Monitoring: Information was limited on conditions in unregistered and illegal detention facilities, although the SSF allowed the UHRC and some international NGOs access to selected unregistered facilities. Observers reported poor conditions and numerous cases of abuse in illegal detention facilities or unregistered detention facilities, known also as safe houses.

Authorities allowed international NGOs, including the International Committee of the Red Cross (ICRC), foreign diplomats, and local NGOs, to conduct prison visits but required advance notification.

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Improvements: The UPS started a pilot project to provide food to prisoners while they attend court in Kampala. Authorities expanded several prisons in the districts of Mbarara, Gulu, and Bushenyi to provide adequate accommodation for inmates.

**d. Arbitrary Arrest or Detention**

Although the constitution and law prohibit such practices, the SSF sometimes arrested and detained persons arbitrarily, including journalists, demonstrators, and opposition leaders (see sections 2.a., 2.b., and 3).

**Role of the Police and Security Apparatus**

The Uganda Police Force (UPF), under the Ministry of Internal Affairs, has primary responsibility for law enforcement. The UPDF is charged with external security but also had significant responsibility for implementing the disarmament campaign in Karamoja, providing election-related security for by-elections that were held during the year, and responding to walk-to-freedom protests that occurred during September and October. The Internal Security Organization (ISO) and External Security Organization (ESO), security agencies and intelligence-gathering entities under the Minister of Security, occasionally detained civilians. The CMI is legally under the UPDF authority, although it often acted as a semiautonomous unit in detaining civilians suspected of rebel and terrorist activity, as did the ISO and the ESO.

The UPF was constrained by limited resources, including low pay and lack of vehicles, equipment, and training. The UPF's Professional Standards Unit investigated complaints of police abuse, including torture, assault, unlawful arrest and detention, mismanagement of case papers, and corrupt practices. The UPF was the sole government agency charged with the responsibility of investigating charges of impunity.

According to the September *Justice Law and Order Sector Annual Performance Report 2011/2012*, the UPF received and investigated 4,304 complaints of human rights violations by police officers. Of these, 143 involved criminal conduct and were referred to the Directorate of Public Prosecutions (DPP), 852 were referred for disciplinary action, and 1,003 were dismissed for lack of evidence; there was no information on the remaining complaints. The cases referred for disciplinary action resulted, among various actions, in the forced retirement of 22 police officers, 55 dismissals, 13 demotions in rank, 219 fines, 100 confinements to barracks, and 57 severe reprimands.

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The UPDF continued efforts to transfer responsibility for law enforcement in the North and in the Karamoja Region to the UPF. In August authorities reported that 150 specialized police officers were deployed to the Karamoja subregion to assist in effective restoration of law and order. However, the UPDF maintained personnel in the subregion for security reasons.

In conjunction with the UHRC and international organizations, including the ICRC and the Office of the High Commissioner for Human Rights (OHCHR), the UPDF and the UPF continued to train officers on internationally recognized human rights standards. During the year 743 police officers attended human rights and constitutional workshops. The UPF, the UPDF, and the UPS also used human rights manuals in their training programs.

**Arrest Procedures and Treatment While in Detention**

The law requires that judges or prosecutors issue arrest warrants before arrests are made. This requirement does not apply to an arrest made during commission of a crime or in hot pursuit of a perpetrator. However, authorities often arrested suspects without warrants. The law requires authorities charge suspects within 48 hours of arrest, but they frequently held suspects for longer. Authorities must bring to trial or release on bail suspects arrested under the Antiterrorism Law within 120 days (360 days if charged with a capital offense); if the case is presented to the court before the expiration of this period, there is no limit on further pretrial detention. Authorities must inform detainees immediately of the reasons for their detention; however, they did not always do so. The law provides for bail at the discretion of the judge, and judges generally granted bail, albeit with stringent conditions. The law requires detainees to have access to a lawyer, but authorities denied many of them their legal right to representation. According to the law, the government provides attorneys for indigent defendants charged with capital offenses, but funds were rarely available to retain counsel.

Incommunicado detention remained a problem, particularly with regard to the CMI, JATT, and the SIU. Local and international human rights groups reported the government detained civilians in military facilities and safe houses, where they often held detainees incommunicado and abused them.

Local and international human rights groups noted authorities neglected the Karamoja subregion and that there was a large backlog of human rights cases there due to the absence of a tribunal. The OHCHR received several complaints of

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torture, arbitrary arrest, and detention in military facilities in conjunction with the UPDF's response to cattle raids and the government's disarmament campaign there (see section 1.a.).

Arbitrary Arrest: Arbitrary arrests during police sweeps remained a problem, as did arbitrary arrests based supposedly on sedition, treason, promoting sectarianism, incitement of violence, or terrorism charges. During the year authorities also arbitrarily arrested several hundred persons for participating in, or being in proximity to, protests organized by opposition parties and civil society (see section 2.b.). In contrast to previous years, there were no reports the government paid compensation to victims of arbitrary arrest.

On February 22, the SSF arrested 53 persons and detained them for a month at the SIU. On March 23, authorities charged the suspects with treason. On September 27, a court in Kampala freed 18 suspects and committed the remaining 35 for trial in the High Court.

On September 3, authorities arrested the FDC deputy electoral commissioner, Michael Kabaziguruka, along with FDC chairman for Ntungamo District John Kareebe, former UPDF soldier Frederick Namara, and primary school teacher John Rutagorwa, and detained them incommunicado for two weeks. Authorities accused the suspects of forming a rebel group known as the Revolution Forces for the Liberation of Uganda, charged them with treason, and remanded them to prison on September 11. Hearing of the case was pending at year's end. On September 23, officials from the SIU arrested two relatives of Kabaziguruka at his home in Luzira. Security personnel reportedly recovered a submachine gun and other military equipment from the residence.

Pretrial Detention: Case backlogs in the judicial system routinely contributed to pretrial detentions of two to three years but sometimes as long as seven years. The UPS reported more than half of its approximately 34,940 inmates were pretrial detainees. The UHRC heard 11 cases brought by prisoners challenging the length of their detention.

Suspects complained of long periods of pretrial custody. The Foundation for Human Rights Initiatives, a local NGO, received several complaints. In June 2011 military police in Kabowa, a Kampala suburb, arrested Boniface Mumbere and detained him at the CMI in Mbuya for 12 days, charging him with the murder of Lieutenant Amon Muzoora. However, authorities amended the indictment, charged Mumbere and six others with treason, and remanded them to Luzira

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Prison. One suspect was granted bail; the other detainees were denied bail and remained in pretrial custody at the prison.

Amnesty: Since 2000 the government has offered blanket amnesty to former LRA and Allied Democratic Forces rebel combatants to encourage defections. The Amnesty Act expired on May 23, effectively ending amnesty. On May 28, the government extended part of the act dealing with settling and integrating at least 26,300 persons who have received amnesty. Officials of the Uganda Amnesty Commission reported that of these, the government only integrated approximately 6,000 and more than half of these were former LRA combatants. During the year the government approved 60 amnesty cases.

In September 2011 the Constitutional Court ordered the release of LRA Colonel Thomas Kwoyelo from prison. Authorities accused Kwoyelo of dozens of murders, mutilations, and abductions, and the government claimed his alleged crimes made him ineligible for amnesty and refused to release him from prison. Kwoyelo remained in custody pending a Supreme Court ruling on his right to amnesty. On October 18, Kwoyelo's lawyer petitioned the African Commission on Human and Peoples' Rights seeking a declaration that his continued detention was illegal and authorities should release him. A response from the commission was pending at year's end.

**e. Denial of Fair Public Trial**

The constitution and law provide for an independent judiciary, and the government generally respected this provision. The president appoints Supreme Court, High Court, and Court of Appeal judges with the approval of parliament. The president also nominates, for the approval of parliament, members of the Judicial Service Commission, which makes recommendations on appointments to the judiciary. The judiciary ruled against the government in several high-profile cases during the year. For example, on January 30, a court in Kampala dismissed the forgery case filed by the government against *Daily Monitor* Managing Editor Dan Kalinaki and political analyst reporter Henry Ochieng.

Lower courts remained understaffed, weak, and inefficient. Judicial corruption was a problem (see section 4).

The military court system often did not assure the right to a fair trial. The law establishes a court-martial appeals process. Only senior UPDF leadership can grant appeals of sentences, including the death penalty. Under circumstances they

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deem exigent, military authorities can convene a field court-martial at the scene of an alleged crime. The law does not permit appeal of a conviction under a field court-martial. Despite a 2006 court ruling prohibiting the military from trying civilians in military tribunals, this practice continued. In September 2011 the UPDF announced it would end the practice of trying civilians in military tribunals; however, several civilians remained in military custody.

### **Trial Procedures**

An inadequate system of judicial administration resulted in a serious backlog of cases and impaired the right to a fair trial. There is a presumption of innocence. All nonmilitary trials are public but juries are not used. Defendants have the right to be present and consult with an attorney in a timely manner. The law requires the government to provide an attorney for indigent defendants accused of capital offenses, but funds were rarely available to provide counsel. By law defendants may confront or question witnesses against them and present witnesses and evidence on their own behalf. Authorities sometimes did not respect this right in practice. Defendants have the right to obtain documentary evidence the state intends to use against them before trial starts. This right of disclosure is not absolute in highly sensitive cases. Defendants have the right of appeal and have adequate time and facilities to prepare a defense. Sometimes authorities compelled suspects to testify or plead guilty. For example, there were unconfirmed reports that authorities forced some former LRA rebels (who were abducted into the group) to confess to rebelling against the NRM regime in order to receive amnesty.

### **Political Prisoners and Detainees**

There were reports of political prisoners during the year, and in addition authorities detained several opposition politicians and more than 20 supporters on politically motivated grounds for short periods. Authorities released many of these individuals without charge, but charged others with crimes such as treason, inciting violence, and holding illegal rallies.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Victims may report cases of human rights violations through the regular court system or the UHRC, which has judicial powers under the constitution. These powers include the authority to order the release of detainees, payment of compensation to victims, and other legal and administrative remedies such as mediation. Victims can appeal

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their cases to the Court of Appeal and thereafter to the Supreme Court, but not to an international regional court. Civil courts and the UHRC have no ability to hold perpetrators of human rights abuses criminally liable, and bureaucratic delays hampered enforcement of judgments for financial compensation.

**f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice. However, police did not always obtain search warrants, as required by law, to enter private homes and offices.

The Antiterrorism Act authorizes certain law enforcement officials to intercept communications to detect and prevent terrorist activities. The Regulation of Interception of Communications Bill authorizes government security agencies to tap private conversations as part of efforts to combat terrorism-related offenses. The government utilized both statutes to monitor telephone conversations.

On March 1, the Uganda Communications Commission (UCC), the government regulatory body, began the nationwide registration of mobile phone subscriber-identity module (SIM) cards to identify individuals committing crimes using mobile phones. The UCC reported that 40 percent of mobile owners had registered by September 30. On September 21, human rights activists expressed concern over the use of a person's data and potential violation of privacy rights and asked the government to create a formal structure to register SIM cards. The government response was pending at year's end. The government continued to encourage university students and government officials to attend NRM political education and military science courses known as "chaka mchaka." While the government claimed the courses were not compulsory, human rights activists reported the government pressured civil servants and students to attend.

**Section 2. Respect for Civil Liberties, Including:**

**a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech and press. However, the government at times restricted these rights.

Freedom of Speech: The SSF and government officials occasionally interrogated and detained radio presenters and political leaders who made public statements critical of the government and used libel laws and national security as grounds to

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restrict freedom of speech. The police CID summoned several opposition legislators for questioning over supposedly inflammatory statements made on radio talk shows. For example, on July 13, Mukono Municipality Member of Parliament (MP) Betty Nambooze and Central Broadcasting Station (CBS) host Meddie Nsereko appeared before the CID regarding an allegedly inflammatory statement on CBS against the NRM candidate during the Bukoto South by-election. Nambooze and Nsereko provided statements, and police released them without charge.

On September 24, the UCC stopped radio stations from airing a new song by a local artist pending investigation into claims it criticized Kampala City Council Authority Executive Director Jennifer Musisi.

Freedom of Press: The independent media were active and expressed a wide variety of views. Nevertheless, the government and the SSF imposed some restrictions. The UPF's Media Crimes Unit closely monitored all radio, television, and print media, and the SSF subjected numerous journalists to harassment, intimidation, and arrest. Although there were a number of private rural radio stations, government officials and ruling party members owned many of them and imposed reporting restrictions.

Local authorities and the SSF prevented journalists from covering public events they considered sensitive, and in some cases arrested and interrogated journalists. For example, on February 10, authorities blocked four journalists from covering court proceedings presided over by Justice Faith Mwendha in the High Court of Entebbe. Authorities briefly arrested two of the journalists, Kigongo Ssebalamu of the New Vision Group and Henry Oketch of Radio Simba, when they resisted orders to vacate the court premises. On February 14, the Human Rights Network for Journalists (HRNJ) petitioned the Judicial Service Commission to investigate Justice Mwendha, claiming she was behind the plan to block journalists from her court sessions. On April 12, the JCC began an investigation into the allegations; findings were pending at year's end.

On March 4, the Ministry of Health issued a directive that all journalists intending to visit nodding disease treatment centers in the north should seek ministry permission. On September 18, Kitgum District Chairperson Luka Nyeko expelled two journalists, Steven Komakech of Might Fire FM radio and Jimmy Wokorach Oboi of the New Vision Group, from a nodding disease review meeting. The district chairperson accused the journalists of engaging in partisan politics and promoting opposition interests.

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Several cases of journalists arrested in previous years came to trial. For example, on July 3, a court in Kampala granted bail to radio host Augustine Okello, whom authorities charged with treason in August 2011. The trial was pending at year's end.

Authorities interfered with the publication of several books critical of President Museveni. For instance, on April 11, police in Kampala arrested Makerere University student Doreen Nyanjura and four other activists for publishing a book critical of government entitled *Is It the Fundamental Change? Unveiling the Hidden Truth*. The case was pending at year's end.

On February 24, police impounded a consignment of 700,000 calendars with photographs of political figures and phrases demanding change. On February 28, police questioned the publisher of the calendars, Morris Rwakakamba, for four hours and released him without charge. Police claimed they impounded the calendars as part of an ongoing investigation into incitement of violence.

Violence and Harassment: The SSF arrested, assaulted, harassed, and intimidated journalists, and confiscated and maliciously damaged equipment. In July the HRNJ reported 50 journalists were subjected to different forms of violence from January to July. The HRNJ noted police continued to lead the list of violators with 26 cases, followed by the security detail assigned to the president's official residence with seven, and the judiciary with five cases. The HRNJ reported judicial staff manhandled several journalists and blocked them from covering open court proceedings. The UHRC and police continued to investigate the 32 acts of SSF violence against journalists reported by the HRNJ in 2011.

On March 28, police assaulted journalists Siraje Lubwama of the biweekly *Observer*, Joseph Mutebi of *Bukedde*, and Hasifah Wanyana of Kingdom FM radio as the journalists covered the release on bail of opposition leader Kizza Besigye and other opposition politicians, who had been accused of murdering Assistant Inspector of Police John Bosco Ariong. On June 18, Lubwama filed a petition in the High Court to sue the Kampala Metropolitan traffic police commander, Assistant Commissioner Lawrence Niwabiine, and sought compensation for damages and inconveniences during the assault. In his complaint, Lubwama accused Niwabiine of leading the attack. He claimed police seized and did not return a mobile phone handset and 50,000 shillings (\$18). The case was pending at year's end.

**EXHIBIT 196**  
**PART 2**

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On April 29, authorities arrested *Daily Monitor* journalist Perez Rumanzi, charged him with inciting violence, and remanded him to Ntungamo Prison in the western region. Authorities arrested him for allegedly “inconveniencing” the security detail of First Lady Janet Museveni during a ceremony in Ntungamo District. On May 2, a court in Ntungamo released Rumanzi on bail. The case was pending at year’s end.

On July 3, the High Court in Kampala granted bail to radio journalist Augustine Okello. Authorities charged him with treason in July 2011, and the case was pending trial at year’s end.

There were no developments in the investigation into the December 2011 death of Rwandan journalist Charles Ingabire, who was shot in Kampala.

Censorship or Content Restrictions: To avoid government intimidation or harassment, many print and broadcast journalists practiced self-censorship, particularly when reporting on President Museveni, the first family, senior members of the ruling NRM party, the SSF, and the exploration and use of oil resources. Many rural radio stations claimed unnamed government officials ordered them to deny airtime to opposition politicians, and police questioned several radio hosts for having opposition members on their shows. The government prevented some independent and government-owned television and radio stations from hosting opposition political candidates critical of the government.

According to a May report by the HRNJ, some media houses responded to perceived pressure from the government and stopped reporting on critical issues affecting the country.

On April 20, police in Kampala summoned *Daily Monitor* security reporter Risdal Kasasira regarding an interview with Mathais Nsubuga, the coordinator of the banned 4GC activist group. Police were investigating a case of incitement to violence following publication of the interview in the April 8 edition of the *Sunday Monitor* under the headline, “Our Goal is to Bring Museveni Down.” Kasasira reportedly provided a statement and the police released him without charge.

On July 9, CBS talk show host Meddie Nsereko Ssebuliba appeared before the police media crimes department at the CID for questioning about the content of a radio talk show broadcast on June 28. Police accused Ssebuliba of facilitating

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public criticism of the NRM candidate by the program's panelists. Ssebuliba made an official statement and authorities released him without charge.

On January 30, a court in Kampala dismissed forgery charges against *Daily Monitor* Managing Editor Daniel Kalinaki and Political Editor Henry Ochieng. Authorities alleged the journalists had forged sections of a letter from President Museveni on the Banyoro-Bafuruki conflicts. The letter, published in the *Daily Monitor* in 2009, included a controversial proposal to prevent members of a specific ethnic group from running for elected office in some areas of western Uganda.

Libel Laws/National Security: Authorities used libel laws and cited concerns about national security to suppress criticism. According to the HRNJ, seven journalists and opposition politicians continued to face sedition charges despite the Constitutional Court's 2010 ruling declaring the sedition law unconstitutional. On June 6, First Lady Janet Museveni sued the *Daily Monitor* over a May 12 story titled, "Karamoja Leaders Accuse First Family of Land Grabbing," which alleged that she was involved in land seizures in Karamoja. The suit claimed the story was malicious and defamatory. On September 27, the first lady and the *Daily Monitor* publisher agreed to settle their grievances out of court following an apology by the *Daily Monitor*.

On March 21, authorities charged CBS journalist Ronald Ssemuusi with criminal defamation. Ssemuusi aired a story in November 2011 alleging former Kalangala district chairperson Daniel Kikoola was responsible for the disappearance of 40 solar panels meant to help circulate clean and safe water in the Kalangala town council. Authorities released Ssemuusi on bail, and, at year's end hearing of the case was pending a Supreme Court ruling on the law on defamation.

### Internet Freedom

Individuals and groups could generally engage in the expression of views via the Internet, including by e-mail. Unlike in the previous year, there were no reports the government attempted to restrict access to the Internet. According to the International Telecommunication Union, 13 percent of persons in the country used the Internet, and 4.5 percent of households had access to the Internet in 2011.

### Academic Freedom and Cultural Events

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There were government restrictions on academic freedom. For example, research clearance was required in certain academic areas, such as history and political science, and was difficult to obtain.

**b. Freedom of Peaceful Assembly and Association****Freedom of Assembly**

While the constitution provides for freedoms of assembly and association, the government did not respect these rights in practice. The UPF continued to require advance notification and approval for public gatherings despite a 2008 Constitutional Court decision nullifying section 32(2) of the Police Act, which requires written police approval for any assembly of 25 persons or more.

During the year the UPF routinely restricted the right to assemble freely. The UPF either gave no official response to critical opposition parties and civil society organizations critical of the government that sought UPF authorization for public gatherings or instructed them not to assemble. On April 3, relying on section 56 of the Penal Code Act, the government outlawed the opposition-linked Activists for Change (A4C) group.

Police often met attempts to assemble by opposition activists, students, and workers with excessive and brutal force. For example, on September 18, the SSF injured 20 persons while dispersing Muslim youth protesters over a disputed plot of land in Iganga municipality.

Police arrested hundreds of persons for allegedly participating in unlawful assembly. For example, on March 21, police arrested 11 FDC supporters following a violent riot along Kampala Road that led to the death of police officer John Bosco Ariong. On March 23, authorities charged 11 suspects with Ariong's murder and with participating in an illegal assembly; authorities remanded them to Luzira Prison. On May 31, authorities dropped murder charges against 10 of the suspects due to lack of evidence, and released them on bail, pending trial on the charge of participating in unlawful assembly. Authorities referred the remaining suspect, Edison Waako, to High Court for trial for Ariong's murder. On March 28, a court charged FDC leader Kizza Besigye and Kampala Mayor Erias Lukwago with organizing an illegal assembly. Authorities released Besigye and Lukwago on bail, pending hearing of their cases.

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During the year none of the hundreds of protesters arrested during 2011 walk-to-work events, protests that began against the country's soaring fuel and food prices, had been convicted of any offense.

### **Freedom of Association**

While the constitution and law provide for freedom of association, the government did not always respect this right in practice. The law limits some NGO activity and requires NGOs seeking registration to obtain letters of approval from local government and community officials. Official registration affords some legal protections and enables NGOs to open local bank accounts. The NGO Board, which approves NGO registrations, reports to the Ministry of Internal Affairs and is composed of representatives from various government ministries, including the security services. Discriminatory aspects of the law prevented LGBT organizations from registering as NGOs.

Police blocked meetings of LGBT persons and members of labor unions (see sections 6 and 7).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/drl/irf/rpt](http://www.state.gov/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation. The government at times limited these rights in practice.

Between May 1 and October 31, police deployed in Kampala to block movement of opposition members and activists from participating in the walk-to-work protests relaunched during the year by the 4GC activist group. On several occasions police confined FDC leader Kizza Besigye at his residence to stop him from participating in the protests.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

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and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel: A married woman must obtain her husband's written permission on her passport application in order to list children on her passport.

**Internally Displaced Persons (IDPs)**

There were no reported IDPs following the closure of camps in the northern part of the country. The government has a policy to avoid establishing IDP camps in the landslide-stricken eastern district of Bududa. Instead, in response to landslides or other natural disasters, the government encouraged affected populations to move in with family or other community members.

**Protection of Refugees**

Access to Asylum: The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. As of September the UNHCR registered 189,633 refugees and asylum seekers, including almost 50,000 new refugees received during the year, most of whom came from the DRC. The government provided adequate protection to refugees, including temporary protection, resettlement, and other long-term solutions. The government made progress in clearing a backlog of asylum requests.

The UNHCR reported the government was reluctant to grant refugee status to Rwandans pending the UNHCR cessation clause scheduled to be implemented in June 2013. The cessation clause would require Rwandan refugees who cannot prove continuing claims of individual persecution either to return home or apply for permanent residency in their country of residence.

Refugee Abuse: On September 25, a Kampala-based NGO for Congolese refugees reported an attack on its office by SSP. Police arrested and later released the director of the NGO and an office attendant without charge, pending investigations.

Access to Basic Services: The government granted to refugees, without charge, the same access to public health, education, and other services available to citizens. There were anecdotal reports of discrimination toward some refugees seeking services due to language barriers or xenophobia, but the Office of the Prime

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Minister's Refugee Commission, the UNHCR, its implementing partners, and other NGOs worked to reduce barriers to access.

Durable Solutions: The government did not accept refugees for resettlement from third countries, but it facilitated UNHCR efforts to resettle refugees in third countries. The government assisted the safe and voluntary return of refugees to their homes. Between January and September, the government assisted the UNHCR in the voluntary repatriation of 170 refugees to Rwanda.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution and law provide citizens with the right to change their government peacefully. The February 2011 presidential and parliamentary elections marked an improvement over previous elections but were nonetheless marred by serious irregularities.

#### **Elections and Political Participation**

Recent Elections: In February 2011 the country held its fourth (second multiparty) presidential and parliamentary election since President Museveni came to power in 1986. President Museveni won reelection with 68 percent of the vote. Besigye, the FDC president, finished second with 26 percent. The ruling NRM party captured approximately 75 percent of the seats in the 375-member parliament. While the elections and campaign period were generally peaceful, domestic and international election observers noted several serious irregularities. These included the diversion of government resources for partisan gain, unfair access to the media for NRM candidates and lack of access for opposition candidates, the heavy deployment of the SSF on election day, government intimidation, disorganized polling stations, and the absence of many voters' names from voter rolls.

Political Parties: There were approximately 38 registered parties. The ruling NRM party operated without restriction, regularly holding rallies and conducting political activities. Authorities occasionally restricted the activities of the main opposition parties by refusing them permission to hold public demonstrations and preventing opposition leaders from appearing on local radio stations. Police fired tear gas to disperse rallies of opposition leaders. For example, on May 21, police fired tear gas to disperse a crowd that had gathered to hear opposition leader Besigye and Kampala Mayor Lukwago at Nakasero Market in Kampala. There were no reports of injuries.

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Police arbitrarily arrested several FDC opposition leaders during the year. For instance, on April 16, police arrested six supporters of the FDC and charged them with disobeying lawful orders. Authorities released the suspects on police bond, and the case was pending at year's end. On October 15, police in Nakasongola arrested six FDC supporters; they were granted bail on October 22 after being charged with holding an unlawful assembly. On November 20, police arrested another FDC official, Simon Rutarondwa, over allegations of links to a new rebel group fighting to overthrow the ruling NRM government. He was in detention at the SIU in Kireka, Kampala at year's end.

On September 25, police arrested and later released opposition MP for Kyadondo East, Ibrahim Nganda Ssemujju, and charged him with illegal assembly. Ssemujju reportedly held a rally at Kireka Park, a suburb of Kampala, in defiance of police orders. The case was pending at year's end.

Participation of Women and Minorities: There were 23 female ministers in the president's 75-member cabinet. The speaker of parliament, the deputy chief justice of the Supreme Court, and the inspector of government (IGG), who heads the leading government anticorruption investigative body, were women. There were 135 women in the 386-member parliament. The law requires elections for parliamentary seats reserved for special-interest groups: 112 for women, five for organized labor, five for persons with disabilities, five for youth, and 10 for the UPDF. An opaque "electoral college" process organized by a single government-supported NGO selected the five persons with disabilities. There was no minority representation in the parliament.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption. However, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. The World Bank's most recent Worldwide Governance Indicators reflected corruption was a severe problem. According to the World Bank, the country annually loses 768.9 billion shillings (\$286 million) to corruption.

The government selectively enforced financial disclosure laws, under which an estimated 27,000 public officials were subject to biannual reporting requirements. The requirements apply to spouses and dependent children as well. Public officers are required to disclose their income and assets upon assuming and leaving office.

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The IGG is responsible for monitoring compliance. Penalties for noncompliance include a warning or caution; demotion; dismissal, and/or administrative leave from office. For example, authorities dismissed MP Ken Lukyamuzi for noncompliance. According to the IGG, 7,051 officials reported in the 2011-12 cycle. Although Section 7 of the Leadership Code Act 2002 requires public disclosure, authorities did not make these reports public.

Government agencies responsible for combating corruption include the IGG, DPP, Anticorruption Division (ACD) of the High Court, parliamentary Public Accounts Committee, police Criminal Investigation Division, Office of the Auditor General, and Directorate for Ethics and Integrity. There was weak political will to combat corruption at the highest levels of government, and many corruption cases remained pending for years. The ACD has two judges and three magistrates. Since its 2009 inception, the ACD has heard more than 800 corruption cases, several of which involved senior level officials.

On July 25, police arrested officials from the Office of the Prime Minister, including Commissioner for Relief, Disaster Preparedness and Management John Martin Owor and former principal accounting officer Geoffrey Kazinda, along with three junior officers. Authorities charged them with embezzling 316.8 million shillings (\$118,020). Authorities released Kazinda and the other accused on bail with a hearing pending at year's end.

On September 19, authorities indicted several senior-level officials pending police investigations into corruption. Those charged included Jimmy Lwamafa, permanent secretary for the Ministry of Public Service; Kiwanuka Kunsu, commissioner of pensions; principal accountant Christopher Obeyi; head of information technology Francis Lubega; and Peter Ssajabi, national secretary, East African Community Beneficiary Association. The case involved a fraudulent distribution of funds in which 63 billion shillings (\$24 million) was paid to more than 1,000 nonexistent pensioners in 2011.

On September 25, the Magistrates Court passed on to the High Court for trial the case of Foreign Minister Sam Kutesa, Minister for General Duties John Nasasira, and State Minister for Labor Rukutana Mwesiigwa. Authorities charged the ministers with abuse of office and causing financial loss of 14 billion shillings (\$5.2 million) in October 2011. The trial began on October 22, and on November 9, the court acquitted and discharged the ministers for lack of evidence.

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According to Transparency International, the police and judiciary were the institutions most prone to corruption. Police arrested several officers implicated in bribery and corruption. Authorities arrested several magistrates and judicial officials for forgery, soliciting, and receiving bribes.

The law provides for public access to government information, but the government rarely provided such access. In June 2011 the government passed the Access to Information Act, which allows individuals to petition any government department to access information. However, the Secrecy Act bars public servants from revealing information. The law provides that a person shall disclose information within three months of becoming an elected official or assuming public office and thereafter in December every two years.

**Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Local LGBT-related NGOs were denied official status due to the discriminatory law preventing their registration.

An August 21 Human Rights Watch report asserted the government restricted NGOs. The report concluded many NGOs deliberately avoid engaging in political issues to avoid negative government scrutiny.

On April 14, the minister of internal affairs summoned the Uganda Land Alliance (ULA) for questioning. The investigation of the ULA followed a September 2011 global report, written in collaboration with Oxfam International, that alleged foreigners and multinational corporations had displaced 20,000 persons in various districts.

On June 14, the NGO Board, the government body responsible for overseeing the operations of NGOs, ordered the local NGO, Advocates Coalition for Development, to cease involvement in political activities.

On July 27, the government announced an NGO policy to guide and regulate the operations of civil society organizations. Among other elements, the policy officially defines an NGO and provides an implementation framework with clearly articulated roles and responsibilities for both state and nonstate actors.

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The government was generally responsive to some of the concerns of local and international human rights organizations.

UN and Other International Bodies: The government cooperated with international governmental organizations and permitted visits by the UN, the OHCHR, the ICRC, and other international organizations.

Government Human Rights Bodies: The UHRC is a constitutionally mandated institution with quasi-judicial powers to investigate allegations of human rights abuses and award compensation to abuse victims. Although the UHRC operates independently, the president appoints its seven-member board. Under the law the UHRC may subpoena information, direct the release of detainees, and order the payment of compensation for abuses. The UHRC pursued suspected human rights abusers, including in the military and police forces, and had branches countrywide. Its resources, however, were inadequate to investigate all complaints received.

In its June 2011 annual report, the UHRC reported registering 1,231 human rights complaints against 1,182 individuals, including 151 UPDF members, 457 police officers, 46 members of other security agencies, 40 prison wardens, 272 private citizens. Of the 1,231 complaints, 34.8 percent involved allegations of torture or cruel, inhumane, or degrading treatment and punishment. The report urged the government to pass pending antitorture legislation (which was subsequently passed in April 2012); improve prison conditions, particularly for women and children; eliminate illegal detention and prolonged pretrial detention practices; and provide SSF with increased human rights training.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination based on race, gender, disability, language, or social status but is silent on sexual orientation and gender identity. The penal code, however, prohibits "unnatural offenses." The government did not enforce the law in matters of locally or culturally prevalent discrimination against women, children, persons with disabilities, or certain ethnic groups.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape. Rape remained a serious problem throughout the country, and the government did not consistently enforce the law. Although the government arrested, prosecuted, and convicted persons for rape, the crime was seriously underreported, and

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authorities did not investigate most cases. Police lacked the criminal forensic capacity to collect evidence, which hampered prosecution and conviction. The 2011 police crime report registered 520 rape cases throughout the country, of which 269 were tried.

The law criminalizes domestic violence and provides penalties for abusers ranging from fines to two year's imprisonment. However, women's activists were concerned the law was not enforced. Although the 2011 UPF annual crime report listed 181 reported cases of domestic violence, up 14 percent from 2010's 159 cases, these statistics substantially underestimated the extent of the problem. Domestic violence against women remained widespread. A July 19 Center for Basic Research report indicated 70 percent of women interviewed from eastern and northern regions had been beaten by their husbands. In addition the findings indicated 17 percent of the same women had been raped, 23 percent forced into marriage, 1 percent denied inheritance rights, and 10 percent denied political rights.

Many law enforcement officials viewed wife beating as a husband's prerogative, as did the majority of the population, and police rarely intervened in cases of domestic violence. Between January and September, the government arrested six persons for domestic violence offenses. For example, on May 4, the Iganga High Court convicted Ahmed Gangira for the murder of his wife, Hawa Nakiranda, and sentenced him to 20 years in prison.

On March 11, a court in Jinja dismissed murder charges against Captain Charles Ogwal for lack of evidence. Authorities accused Captain Ogwal of killing his wife, Jane Asimo, following a family argument.

Female Genital Mutilation/Cutting (FGM/C): The law and constitution prohibit FGM/C and establish a maximum penalty of life imprisonment. Neither culture, religion, nor the consent of the victim is an allowable defense. The government, women's groups, and international organizations continued to combat the practice through education. These programs, which received some support from local leaders, emphasized close cooperation with traditional authority figures and peer counseling. Nevertheless, the Sabinu ethnic group in rural Kapchorwa District and the Pokot ethnic group along the northeastern border with Kenya continued to practice FGM/C. (See also section 6, Children.)

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In December the Reproductive Education and Community Health program, a local NGO that monitors the prevalence of FGM/C, received reports of 118 women who were victims of the practice.

On December 24, police in Bukwo District arrested Danis Kokop, Kissa Kokop, and Rholah Kokop, who were found conducting FGM/C on 20 women in Bukwo District. The case was pending hearing at year's end.

Sexual Harassment: The law criminalizes sexual harassment with penalties of up to 14 years of imprisonment, but authorities did not effectively enforce it. Sexual harassment was a serious and widespread problem in schools, universities, and workplaces.

Authorities from Makerere and Kyambogo universities continued to investigate reports of the sexual harassment of students by some lecturers from November 2011 and investigations were pending at year's end.

Reproductive Rights: There are no laws restricting couples or individuals from deciding the number, spacing, and timing of their children. There are no laws restricting access to reproductive information or otherwise limiting such access via discrimination, coercion, and violence. However, family planning information and assistance were difficult to obtain, particularly in rural areas, where there were few health clinics. According to the UN Population Fund, 18 percent of women ages 15-49 used a modern method of contraception. By the end of September Ministry of Health officials recorded 435 maternal mortality deaths per 100,000 live births. Skilled health personnel attended 42 percent of births. Health officials attribute the high maternal mortality rate to medical complications based on excessive bleeding after birth, obstructed labor, high blood pressure, malaria, a shortage of staff to attend to mothers, and delivery outside of health facilities.

Discrimination: The law invests women with the same legal status and rights as men. However, discrimination against women continued to be widespread, especially in rural areas. Many customary laws discriminate against women in adoption, marriage, divorce, and inheritance. Under local customary law in many areas, women cannot own or inherit property or retain custody of their children. Traditional divorce law in many areas requires women to meet stricter evidentiary standards than men to prove adultery. Polygyny is legal under both customary and Islamic law, and in some ethnic groups men can "inherit" the widows of their deceased brothers. Women also experienced economic discrimination. For example, a June 2010 study conducted by local NGO Actionaid found that women,

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who did most of the agricultural work, owned only 7 percent of the agricultural land. Women also experienced economic discrimination in access to employment, credit, income, business ownership, and senior or managerial positions.

Eliminating gender inequality remained a high priority for the government, which, in conjunction with NGOs and women's rights groups, sponsored workshops and training sessions throughout the country to increase awareness of women's rights.

During the year Actionaid sponsored several workshops on women's rights in various districts including Amuru, Lira, Nebbi, Pallisa, Mubende, Kumi, Katakwi, Kween, and Kampala.

**Children**

Birth Registration: The law accords citizenship to children born in or outside the country if at least one parent or one grandparent held Ugandan citizenship at the time of the child's birth. Children under the age of 18 who are abandoned in the country with no known parents are considered Ugandan citizens, as are children under the age of 18 adopted by Ugandan parents.

The law requires citizens to register a birth within three months. According to the 2011 Uganda Demographic and Health Survey only 29 percent of rural and 38 percent of urban births were registered. Citizens who cannot afford the birth registration fees do not participate in the registration process, but are not denied citizenship.

In general, lack of registration did not result in denial of public services. However, many primary schools, especially in urban centers, required birth certificates for enrollment. Enrollment in university and other tertiary institutions also required birth certificates. In September 2011 the Uganda Registration Services Bureau (URSB), the government agency responsible for recording births and deaths, launched a computerized system that uses mobile telephones to deliver timely and accurate records. The system enables officials to send details of births and deaths as a text message to the central server at URSB headquarters in Kampala.

Education: The law provides for tuition-free and compulsory education for the first seven years of primary school or through high school for especially underprivileged students. Students, except for the most underprivileged, must pay for school supplies and some school operating costs. Many parents could not afford these expenses.

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Child Abuse: Child abuse remained a serious problem, particularly rape and sexual abuse of girls, and recorded cases greatly understated the pervasiveness of abuse.

According to the 2011 annual police crime report, defilement (akin to statutory rape) remained the most common crime committed against children, with 7,690 cases recorded. The report also registered 520 cases of rape, 69 of child trafficking, eight of child sacrifice, 8,075 of child neglect, 1,973 of child desertion, 1,775 of child abuse and torture, 125 of kidnapping, 66 of infanticide, and 423 of other sexual-related offenses, including assault and incest. The government worked with UNICEF and NGOs, including Save the Children and African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN), to combat child abuse.

On August 31, the government newspaper *Saturday Vision* reported corporal punishment was pervasive in primary schools in the greater Kampala area, despite a government directive prohibiting the practice. According to the report, in approximately 98 percent of the 30 schools surveyed in greater Kampala, pupils were caned for offences ranging from giving wrong answers to speaking in their vernacular language instead of English.

There were numerous reports of ritual sacrifice of children during the year. The government took some steps to address this problem. For example, on July 13, the High Court in Kampala convicted Joyce Jane Kiggundu and sentenced her to 14 years' imprisonment for kidnapping a 10-year-old boy to perform a ritual sacrifice in January 2011.

There were developments in previous ritual murder cases. For example, on July 26, the High Court in Masaka sentenced Godfrey Kajubi to life imprisonment for the ritual murder of a 12-year-old boy in 2008. However, Kajubi appealed the verdict, which was pending a hearing at year's end.

Perpetrators of sexual abuse often were family members, neighbors, or teachers. In 2009 the UPF began providing free rape and defilement medical examinations throughout the country to assist investigations. An estimated 10,050 victims of rape and defilement have since received free medical examinations at Mulago Hospital in Kampala.

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Child Marriage: The legal minimum age for marriage is 18, but authorities did not actively enforce the law. Marriage of underage girls by parental arrangement was common, particularly in rural areas. Local NGOs and the Police Family and Children Unit reported that acute poverty forced some parents to give away their children, including girls as young as age 12, for early marriage and sexual arrangements.

On December 8, police in Mbarara District arrested 16 family members who allegedly forced a 13-year-old girl to get married. Investigations and a hearing of the case were pending at year's end.

According to UNICEF, 12 percent of women 20 to 24 years old were married or in a union before they were 15 years old, and 46 percent were married or in a union before reaching age 18.

According to a November 2011 survey conducted by an international women's organization in Kasese District, girls entered marriage as early as age 12. The report stated that in Bukonzo East, 22 percent of marriages involved girls between the ages of 12 and 14, and 78 percent of marriages involved girls between 15 and 17 years of age. In Busongora North, 19 percent of marriages involved girls between 12 and 14, and 81 percent of marriages involved girls between 15 and 17 years of age. Reportedly, Kasese was the district with the highest number of early marriages.

The law considers sexual contact outside marriage with girls less than 18 years of age, regardless of consent or age of the perpetrator, as "defilement" and carries a maximum penalty of death. Such cases often were settled by a payment to the girl's parents.

Harmful Traditional Practices: The law and constitution prohibit FGM/C and other related activities and establish a maximum penalty of life imprisonment. A local NGO that monitors the prevalence of FGM/C reported that 30 girls were subjected to FGM/C in September in Nakapiripirit District. There were no reports of FGM/C on girls in the districts of Kapchorwa, Bukwo, Kween, or Amudat.

The June 2011 case against Kam-Kosike Lonete for her involvement in FGM/C practices was pending hearing at year's end.

Sexual Exploitation of Children: Commercial sexual exploitation of children was a problem. According to a February study conducted by the local NGO African

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Network for the Prevention and Protection against Child Abuse and Neglect, extensive commercial sex exploitation of girls between ages 15 and 19 occurred in Kampala District.

While the law prohibits sexual exploitation of children, the government did not enforce the law effectively. The minimum age of consensual sex is 18 years. The law prohibits child pornography. On March 12, police arrested Emin Baro, a Turkish citizen, on charges of molesting underage girls and possessing child pornography. On March 27, a court convicted Baro of sexually molesting underage girls and fined him 7.2 million shillings (\$2,680). Activists and government agencies condemned the ruling as too lenient, which prompted police to rearrest Baro on March 29. On October 16, Baro appeared in court on charges of aggravated defilement and authorities remanded him to prison; the case was pending at year's end.

Child Soldiers: Although LRA members who were abducted as children continued to leave the LRA and return home, an estimated 250 to 400 LRA fighters remained. Despite a significant reduction in LRA size since 2008, the LRA continued to hold women and children against their will, although increasingly the group abducted children from neighboring countries. The government led regional efforts to counter the influence of the LRA in coordination with South Sudan, the CAR, and the DRC.

Infanticide or Infanticide of Children with Disabilities: According to the 2011 annual police crime report, there were 66 reported infanticides that year.

Displaced Children: Families from the farming regions of Karamoja sent many children to Kampala during the dry season to find food and work, and most of them ended up begging on the streets. Police routinely rounded up street children and relocated them to a custodial home for juvenile delinquents where staff attempted to locate the children's families and return them to their homes. During the year authorities rounded up 52 street children and took them to Kampiringisa National Rehabilitation Centre in Mpigi. The center, understaffed and underfunded, was often unable to accommodate the influx of children from these roundups, and many of them eventually returned to the Kampala streets.

Institutionalized Children: There were reports of abuses in several orphanage centers. Of the 412 orphanages operating in the country, only 34 were formally registered. The government lacked the ability to manage registration and monitoring of orphanages.

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On April 13, authorities in Rukungiri District closed Rubirizi Child Development Center following a petition by residents alleging one of the administrators had been sexually abusing some of the children. Police arrested the administrator and an investigation was pending at year's end.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

#### **Anti-Semitism**

The Jewish community was small, and there were no reports of anti-Semitic acts.

#### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

#### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other state services. However, the government did not enforce the law effectively, and persons with disabilities faced societal discrimination and limited job and educational opportunities.

On April 1, the government launched a new program on special needs and inclusive education to enhance education of children with disabilities. With the exception of nine Kampala-based television stations, stations did not comply with the June 30 UCC deadline to carry sign language interpretation for all programming. The government took no action against these stations. The UHRC also received complaints of discrimination in employment and access to transport and other public services. Most schools in the country did not accommodate persons with disabilities.

A July report released by the National Council on Disability (NCD) indicated 55 percent of persons with disabilities lacked functional literacy skills, and only 33 percent studied to primary grade seven. The report found some children with mental disabilities were sometimes denied food and were tied to trees and beds

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with ropes in order to control their movements. The report further stated the needs of children with autism and learning difficulties were ignored due to an insufficient number of special needs schools.

While the law requires access to special facilities for children with disabilities, a September 2011 survey conducted by the NCD indicated 80 percent of hospitals and health centers lacked access ramps.

The law reserves five seats in parliament for representatives of persons with disabilities. However, the NCD reported participation by persons with disabilities in elections was minimal as they could not access polling centers because of physical barriers; election materials did not accommodate persons with visual impairments; and polling stations lacked support services such as guides, helpers, and sign language interpreters. The NCD also noted the civic education offered by the government to citizens was inaccessible to many persons with disabilities since it was done through electronic and print media.

Government agencies responsible for protecting the rights of persons with disabilities included the Ministry of State for Disabled Persons, the NCD, and the Ministry of Gender, Labor, and Social Development, but these entities lacked sufficient funding to undertake any significant initiatives.

**National/Racial/Ethnic Minorities**

There were isolated reports of violence between ethnic minorities in some parts of the country. For example, on January 12, tribal clashes between the Bagisu and Sabiny over disputed land left two persons dead, approximately 14 houses burned, and at least 200 persons displaced.

**Indigenous People**

The government displaced the Batwa ethnic tribe, with an estimated 6,700 members, in 1992 when it created Mgahinga National Park, Bwindi Impenetrable National Park, and Echuya Central Forest Reserve. This displacement compounded challenges faced by the Batwa, including limited access to education, health care, land, and economic opportunities.

**Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

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LGBT persons faced discrimination and legal restrictions. Consensual same-sex sexual conduct is illegal according to a law from the colonial era that criminalizes “carnal knowledge of any person against the order of nature” and provides a penalty up to life imprisonment. While authorities did not convict any persons under the law, the government arrested persons for related offenses.

On April 3, a court in Iganga District remanded Richard Nyeusi Mulwo, deputy head teacher of Bulumwaki Primary School, for trial in the High Court for engaging in homosexual activities. At year’s end the trial was pending.

On September 13, police in Kampala arrested British theatre producer David Edwards Cecil for staging a play police alleged promoted homosexual activity. The play was reportedly performed in several venues around Kampala in August, despite an injunction by the Media Council, the government media regulatory body. On September 17, a court charged Cecil with violating lawful orders issued under section 117 of the penal code and for staging a play while it was under review by the Media Council. Cecil was released on bail, and his case was pending at year’s end.

LGBT persons were subject to societal harassment, discrimination, intimidation, and threats to their well-being, and were denied access to health services. Discriminatory practices also prevented local LGBT NGOs from registering with the NGO Board and obtaining official status (see section 2.b.).

On March 15, four LGBT activists filed a petition in the High Court accusing the minister of ethics and integrity and the attorney general of illegally closing a workshop organized by Freedom and Roam Uganda in Entebbe on February 14. Hearing of the case was pending at year’s end.

The government blocked meetings organized by LGBT groups. For example, on June 18, police closed a skills-building workshop for LGBT human rights defenders organized by the East and Horn of African Human Rights Defenders Project (EHAHRDP) in Kampala. Police detained workshop participants, guests, and hotel staff for more than three hours. Two EHAHRDP staff and two workshop participants also were briefly detained but later released.

On October 1, a local news station broadcast a video of a transgender individual being harassed and humiliated at a local police station in Kisenye District. The video showed police officers aggressively touching, taunting, and forcibly undressing the individual, whom the police subsequently paraded before a crowd

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of onlookers. Authorities did not file charges against the police officers; they released the transgender individual without charge.

There were no developments regarding the Constitutional Court's deliberations on a petition filed in 2009 challenging the constitutionality of a law that prevents the Equal Opportunities Commission from investigating "any matter involving behavior which is considered to be (i) immoral and socially harmful or (ii) unacceptable by the majority of the cultural and social communities in Uganda."

#### **Other Societal Violence or Discrimination**

Discrimination against persons with HIV/AIDS was common and prevented such persons from obtaining treatment and support. International and local NGOs, in cooperation with the government, sponsored public awareness campaigns to eliminate the stigma of HIV/AIDS. Counselors encouraged patients to be tested with their partners and family so that they all received information about HIV/AIDS. Persons with HIV/AIDS formed support groups to promote awareness in their communities. During the year, in line with the National HIV/AIDS policy launched in 2011, several government departments launched HIV/AIDS workplace policies to protect and maintain employee health and well-being at work. For example, on May 15, the Ministry of East African Affairs announced an HIV/AIDS workplace policy to promote freedom from stigma and nondiscrimination for all employees. With resources from the ministry budget and support from the Uganda AIDS Commission, the policy provides drugs, promotes gender equity and equality, and disease management for HIV-positive employees. In October the ministry inaugurated a committee to implement the policy and train staff counselors.

NGOs reported many HIV-positive inmates in prison did not have adequate access to antiretroviral medication, especially in rural areas, and prison officials sometimes subjected HIV-positive inmates to hard labor (see section 7).

Mob violence was a problem. Mobs attacked persons suspected of stealing, ritual sacrifice, witchcraft, and other crimes, resulting in deaths.

For example, on April 30, a mob in Buvuma District stoned to death a Buvuma police station crime preventer, a person recruited and given basic training to assist the police in community policing, over allegations of practicing witchcraft. Authorities arrested several mob members.

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On July 13, police in Luwero District arrested 10 persons in connection with the alleged vigilante killing of a suspected thief. The incident occurred on July 12, and investigations in the case were pending at year's end.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law allows workers, except for "essential" government employees, which includes police, army, and management-level officials, to form and join independent unions. All unions must be registered either under the National Organization of Trade Unions (NOTU), or the Confederation of Trade Unions. The law allows unions to conduct activities without interference, prohibits antiunion discrimination by an employer, and provides for reinstatement of workers dismissed for union activity, the right to strike, freedom of association, and the right to bargain collectively. The government did not always protect these rights. NOTU officials reported some employers used a "recognition agreement" to allow union operations at the work place. Labor activists reported government oversight of labor practices was poor and that the Ministry of Gender, Labor, and Social Development was underfunded and understaffed. Labor inspectors were present in only 44 of the 112 districts. Most employers did not give employees written contracts of employment, resulting in lack of job security and union representation.

Worker organizations were independent of the government and political parties. However, four members of the ruling NRM party and one independent held the five seats set aside in parliament for workers. There were instances of government interference in union activity. For example, on January 30, police in Kampala blocked a meeting organized to discuss teachers' demands for salary increases and improved working conditions.

As of September 30, local media reported 11 strikes over low salaries, wages, and poor working conditions. Police occasionally arrested persons engaged in demonstrations and strikes or used excessive force to disrupt striking workers. For instance, on May 1, police in Kampala arrested and later released without charge 21 workers' activists who were demonstrating against the government's failure to address workers' rights.

Antiunion discrimination occurred in practice, and labor activists accused several companies of preventing employees from joining unions by denying promotions,

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not renewing work contracts, and sometimes refusing to recognize unions. For example, NOTU officials cited numerous companies that resisted trade unions, including telecommunications company MTN Uganda, Posta Uganda, and all Chinese and Asian-managed firms. Labor activists reported workers continued to lose their jobs because of joining unions in other sectors. NOTU officials in particular cited MTN Uganda, which threatened to exclude workers who joined unions from the company's pension fund.

Public service unions, including medical staff and teachers, were able to negotiate their salaries and employment terms through their unions. However, the government fixed salaries for "essential government employees," including police, military, and management-level officials. On August 14, the government inaugurated the National Negotiation and Consultation Council, a key step in the push for negotiating space on the salary and welfare of government workers. Labor activists reported some employers ignored the legal requirement to enter into Collective Bargaining Agreements (CBA) with registered unions. Labor activists also reported some employers resorted to subcontracting and outsourcing services or hired workers temporarily in order to avoid CBAs. According to NOTU, seven CBAs were signed during the year.

#### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor, including by children, but does not expressly prohibit prison labor. The law states such labor becomes forced only if the worker is "hired out to or placed at the disposal of a private individual, company, or association." The government did not always enforce the law, and there were reports forced labor practices occurred, particularly in prisons (see section 1.c.). Prison officials allegedly hired out prisoners to work on private farms and construction sites, where prisoners were often overworked. Male prisoners performed arduous physical labor, while female prisoners produced marketable handicrafts such as woven basketry. Compensation, when paid, generally was very low. Prisoners did not have savings accounts, but prison accounting staff recorded wages owed in a book, and prisoners had access to these funds.

Forced child labor also occurred (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

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**c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits employers from hiring workers below the age of 18. The law prohibits children under the age of 12 from being employed in any business or workplace, and all children are prohibited from being employed during school hours. However, by contrast, regulations of the Ministry of Gender, Labor, and Social Development permit the employment of children between the ages of 14 and 18. Furthermore, the law allows 13-year-olds to engage in "light work," provided it does not interfere with their education. The law prohibits children from working from 7 p.m. to 7 a.m. and does not allow children to be employed in work that is "injurious to their health, dangerous or hazardous or otherwise unsuitable." In addition, the law provides for inspection of workplaces, identification of hazards at the workplace, and other related matters for all workers, including children. According to ANPPCAN, children between the ages of five and 18 were employed.

Institutions responsible for enforcing child labor laws and policies include the National Council of Children; the police force's Child and Family Protection Unit; the Industrial Court; and the Ministry of Gender, Labor, and Social Development. Financial constraints limited efforts. For instance, the Industrial Court lacked judges, so the High Court or the Magistrates' Court handled labor disputes. The Ministry of Gender, Labor, and Social Development provided social services to children working in the worst forms of child labor and other vulnerable groups and conducted training for staff, local leaders, and district labor inspectors. Sixty of its district labor officers were responsible for reporting on child labor issues. However, due to lack of funds and logistical support, district labor officials conducted no child labor inspections since 2004. During the year officials from the Ministry of Gender, Labor, and Social Development's Occupational, Safety and Health Department conducted 10 labor inspections with a child labor component in various districts. The government coordinated its efforts to stop child labor through the National Steering Committee on Child Labor, which included representatives of the Ministry of Gender, Labor, and Social Development, Ministry of Education and Sports, Ministry of Local Government, Federation of Uganda Employers, NOTU, NGOs, journalists, and academics. The steering committee last met in June.

The government cooperated with the International Labor Organization (ILO), foreign governments, and NGOs on several initiatives to combat child labor, including the education and reintegration of child laborers into their communities. On June 26, the government initiated the National Action Plan for the elimination

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of the worst forms of child labor. The plan was the first stage to mobilize policy makers and the public to act and intensify awareness of the risks and consequences of child labor. Several human rights NGOs continued programs to remove children from hazardous work situations.

Nevertheless, child labor was common, especially in the informal sector. Exploitive and forced child labor predominantly occurred in rural areas in cattle herding; transport, mining; street vending, or begging; scrap collecting; stone quarrying; brick making; road construction and repair; car washing; fishing; domestic nanny and housekeeper services; bar or club service work; border smuggling; and in commercial farming including the production of tea, coffee, sugarcane, vanilla, tobacco, rice, cotton, charcoal, and palm oil. In urban areas children sold small items on the street, worked in shops, begged for money, and were exploited in the commercial sex industry. Many children left school and engaged in agricultural or domestic work to help meet expenses or perform the work of absent or sick parents, a situation common throughout the country. The problem was particularly acute among the large orphan population. According to UNICEF's State of the World's Children 2012 report, 41 percent of child laborers five to 14 years old were forced to work under poor conditions and poor health and safety standards.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The minimum legal wage was set in 1984 at 6,000 shillings (\$2.23) per month. In 2003 the government and the private sector negotiated a new rate of 54,000 shillings (\$20.10) per month, which the government had not implemented by year's end.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. The legal maximum workweek is 48 hours, and the maximum workday is 10 hours per day. The law may extend the workweek to 56 hours per week, including overtime, with employee agreement. An employee may work in excess of 10 hours a day if the average number of hours over a period of three weeks does not exceed 10 hours per day or 56 hours per week. The law provides for an employee who works in excess of 48 hours per week to be remunerated at the minimum rate of 1.5 times the normal hourly rate for the overtime hours and two times the hourly rate on public holidays. The law grants employees a 30-minute

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break for every eight-hour work shift. For every four months of continuous employment, an employee is entitled to seven days of paid annual leave. Many industries paid workers annual bonuses in lieu of overtime. Section 53 (8) of the Employment Act 2006 allows compulsory overtime for all workers. In July 2011 the Uganda Local Government Workers Union petitioned the Constitutional Court, protesting discrimination in remuneration of employees doing the same work. Hearing of the petition was pending at year's end.

The law establishes occupational safety and health standards, and the Ministry of Gender, Labor, and Social Development's Department of Occupational Health is responsible for enforcement of those regulations. The law covers all workers, including foreign and migrant workers. The law includes provisions for district labor inspectors to "secure the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work."

Authorities did not effectively enforce the law due to the lack of vehicles and financial constraints. As a result the Ministry of Labor, Gender, and Social Development's Occupational, Safety and Health Department carried out few inspections during the year. Workers in the informal sector were subject to hazardous working conditions. There was no credible data available on the number of workers in the informal sector.

NOTU officials recorded two deaths and five injuries during the year due to poor safety practices at several construction projects.

# **EXHIBIT 197**

**This Exhibit Consists of Digital Media,  
Which Will Be Filed Separately With  
the Clerk**

**NPR story**

F: Lawmakers in Uganda are considering a bill intended to remove gay people from society. It has strong support in the government and among Uganda's evangelicals. Those supporters say homosexuality comes from the Western world. Few in Uganda are willing to speak out against the measure. Those who do are labeled "gay."

M: If the bill passes, Uganda will withdraw from international treaties that recognize the rights of gay people. And that's just the beginning. Secretary of State Hilary Clinton calls the bill "a very serious potential violation of human rights." NPR's Gwen Tompkins reports, and as a warning to parents, this story has mature content.

GWEN TOMPKINS: Here in the lobby of Uganda's Parliament building there's an installation showing the potentially disastrous effects of climate change. And the sign says, "the choices, actions and agreements made now will determine which future becomes reality." Whoever wrote that might well have been describing the political climate of the country. Ugandans may soon have a choice to make. Homosexuality has been illegal here for more than 100 years. But today, lawmakers are considering legislation that would go further. The Anti-Homosexuality Bill of 2009 would impose seven-year jail sentences on consenting adults who engage in gay sex. It would give life sentences to people in same-sex marriages. It would extradite gay Ugandans living abroad and prosecute them. David Bahati wrote the bill. He says Uganda is at a defining moment.

DAVID BAHATI: You are either anti-homosexual or you are for homosexuals. Because there's no middle point. Anybody who does not believe that homosexuality is a crime is a sympathizer.

GWEN TOMPKINS: Bahati is a first term lawmaker, and this is the first bill he's ever written. He calls it, a very wonderful piece of legislation. Bahati says he can't imagine a Uganda in which gay people live freely, because the possibility is too horrible to consider. And he says, if Western aid to Uganda hinges on gay rights, then the West can keep its money. Bahati's bill would impose the death penalty on adults who have gay sex with minors, or who communicate HIV via gay sex. And it would jail anyone who fails to report gay activity to police within 24 hours. Would you turn in your brother if you felt like he was engaging in homosexual activity?

DAVID BAHATI: I would actually arrest him myself and take him to police.

GWEN TOMPKINS: Really?

DAVID BAHATI: Yeah.

GWEN TOMPKINS: And why?

DAVID BAHATI: Because I know this is not good for society.

**NPR story**

**GWEN TOMPKINS:** The bill is popular. Even Uganda's president, Yoweri Museveni, has linked gay practices to Western influence. Sylvia Tamale couldn't disagree more.

**SYLVIA TAMALE:** Homosexuality or same-sex attractions have been part and parcel of African communities time immemorial. But the terms "homosexuality," "gay," "lesbian" – those are relatively new. And those are terms that many Africans attracted to people of the same sex never use or never identify with.

**GWEN TOMPKINS:** Tamale teaches law at Kampala's top university. She's writing a book on sexual orientations in Africa. And she's one of the few people here who has publically criticized the bill.

**SYLVIA TAMALE:** There's no doubt about the fact that the majority of Ugandans are for the bill. Many of them are already, have already blocked their minds. All they hear is "homosexuality" and they don't want to know, they don't want to understand. All they see is anal sex – period.

**GWEN TOMPKINS:** If the bill becomes law, a coalition of lawyers and activists will try to kill it in court. Human rights lawyer Ladislaus Rwakafuzi thinks that U.S. evangelicals may be behind the bill.

**LADISLAUS RWAKAFUZI:** It's so difficult to tell from looking at this bill to say whether it is homegrown or foreign. The people who are anti-gay, they are also supported by the Christian Right from the U.S. It could be possible that there is some external influence.

**GWEN TOMPKINS:** U.S. evangelicals have long enjoyed a close relationship with top Ugandan leaders. And in March, three of the evangelicals attended a conference here on how to turn gay people straight. California minister Scott Lively was a key speaker. Stephen Langa heads the group that sponsored the event. He often quotes Lively's teachings when claiming how rich Westerners are paying children here to have gay sex. Langa says, a lot of people need to be in jail.

**STEPHEN LANGA:** Providing literature, writing books about it, standing up and saying it is okay, you should be arrested. Even if you're not in the act, you should be arrested. That's what we are saying. And so anybody who tries to promote it should be arrested. So that's why we need a stronger law.

**GWEN TOMPKINS:** But Scott Lively has called Uganda's bill too harsh, and Pastor Rick Warren, whose ministry extends to Uganda, says he condemns the bill. And yet, they're not the only Americans active in Uganda. A U.S. evangelical group called The Family reportedly includes U.S. lawmakers who have shown great interest in Ugandan affairs. The bill's proponents are reluctant to talk about whether The Family supports them in any way. Stephen Langa initially denied that he'd ever heard of The Family. Then he said that wealthy enemies have long associated him with the group. But he refused to talk about how much money his organization has. How big is your budget?

**NPR story**

STEPHEN LANGA: Well, I won't say that.

GWEN TOMPKINS: You're willing to talk about anal sex with me, and you can't [inaudible] tell me how much your budget is?

STEPHEN LANGA: [laughing and laughing]

GWEN TOMPKINS: Supporters say that the bill is by Ugandans and for Ugandans. But Val Kalende is Ugandan, and the bill is meant to eradicate her from society. Kalende is a lesbian activist. And she says, if there are rich, Western promoters of homosexuality in Uganda, she'd like to meet them. As a volunteer, she says she can barely make her rent.

VAL KALENDE: The thing that our lives are all about having sex, sex, sex, sex, sex – they don't see it as a sexual orientation.

GWEN TOMPKINS: Kalende says the bill could roll back HIV/AIDS treatment in the country, and push gay Ugandans deeper underground. But gay Ugandans won't be the only people down there. Erias Lukwago is a first-term lawmaker. He says he doesn't like the bill. But he says he can't afford to disagree with it in Parliament.

ERIAS LUKWAGO: I'm telling you, I cannot. I fear even the reaction of the society. To be associated with the gay [inaudible] stigmatized, ostracized. Even for this interview alone, it might be perceived that the gay community is paying me.

GWEN TOMPKINS: Until the political climate changes in Uganda, Lukwago says he's keeping his mouth shut. Gwen Tompkins, NPR News, Kampala.

[End of Audio]

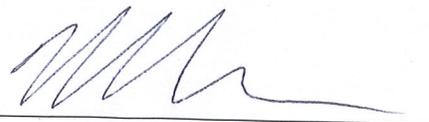
DECLARATION OF RECORDS CUSTODIAN CERTIFYING RECORDS

I, WILLIAM CHASE, hereby declare as follows:

1. I am the duly authorized custodian of records for the National Public Radio.
2. The audio recording rendered is a true and correct copy of the original radio broadcast of Gwen Thompkin's story titled *Taboos Silence Opponents of Uganda Anti-Gay Bill*, which originally aired on December 16, 2009.
3. The original sound file was maintained in the course of the regularly conducted business activity of the National Public Radio and was prepared as a regular practice and custom.
4. The audio recording was prepared by personnel of RESEARCH, ARCHIVES AND DATA STRATEGY using a properly functioning recording device; the personnel who prepared the recording had a business duty to render an accurate recording of the original sound file.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Washington, DC this 15<sup>th</sup> day of  
April 2016.



# **EXHIBIT 198**

**Document Filed Under Seal Pursuant to  
Order Regarding Confidentiality of  
Certain Discovery Material (Dkt. No. 106)**

# **EXHIBIT 199**

**Document Filed Under Seal Pursuant to  
Order Regarding Confidentiality of  
Certain Discovery Material (Dkt. No. 106)**

# **EXHIBIT 200**

**Document Filed Under Seal Pursuant to  
Order Regarding Confidentiality of  
Certain Discovery Material (Dkt. No. 106)**

# **EXHIBIT 201**

**From:** [Juliet Victor Mukasa](#)  
**To:** [samuel.ganafa](#); [kasha](#); [david.kato](#); [kalende.val](#)  
**Subject:** There is more  
**Date:** Friday, August 18, 2006 12:51:24 PM

---

August 16, 2006

## UGANDA: NEW ANTI-GAY WITCH-HUNT

Uganda\_map



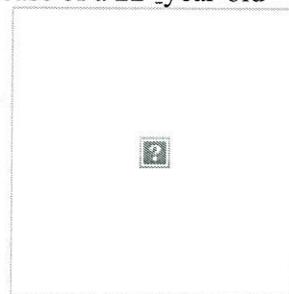
In the East African country of Uganda, the country's leading tabloid, *Red Paper*, on August 8 published a list of 45 alleged homosexuals, whom the paper characterized as "men who like to give it to other men from behind," [reports](#) today's daily e-bulletin of the French gay monthly *Tetu*. A scandal-and-sex sheet modeled on the popular, downmarket British tabloids,

*Red Paper* listed the profession, the city of origin, and in some cases information on the friends and/or partners of those accused of being gay, most of whom were from the country's capital, Kampala, and its suburbs. In Uganda, homosexuality is punishable by life imprisonment.

*Tetu* quoted a gay Ugandan expat living in France as saying that most of the people outed by *Red Paper* "have fled the country if they had the means to do so -- principally to Europe, since the only African country in which they would not be persecuted is South Africa."

The Ugandan tabloid denounced homosexuality as "an abominable sin, in fact a mortal sin that's against nature," and said it wanted to "demonstrate how rapidly this terrible vice known as sodomy is eating away at our society."

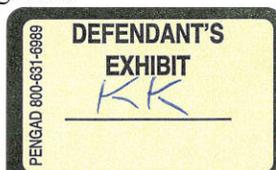
At the same time, yesterday's Toronto [Globe and Mail reports](#) on the case of a 22-year-old Ugandan, Emmanuel Ndyanabo, who was "chased out of his native country this month for wanting to attend the International AIDS Conference in Toronto." The Canadian daily says that "Ndyanabo has applied for refugee status in Canada for fear of being persecuted if he returns to Uganda."



"Ndyanabo is gay, and being a homosexual in Uganda is a crime that comes with a life term in prison. He has already been arrested for running a counselling service for HIV-positive *kuchus* (homosexuals) in Kampala and his family blamed him for his father's death last year. 'Somehow, because I am gay, that killed my father, they say.' So when he was granted a bursary this month to attend the Toronto conference, he saw it as a long-awaited sign of hope to meet and speak with others like himself. But at the airport, a customs official told him they were on the lookout for people wanting to attend this summit.

"He [still] stamped my passport, looked at me and said, 'I wish you luck. But do not come back if they [security] let you through,' " Ndyanabo told the *Globe and Mail*.

Persecution of homosexuals is nothing new in Uganda, a country in which roughly have the population is Catholic and another third belongs to a homophobic split-off from the Anglican



Church. In 2004, the government began a campaign of arresting gay people after a radio call-in show featured a lesbian and two gay men as guests to talk about AIDS prevention. The publication of the list of gays by *Red Paper* could well trigger another such wave of arrests.

Last October, the International Gay and Lesbian Human Rights Commission (IGLHRC) said that "Uganda is engaged in an active campaign of legislative overkill and coercion to silence an emerging community...LGBT people live in fear because of aggressive government intimidation."

--

Juliet Victor Mukasa  
LGBT Human Rights Defender

No guts,no victory!!

# **EXHIBIT 202**



( )

[HOW WE WORK \(/HOW-WE-WORK\)](#)   [WHERE WE WORK \(/WHERE-WE-WORK\)](#)   [ISSUES \(/ISSUES\)](#)

[WAYS TO GIVE \(/CONTENT/WAYS-SUPPORT-OUTRIGHT\)](#)

[DONATE \(HTTPS://IGLHRC.SECURE.NONPROFITSOAPBOX.COM/SUPPORT\)](https://iglhrc.secure.nonprofitsoapbox.com/support)

## UGANDA: IGLHRC CONDEMS UGANDA'S TARGETING OF LESBIANS AND GAY MEN; CALLS BAN ON SAME-SEX MARRIAGE "LEGISLATIVE OVERKILL"

[HOME \(/\)](#) > [PRESS ROOM \(/PRESS-ROOM\)](#) > [PRESS RELEASES \(/PRESS-ROOM/PRESS-RELEASES\)](#)

> [UGANDA: IGLHRC CONDEMS UGANDA'S TARGETING OF LESBIANS AND GAY MEN; CALLS BAN ON SAME-SEX MARRIAGE "LEGISLATIVE OVERKILL"](#)

*Submitted by Anonymous (not verified) on Thu, 2005-10-13 00:00*

(October 12, New York, NY) — The International Gay and Lesbian Human Rights Commission (IGLHRC) condemned today the recent decision by Uganda President Yoweri Museveni to ban same-sex marriage. According to IGLHRC, the new law is the most recent in a series of attacks designed to silence Uganda's increasingly vocal lesbian, gay, bisexual and transgender community and sanction anti-gay violence.

"Uganda is engaged in an active campaign of legislative overkill and coercion to silence an emerging community," said Cary Alan Johnson, IGLHRC's Senior Specialist for Africa. "Sodomy is punishable in Uganda by life imprisonment and LGBT people live in fear because of aggressive government intimidation. Marriage is not really at the top of the community's list of needs."

Uganda's Parliament passed the highly unusual amendment to the constitution in early July of this year. President Museveni signed the bill on September 29th, making Uganda the second country in the world to use its constitution to outlaw marriage between people of the same sex. Honduras passed a constitutional amendment last year and the government of Kenya is using its constitutional revision exercise to reinforce the illegality of same-sex marriages.

"Constitutions are normally documents which enshrine the rights of a country's citizens," said Paula Ettlbrick, executive director of IGLHRC. "In Uganda and Kenya, they are being used to codify discrimination. It's a blatant attempt to force lesbians and gay men back into their closets."

Museveni's signature comes as little surprise to most LGBT and human rights activists, given the government of Uganda's consistent targeting of gay and lesbian Ugandans and their supporters. In October 2004, the minister of information publicly supported police harassment of a LGBT student group at Uganda's Makerere University. In February 2005, the Media Council—a state censorship board—banned a staging of the play, *The Vagina Monologues*, by the U.S. author Eve Ensler. The government claimed that the play "promotes illegal acts of unnatural sexual acts, homosexuality and prostitution."

Women's rights activist Juliet Mukasa, upon hearing about the constitutional amendment, said: "As a citizen of Uganda, who is also lesbian, I call upon my government to reconsider this legislation which ultimately makes it legal to discriminate against certain members of our society." Mukasa herself was the victim of a raid of her home in July 2005 by local council members. Officials confiscated documents relating to Sexual Minorities in Uganda (SMUG), a leading lesbian and gay rights group in the country.

Equally disturbing is the government's campaign against HIV/AIDS prevention programs that provide access to condoms or include outreach to men who have sex with men. Once hailed as a global leader in the struggle to combat HIV, Uganda has moved away from its successful HIV prevention campaigns of the last two decades toward an "abstinence-only" message that many trace directly back to the president and the First Lady, Janet Museveni.

In August 2004, Radio Simba, a popular Ugandan station was heavily fined by the government for broadcasting a call-in talk show featuring a lesbian and two gay men discussing anti-gay discrimination in Uganda and the need for HIV/AIDS services for men who have sex with men and women who have sex with women. In May of this year, the director of the UN agency responsible for HIV/AIDS activities in Uganda was quietly expelled for engaging in discussions with LGBT activists.

According to IGLHRC, despite a dismal overall human rights record and a protracted civil war in the north of the country, Uganda is held up by some western powers as a model of good governance. In 2005 alone, Uganda will receive more than \$1 billion in foreign aid and, according to the Uganda Bureau of Statistics, more than 350,000 tourists will visit the country this year.

"The government of Uganda may have been lulled into believing that its financial supporters don't care how it treats its lesbian and gay citizens," said Ettlbrick. "They are wrong. IGLHRC is joining forces with a number of other human rights groups in Africa, the United States and Europe to launch a public information campaign about discrimination in Uganda. We are demanding that the government comply with the human rights obligations Uganda agreed to when it signed the International Covenant on Civil and Political Rights."



[Printer-friendly version \(/print/content/uganda-iglhrc-condems-ugandas-targeting-lesbians-and-gay-men-calls-ban-same-sex-marriage\)](#)

### THE ISSUES

~~THE TOOLS~~

~~LEGAL DISCRIMINATION (/THEME/LEGAL-DISCRIMINATION)~~

~~REGION~~

~~UGANDA (/REGION/UGANDA)~~

~~KEYWORDS~~

~~HOW YOU CAN HELP~~

~~Stay informed by registering to receive breaking news from the field.~~

~~REGISTER FOR UPDATES (HTTP://EEPURL.COM/SUUJ1)~~

~~SITE MAP (/CONTENT/SITE-MAP)~~

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~~OUTRIGHT ACTION INTERNATIONAL  
FORMERLY KNOWN AS IGLHRC  
80 MAIDEN LANE, SUITE 1505  
NEW YORK, NY 10038 U.S.A.~~

~~P: +1 (212) 430.6054  
F: +1 (212) 430.6060~~

~~HELLO@OUTRIGHTINTERNATIONAL.ORG (MAILTO:HELLO@OUTRIGHTINTERNATIONAL.ORG)~~

~~(HTTP://WWW.OUTRIGHTINTERNATIONAL.ORG/USERS/LGBTHUMANRIGHTS?  
(HTTP://WWW.OUTRIGHTINTERNATIONAL.ORG/USERS/LGBTHUMANRIGHTS?)~~

~~CAREERS (/CONTENT/CAREER-OPPORTUNITIES)~~

~~FINANCE FORMS (/CONTENT/FINANCE)~~

~~OUTRIGHT IS A 501(C)(3) NOT-FOR-PROFIT ORGANIZATION (HTTP://WWW.CHARITYNAVIGATOR.ORG/INDEX.CFM?  
BAY=SEARCH.SUMMARY&ORGID=8256#.VVRN\_2QRK14)~~

# **EXHIBIT 203**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**AFFIDAVIT OF ATTEMPTED SERVICE**  
Civil Action No. 3-12-CV-30051-MAP

-----X  
SEXUAL MINORITIES UGANDA,  
Plaintiff,

- against -

SCOTT LIVELY, individually and as President of  
Abiding Truth Ministries,  
Defendant.

-----X  
STATE OF NEVADA            )  
  ) ss.:  
COUNTY OF CLARK         )

Anthony Spada, being duly sworn, deposes and says that Deponent is not a party to this action, is over 18 years of age, and is a resident of the State of Nevada.

On the following dates and times, Deponent attempted to serve the within Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action with Exhibit A and Subpoena to Testify at a Deposition in a Civil Action with \$68 witness fee upon: **Martin Seempa** at 5521 Dunshee Vista Avenue, Las Vegas, Nevada 89131:

On November 16, 2015, at approximately 7:53 p.m., Deponent received no response after knocking on the door and ringing the doorbell for several minutes. Deponent also observed that there were no lights on in the house and there were no vehicles present.

On November 17, 2015, at approximately 4:11 p.m., Deponent received no response after knocking on the door and ringing the doorbell for several minutes. Deponent also observed that there were no lights on in the house and there were no vehicles present.

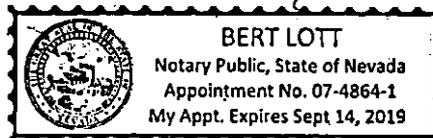
On November 20, 2015, at approximately 5:41 p.m., Deponent was informed by Mr. Dickenson, who refused to give his first name and identified himself as Martin Seempa's father-in-law, that Martin Seempa does not live there and has been living in Uganda for a while. Deponent then left a copy of the aforementioned documents with Mr. Dickenson.

Mr. Dickenson is described as a White male, approximately 65 years of age,  
190 lbs., 5'9" tall, with GREY hair.

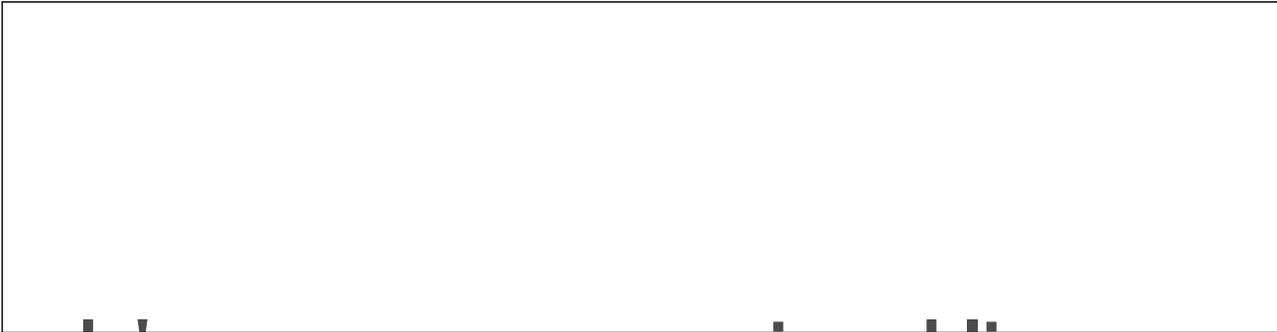
*[Handwritten Signature]*  
Anthony Spada

Sworn to before me this  
30<sup>th</sup> day of November, 2015

*[Handwritten Signature]*  
Notary Public



# **EXHIBIT 204**



choices▶

# Uganda's gays see progress in public opinion war

by theGrio | March 20, 2012 at 12:13 PM Filed in: News, Top Stories



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**K**AMPALA, Uganda (AP) — Four years ago Frank Mugisha begged his colleagues to join him for his first demonstration in support of gay rights in Uganda. Only four came along.

Make a difference on the topic in this article.

Take Action

This week, during a march against gender-based violence led by the gay advocacy group Sexual Minorities Uganda, the Ugandan activist saw more than 30 colleagues walk the streets of Kampala holding pro-gay posters.

“For us, this is a sign of progress,” Mugisha said, pointing to the white tarpaulin under which his group assembled after Monday’s hour-long march. “We are no longer afraid of anything. We even have a banner.”

Uganda’s homosexuals have been in the spotlight since a parliamentarian introduced a tough anti-gay bill in October 2009. World leaders condemned the proposed legislation, though many in Uganda applauded it.

Still, Mugisha carries a sense of optimism that is slowly germinating within the tightly knit gay community. The mere fact, Mugisha said, that Ugandans are now having a national conversation on gay rights is itself an achievement. In the past, the subject was taboo.

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us. The only problem we have is the belief people have that we are promoting homosexuality and recruiting children.”

Activists believe the controversial law will never pass, and now they are pursuing legal action they expect will make it too costly for people to be hostile to gays.

Sexual Minorities Uganda, with help from the New York-based advocacy group Center for Constitutional Rights, filed suit last week against a Massachusetts pastor in U.S. federal court. The suit accuses Scott Lively of being the intellectual force behind the anti-gay bill.

The complaint claims Lively issued a call in Uganda to fight against a “genocidal” and “pedophilic” gay movement, “which he likened to the Nazis and Rwandan murderers.” The suit asks for a judgment that his actions are illegal and violate international law and human rights.

Lively says his words were taken out of context and denies any wrongdoing.

Sexual Minorities Uganda believes that if it wins the suit, other American evangelicals it accuses of spreading anti-gay propaganda would stay away from Uganda.

“It’s been a long journey,” said Pepe Julian Onziema, a gay activist who works with Mugisha. “The suit against Lively is something we had been brainstorming about since he came here in March 2009. We felt, ‘How can someone come from someplace and tell our people that we homosexuals are lesser citizens?’ We felt really insulted.”

The suit against Lively is part of wide-ranging legal action that local gay groups are considering against individuals they consider hostile to the rights of homosexuals. A similar suit is about to be filed at home against Simon Lokodo, the Ugandan ethics minister who personally broke up a gay conference recently, saying they were not authorized to meet.

Sexual Minorities Uganda also wants to bring to court David Bahati, the parliamentarian who introduced the anti-gay bill; three local pastors who championed the bill; and Lokodo’s predecessor.

Bahati’s original legislation proposed the death penalty for some gay acts. Bahati has said he has since dropped the death penalty provision, though the latest version of the bill has not been made public.

Gays in Uganda won a big victory in January 2011, when a Ugandan judge ruled that the unauthorized outing of homosexuals by a tabloid newspaper violated their right to privacy. The tabloid had published a list of what it called Uganda’s “top homos,” including the name of a gay activist who was later killed in what some suspect was a hate crime.

The offending tabloid was ordered to pay damages but has since folded.

Ladislaus Rwakafuuzi, a Ugandan lawyer who has represented homosexuals in court, said the only recourse for the gay community is to sue individuals whose actions are blatantly unlawful or misguided.

“We want to show that he breached the law — that he behaved criminally,” he said of Lokodo, who insists homosexuals are not authorized to meet. “Everybody has the right to assemble.”

Bahati’s anti-gay bill is highly popular in Uganda, and he claims there is not a single legislator who would dare vote against it. The bill has languished in parliament apparently because it lacks the blessing of Ugandan President Yoweri Museveni, who says the bill hurts Uganda’s image abroad.

The bill’s supporters, Pentecostal clerics especially, say a tough new law is needed in a country where family values are threatened by European and American gays who have the money to lure young Ugandans into gay culture.

“It is now approaching three years since we first raised an alarm and made public the molesting, defilement and recruitment of our children into homosexuality in schools and institutions of higher learning,” said Stephen Langa, a pastor among those targeted by Mugisha’s group for possible legal action. “To date, our children are still vulnerable and no tangible deterrent action has been put in place to safeguard them and the nation from the vice of homosexuality.”

For Mugisha, who won the 2011 Robert F. Kennedy Human Rights Award, charges that homosexuals are out to defile Ugandan children are especially harmful, and this week’s march against gender-based violence is a crucial part of his group’s effort to soften the community’s image in this conservative East

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"We want to show Uganda that we are campaigning not just for gay rights but for all human rights," he said.

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Make a difference on the topic in this article.



Ugandan gay activist wins  
RFK Human Rights Award  
November 11, 2011  
In "News"

'Hang them': Uganda paper  
publishes photos of gays  
October 19, 2010  
In "News"

New anti-gay Uganda law  
deemed 'the worst in the  
world'  
December 20, 2013  
In "News"



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# **EXHIBIT 205**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

---

SEXUAL MINORITIES UGANDA,

*Plaintiff,*

v.

Civil Action No.

SCOTT LIVELY, individually and as  
President of Abiding Truth Ministries,

3:12-CV-30051

*Defendant.*

---

**PLAINTIFF'S FOURTH SUPPLEMENTAL RESPONSES TO  
DEFENDANT SCOTT LIVELY'S FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Sexual Minorities Uganda ("SMUG") supplements Plaintiff's Responses to Defendant Scott Lively's First Set of Interrogatories as follows.

In the interest of clarity and for ease of reference, SMUG includes herein only the Responses and Objections to Interrogatories that are being supplemented on this date.

Subject to and without waiving the general and specific objections set out in Plaintiff's original, Supplemental, Second and Third Supplemental Responses to Defendant Scott Lively's First Set of Interrogatories, SMUG further objects and responds as follows:

**RESPONSES TO INTERROGATORIES**

Interrogatory No. 4:

Separately for each Act of Persecution identified in Interrogatory 2, identify the nature and amount of damages it caused to each Person you identified as having suffered that Act of Persecution, and provide the method or means or formulas that you employed to calculate those damages. To the extent you seek any other damages in this Lawsuit, then also identify the nature

and amount of those other damages, and provide the method or means or formulas that you employed to calculate those damages.

Response to Interrogatory No. 4:

SMUG incorporates by reference its objections to Interrogatory No. 2. Subject to and without waiving its specific or general objections, SMUG responds as follows: SMUG only seeks damages for harm it suffered as an organization. As set forth in SMUG's Amended Complaint (Dkt. No. 27 at 59-60), SMUG seeks compensatory damages, punitive and exemplary damages, and reasonable attorneys' fees and costs, in amounts to be determined at trial, in addition to equitable relief. The categories of past and ongoing harm to SMUG for which it seeks damages fall into one or more of the following categories, which SMUG reserves the right to supplement due to the ongoing nature of the persecution:

- Compensation for diversion of SMUG's resources to protect SMUG from the persecution conspiracy and/or joint criminal enterprise as alleged in the Amended Complaint, including diversion of resources to seek redress and accountability for persecution of Plaintiff's staff members and raids of Plaintiff's meetings and to adopt additional security measures and relocate its operations, including but not limited to:
  - Costs incurred and staff time spent following the arbitrary arrest and detention of staff member(s) and following the harassment and threats faced by staff member(s) causing them to temporarily relocate;
  - Costs incurred and staff time spent in responses to breach(es) to security of SMUG's operations; and
  - Costs incurred and staff time spent to implement additional security measures due to heightened security risks.
- Compensation for diversion of SMUG's resources to counteract the persecution resulting from the conspiracy and/or joint criminal enterprise as alleged in the Amended Complaint, including resources used to conduct public education, political and legal advocacy, and media campaigns and to support SMUG's member organizations, some of which assist LGBTI persons who are denied access to critical services, forcibly evicted, forced to go into hiding or seek asylum, and/or arbitrarily arrested or detained, including but not limited to:
  - Costs incurred and staff time spent for public education, advocacy, and media

campaigns to counteract the persecution;

- Costs incurred and staff time devoted to supporting SMUG's member organizations; and
- Costs incurred and staff time spent bringing a constitutional challenge to the Anti-Homosexuality Act.
- Compensation for frustration of SMUG's purpose as a result of harm SMUG suffered to its standing and reputation in the community, attributes which are necessary to conduct its advocacy and education and outreach campaigns, due to the persecution conspiracy and/or joint criminal enterprise that Defendant has propelled and pursued as alleged in the Amended Complaint.

Supplemental Response to Interrogatory No. 4:

SMUG incorporates its original Response to Interrogatory No. 4 herein and further incorporates its Supplemental Response to Interrogatory No. 2 for the acts of persecution that SMUG has had to divert resources in order to counteract. Subject to and without waiving its specific or general objections, SMUG further states that it is undertaking to quantify the damages it has suffered to date and will disclose to Defendant such information once it is complete.

Second Supplemental Response to Interrogatory No. 4:

SMUG incorporates its original and first supplemental response to Interrogatory No. 4 herein and further supplements its response to Interrogatory No. 4 as follows: SMUG seeks damages for the diversion of its resources that were required to protect SMUG from persecution and to counteract the effects of persecution, and for compensation for frustration of SMUG's purpose as a result of the harm SMUG has suffered to its standing and reputation in the community. While the specific amount of damages will be calculated by an expert witness and reflected in an expert report, the method for measuring the damages consists of identifying from SMUG's records those expenditures that relate to the above-mentioned categories. These expenditures are reflected on the documents bearing the Bates numbers listed below and include

expenditures for advocacy campaigns, public education, media work, legal costs, support to SMUG's member organizations, including in the form of capacity-building, operating costs, salaries, security costs, and costs relating to threats to staff.

SMUG002344	SMUG008976
SMUG002547	SMUG009027
SMUG003549	SMUG009366
SMUG004215	SMUG009372
SMUG004723	SMUG010550
SMUG004763	SMUG010783
SMUG004769	SMUG012616
SMUG004789	SMUG012632
SMUG004790	SMUG012724
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SMUG020088	SMUG024921
SMUG020091	

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 6th of August 2015, I served Plaintiff's Fourth Supplemental Responses to Defendant Scott Lively's First Set of Interrogatories by email to the following:

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/s/ Kaleb McNeely

Kaleb McNeely

# **EXHIBIT 206**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

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SEXUAL MINORITIES UGANDA

Civil Action

3:12-CV-30051 (MAP)

*Plaintiff,*

v.

SCOTT LIVELY, individually and as President  
of Abiding Truth Ministries

*Defendant.*

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**EXPERT REPORT OF DR. JENNIFER LEANING**

## I. EXPERT CREDENTIALS

As an emergency physician and public health expert, I have held senior positions in U.S. academia and clinical medicine. Currently, I am the Director of the François-Xavier Bagnoud Center for Health and Human Rights at Harvard University, the FXB Professor of the Practice of Health and Human Rights at Harvard School of Public Health, Associate Professor of Medicine at Harvard Medical School, and faculty in the Department of Emergency Medicine at Brigham and Women's Hospital. I have field experience in the assessment of public health issues and violations of human rights in a range of crisis situations, including in Afghanistan, Albania, Angola, Kosovo, the Middle East, Pakistan, former Soviet Union, Somalia, the Chad-Darfur border, and the African Great Lakes region. My areas of field research and writing have focused over the last thirty years on identifying violations of human rights and international humanitarian law in conflict and post-conflict settings throughout the world. As a consequence, I have acquired deep expertise in the assessment of the progression and outcomes of atrocity crimes. In the last fifteen years I have been active in international academic and policy circles where representatives of civil society participate in formulation of strategies for early warning and early action against these crimes.

My *curriculum vitae* is attached as Appendix A.

## II. SCOPE OF WORK

Plaintiff Sexual Minorities Uganda requested that I analyze the situation of the lesbian, gay, bisexual, transgender, and intersex ("LGBTI") population in Uganda through an atrocity crimes prevention lens. Specifically, I conducted research using the Framework of Analysis for Atrocity Crimes of the United Nations Office of the Special Adviser on the Prevention of Genocide and the Responsibility to Protect<sup>1</sup> ("the Framework"). The Framework is attached as Appendix B.

I have conducted this analysis on a *pro bono* basis with Plaintiff reimbursing for costs associated with this undertaking and any testimony in connection with this report. I have reviewed the materials cited herein and the depositions of the parties.

## III. SUMMARY OF OPINION

On the basis of my expertise, described above, relying upon a wide variety of sources cited herein, and using the Risk Factors and Indicators of the Framework, it is my opinion that:

1. The LGBTI population in Uganda suffers from intense stigmatization and severe discrimination, including denial of basic, fundamental rights, in ways that are systematic and widespread.

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<sup>1</sup> United Nations Office on Genocide Prevention and the Responsibility to Protect, Framework of Analysis for Atrocity Crimes, U.N. Doc. 14/58530 (2014), [http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf) [hereinafter UN Framework of Analysis].

2. There exists a high risk for further escalation of atrocity crimes against the LGBTI population in Uganda.

#### IV. INTRODUCTION AND METHODOLOGY

This Report introduces the Framework, identifies structural and dynamic risk factors within the state of Uganda for the commission of atrocity crimes against the LGBTI community, and analyzes the triggers that might lead to escalation from what is now a persecutory context of oppression, fear, and systematic abuse to one of even more widespread atrocity crimes.

Atrocity crimes, as referred to in this Framework, include three legally defined international crimes: genocide, crimes against humanity, and war crimes.<sup>2</sup> The Framework derived from a lengthy process of in-depth study by experts to analyze systematically legal findings and case studies of historical and contemporary atrocity crimes. Two strands of research and policy have come together in the development of the Framework: the strand linked to the prevention of genocide<sup>3</sup> and the strand arising from the analytic policy implications of the Responsibility to Protect, or R2P.<sup>4</sup> The study led to a distillation of repeatedly observed events and factual findings in international and national criminal tribunals regarding the recurring patterns in the commission of atrocity crimes. The purpose of the Framework is to provide a reliable, evidence-based set of criteria to assess the current situation of and risks to vulnerable or targeted communities and to determine appropriate interventions to protect at-risk populations from further escalation of atrocity crimes.

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<sup>2</sup> *Id.* at 1.

<sup>3</sup> The literature on genocide over the past 25 years has called upon the development of a capacity for early warning of indicators of genocide, with the aim of mobilizing the international community to intervene early in order to prevent the genocidal process from unfolding. See *Genocide: Essays Toward Understanding, Early Warning, and Prevention* (Roger W. Smith ed., 1999); Carol Rittner, John Roth & James M. Smith, *Will Genocide Ever End?* (2002); *Reconstructing Atrocity Prevention* (Sheri P. Rosenberg, Tibi Galis & Alex Zucker eds., 2015). The paradigm now is to try to prevent all atrocity crimes and not just genocide. See David Scheffer, *Genocide and Atrocity Crimes*, 1 *Genocide Studies and Prevention* 229, 229–50 (2006).

<sup>3</sup> The concept of the responsibility to protect grows out of the debate in the 1990s, in the wake of the wars in the Former Yugoslavia and Rwanda, where in each instance the unfolding events provided identifiable points in the escalation where, had there been what was called ‘political will,’ international intervention against a sovereign state might well have protected the attacked civilians from outrages and death. In full exploration of the problem of political will, analysts acknowledged that provision of early information, in terms of actionable warning, might strengthen pressure on politicians to act. The report of independent international experts (The Report of the International Commission on Intervention and State Sovereignty. The Responsibility to Protect. International Development Research Centre. Ottawa, 2001) propelled the discussion and led directly to the Outcome Document of the 2005 World Summit, paras. 138, 139, 140. Adopted by the UN General Assembly in Resolution 60/1 and first reaffirmed by the UN Security Council in Resolution 1674 (2006).

<sup>4</sup> The concept of the responsibility to protect grows out of the debate in the 1990s, in the wake of the wars in the Former Yugoslavia and Rwanda, where in each instance the unfolding events provided identifiable points in the escalation where, had there been what was called ‘political will,’ international intervention against a sovereign state might well have protected the attacked civilians from outrages and death. In full exploration of the problem of political will, analysts acknowledged that provision of early information, in terms of actionable warning, might strengthen pressure on politicians to act. The report of independent international experts (The Report of the International Commission on Intervention and State Sovereignty. The Responsibility to Protect. International Development Research Centre. Ottawa, 2001) propelled the discussion and led directly to the Outcome Document of the 2005 World Summit, paras. 138, 139, 140. Adopted by the UN General Assembly in Resolution 60/1 and first reaffirmed by the UN Security Council in Resolution 1674 (2006).

The UN Secretary-General's Special Advisers on the Prevention of Genocide and the Responsibility to Protect have employed the Framework to assess situations involving at-risk populations globally, including in Syria, Sudan, South Sudan, Guinea, Libya, Cote D'Ivoire, Kyrgyzstan, Sri Lanka, and North Kivu.<sup>5</sup>

The Framework presents categories of risk for—and, within these categories, indicators of—atrocity crimes.<sup>6</sup> Risk factors that apply across all atrocity crimes are:<sup>7</sup>

1. Situations of armed conflict or other forms of instability
2. Record of serious violations of international human rights and humanitarian law
3. Weakness of State structures
4. Motives or incentives
5. Capacity to commit atrocity crimes
6. Absence of mitigating factors
7. Enabling circumstances or preparatory action
8. Triggering factors

The Framework also lays out risk factors and indicators that may be unique to a specific atrocity crime: Risk Factors 9 and 10, for example, refer to genocide and Risk Factors 11 and 12 refer to crimes against humanity.<sup>8</sup>

This distillation, as presented in the Framework, now allows observers and analysts of atrocities to discern authoritatively derived indicators within a given risk factor against which to assess empirical fact pictures and ongoing developments within their own societies and in particular contexts. The internal logic and methodology of this Framework invoke a dimension of time, whereby information about a set of events or inputs provides seasoned analysts and responsible actors with an awareness of accumulation of risks or intensification of indicators over a period of months and years.

This cumulative fact picture, employing assessment of risk factors and presence of particular indicators of intensity and escalation in a specific context, permits what the UN terms “early warning” of atrocity. Early warning is “the collection, analysis and communication of information about escalatory development of situations that could potentially lead to genocide, crimes against humanity or massive and serious war crimes,”<sup>9</sup> to enable states and international institutions to undertake appropriate and effective preventive measures.

An analysis of this kind does not require that all risk factors be present or that all indicators within each risk factor be fulfilled. The historical, geographical, political, or cultural features of a

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<sup>5</sup> Office of the Special Advisor on the Prevention of Genocide, Work of the Office: Country Situations (Oct. 29, 2015), [http://www.un.org/en/preventgenocide/adviser/country\\_situations.shtml](http://www.un.org/en/preventgenocide/adviser/country_situations.shtml).

<sup>6</sup> UN Framework of Analysis, *supra* note 1, at 5.

<sup>7</sup> *Id.* at 9-17.

<sup>8</sup> *Id.* at 18-21.

<sup>9</sup> Lawrence Woocher, *Developing a Strategy, Methods and Tools for Genocide Early Warning* 7 (2006), <http://www.un.org/en/preventgenocide/adviser/pdf/Woocher%20Early%20warning%20report.%202006-11-10.pdf>.

specific country will make it susceptible to events or trends that in another context might not be likely to recruit social hatreds or exacerbate deadly competition for resources. The Framework presents a capacious array of historically observed factors, some of which tend to cluster tightly together, in order to permit analysts within one country to structure, compare, and assess issues against an authoritative array of atrocity crimes and escalation pathways.<sup>10</sup>

The warning is “early” in that the situation under examination in a country or region may not have reached the international legal standard of atrocity crimes,<sup>11</sup> and it is a “warning” in that it

<sup>10</sup> UN Framework of Analysis, *supra* note 1, at 6-7. It should be noted that I have not addressed Risk Factors 9 and 10 in this report because those risk factors are limited to an analysis of the risks to the “protected groups” identified in Art. II of the Genocide Convention, *i.e.* “national, ethnical, racial, or religious” groups. However, in my review and analysis of the data cited herein, I have noted with deep concern that many of those indicators are present with respect to the situation of the LGBTI population in Uganda, including, but not limited to: “past or present serious discriminatory, segregational, restrictive or exclusionary practices, policies or legislation against” this group (Indicator 9.1); “denial of the existence of protected groups or of recognition of elements of their identity” (Indicator 9.2); “history of atrocity crimes committed with impunity against protected groups” (Indicator 9.3); “past or present serious tensions or conflicts between protected groups or with the State, with regards to access to rights and resources, socioeconomic disparities, participation in decision making processes, security, expression of group identity or to perceptions about the targeted group” (Indicator 9.4); “past or present serious tensions or conflicts involving other types of groups (political, social, cultural, geographical, etc.) that could develop along national, ethnical, racial or religious lines” (Indicator 9.5); and “lack of national mechanisms or initiatives to deal with identity-based tensions or conflict” (Indicator 9.6). UN Framework of Analysis, *supra* note 1, at 18-19.

<sup>11</sup> In this report, I rely on the governing definitions of mass atrocity crimes as codified in the Rome Statute of the International Criminal Court. Rome Statute of the International Criminal Court, art. 6-8, July 17, 1998, 2187 U.N.T.S. 90 [hereinafter Rome Statute]. The U.N. Framework of Analysis and all expert interlocutors using the Framework rely on these same definitions. UN Framework of Analysis, *supra* note 1, at 18-21. According to the Rome Statute, the definitions are as follows: “[G]enocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.”; “[C]rime against humanity” means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”; “[W]ar crimes” means: (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: (i) Wilful killing; (ii) Torture or inhuman treatment, including biological experiments; (iii) Wilfully causing great suffering, or serious injury to body or health; (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly; (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power; (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial; (vii) Unlawful deportation or transfer or unlawful confinement; (viii) Taking of hostages.” Rome Statute, *supra* note 11. For purposes of this report, the mass atrocity crime of “crimes against humanity” is the most germane. The critical aspect of a crime against humanity is that it is an atrocity crime, for example, torture, murder, disappearance, persecution, sexual violence, or cruel and inhumane treatment, which occurs within the context of a widespread or systematic attack on the civilian population. *See* Jennifer Trahan, Human Rights Watch, *Genocide, War*

provides the international community (including the UN, other international organizations, national governments, and civil society) with an informed and timely depiction of the instability of the situation and potential paths of escalation in all countries where the Framework has been applied. The analysis using the Framework may also demonstrate that atrocity crimes against a given community or population have already occurred or are ongoing and the analysis of risk factors and indicators warns of their continuation or escalation.

I deployed the Framework to assess the current and future challenges, including the risk for mental and physical harm, facing the LGBTI population in Uganda. Specific objectives included: (1) identifying and analyzing the basic structures and dynamics of the country of Uganda relevant to risks and indicators for the perpetration of atrocities against the LGBTI community; (2) collecting information on multiple dimensions of discrimination, social exclusion, and persecution of the LGBTI community in Uganda in order to assess the escalation patterns and tempo of the identified indicators; and (3) preparing an expert report based on this information and analysis.

With a team of researchers assisting me, I analyzed open source historical studies and data cited herein on the conditions in Uganda relevant to our research, including published analyses and media reports covering Uganda's colonial history through October 2015. Then, I applied the Framework to identify whether an empirical or strong inferential basis established the presence of a given risk factor and determine the number of indicators associated with each applicable risk factor.<sup>12</sup>

Under my and Professor Sheri Rosenberg's guidance,<sup>13</sup> members of the research team also interviewed affected members of the LGBTI community in Uganda to gain a deeper understanding of how reported facts or events had created personal consequences for affected individuals. These interviews were conducted under the protection of and in accordance with

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*Crimes and Crimes Against Humanity: A Digest of the Case Law of the International Criminal Tribunal for Rwanda* (2010), <http://www.hrw.org/sites/default/files/reports/ictr0110webwcover.pdf>; Jennifer Trahan, Human Rights Watch, *Genocide, War Crimes and Crimes Against Humanity: A Topical Digest of the Case Law of the International Criminal Tribunal for the Former Yugoslavia* (2006), <https://www.hrw.org/reports/2006/icty0706/ICTYweb.pdf>.

Rome Statute of the International Criminal Court art. 6–8, July 17, 1998, 2187 U.N.T.S. 90 [hereinafter Rome Statute]. For purposes of this report, the mass atrocity crime of “crimes against humanity” is the most germane. The critical aspect of a crime against humanity is that it is an atrocity crime, for example, torture, murder, disappearance, persecution, sexual violence, or cruel and inhumane treatment, which occurs within the context of a widespread or systematic attack on the civilian population. *See also* HUMAN RIGHTS WATCH, GENOCIDE, WAR CRIMES AND CRIMES AGAINST HUMANITY: A DIGEST OF THE CASE LAW OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (2010), <http://www.hrw.org/sites/default/files/reports/ictr0110webwcover.pdf>. HUMAN RIGHTS WATCH, GENOCIDE, WAR CRIMES AND CRIMES AGAINST HUMANITY: A TOPICAL DIGEST OF THE CASE LAW OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (2006), <https://www.hrw.org/reports/2006/icty0706/ICTYweb.pdf>.

<sup>12</sup> In addition to the materials cited herein, I received from Plaintiff the depositions of F. Mugisha, R. Lusimbo, and S. Lively, and reviewed the First Amended Complaint in *Sexual Minorities Uganda v. Scott Lively*.

<sup>13</sup> Professor Sheri Rosenberg, former Director of the Cardozo Law Institute in Holocaust and Human Rights and the Human Rights and Atrocity Prevention Clinic, was originally the lead expert in providing this analysis. I assisted her in conceptualizing and planning this analysis. After her death in May, I agreed to take the lead role as expert in this matter and have been assisted by the Cardozo Law Human Rights and Atrocity Prevention Clinic under the interim leadership of Professor Carolyn Patty Blum.

rigorous methodology approved by the Yeshiva University Institutional Review Board. These interviews do not form a part of my findings, and I have not relied on them in the formation of my opinion.

## V. APPLICATION OF THE FRAMEWORK

The evidence amassed leads to substantial validation that LGBTI people in Uganda have suffered from severe discrimination and systematic deprivations of their fundamental rights and are at risk for continued perpetration and escalation of atrocity crimes. Documentation for many of the Framework's risk factors and their indicators gathered during this assessment indicates that the situation in Uganda must be closely watched for signs of further progression into instability and additional targeting of the LGBTI community. The analysis presents a dense, multifaceted distribution of risks and indicators for continued and heightened risk in Uganda. (*See Table 1.*)

**Table 1: Presence of Framework Risk Factors in Uganda**

	<b>Common Risk Factors for Atrocity Crimes</b>	<b>Number of Indicators Present</b>
Risk Factor 1	Situations of armed conflict or other forms of instability	10 out of 11 indicators present
Risk Factor 2	Record of serious violations of international human rights and humanitarian law	8 out of 8 indicators present
Risk Factor 3	Weakness of state structures	7 out of 10 indicators present
Risk Factor 4	Motives or incentives	6 out of 9 indicators present
Risk Factor 5	Capacity to commit atrocity crimes	4 out of 8 indicators present
Risk Factor 6	Absence of mitigating factors	6 out of 11 indicators present
Risk Factor 7	Enabling circumstances or preparatory action	13 out of 14 indicators present
Risk Factor 8	Triggering factors	6 out of 12 indicators present
	<b>Specific Risk Factors for Crimes Against Humanity</b>	
Risk Factor 11	Signs of a widespread or systematic attack against any civilian population	4 out of 8 indicators present
Risk Factor 12	Signs of a plan or policy to attack any civilian population	6 out of 10 indicators present

Section V.A. of this Report applies Risk Factors 1 through 6 and their indicators to the situation in Uganda and reveals deep instability. This instability is rooted in colonial and post-colonial history of internal armed conflict and divisive tribal and ethnic politics; serious violations of international human rights and humanitarian law occurring despite domestic incorporation of human rights standards; weakness of state structures due to autocratic rule, corruption, and absence of political will; motivation and incentives to blame others, especially LGBTI people, for state failures; demonstrated capacity to commit atrocity crimes against members of the LGBTI community; and absence of important internal mitigating factors to protect LGBTI Ugandans.

Section V.B. of the report focuses on the analysis of the situation of the LGBTI community in Uganda. As articulated in Risk Factor 7 and its indicators, the enabling circumstances and preparatory actions for atrocity against this targeted group are abundant and omnipresent. Historical and current trends in Uganda demonstrate that Risk Factors 11 and 12, specific to

crimes against humanity, are also present, with many indicators of atrocity propensity already active at low or varying levels of intensity and steady frequency.

Section V.C. of the report is devoted to a discussion of triggering factors, as articulated in Risk Factor 8. This Section suggests that several current and foreseeable trigger events or situations could precipitate an escalation to more acute and widespread infliction of grave harms and abuses against the LGBTI community and several escalation scenarios are spelled out. In the context of the triggering factors for Uganda, the risk conditions are numerous and mature, especially given the current existence of atrocity crimes against this population.

Based on available and reliable evidence related to the risk factors and indicators of the Framework, I conclude that state and private actors have committed atrocity crimes, in the form of persecution and other crimes against humanity, against LGBTI Ugandans; and that the risk for additional atrocity crimes committed against LGBTI individuals is high.

#### **A. Deep Instability in Uganda (Risk Factors 1 through 6)**

Research undertaken for this assessment reveals that Uganda is a brittle and volatile society with undercurrents of unrest resulting from decades of governmental policies of exclusion from social, economic and political goods that are often contingent on individual and group identity. In a deeply observant and overwhelmingly Christian society, tribe, ethnicity, and region have proved to be the malignant fault lines in Ugandan society since the colonial period.

Uganda suffers from deep political, economic and social instability, a situation that is both a cause and a consequence of weak state institutions. A former colony comprised of over ten distinct tribes,<sup>14</sup> the British maintained a centralized government and gave preferential treatment to certain ethnic groups, exacerbating inter-ethnic and tribal tensions.<sup>15</sup> British rule thus laid the foundation for the continued tribal, ethnic and regional power struggles central to post-colonial conflict and contemporary politics in Uganda.<sup>16</sup> Derived from colonial and post-colonial politicization of identities, including sexual and gender minorities,<sup>17</sup> the country's pronounced and long-entrenched political, economic and social instability creates enduring schisms that are further exacerbated by each successive leader's autocratic and exclusionary politics.<sup>18</sup>

<sup>14</sup> "Ethnic groups: Baganda 16.9%, Banyankole 9.5%, Basoga 8.4%, Bakiga 6.9%, Iteso 6.4%, Langi 6.1%, Acholi 4.7%, Bagisu 4.6%, Lugbara 4.2%, Bunyoro 2.7%, other 29.6% (2002 census)." CIA, *The World Factbook*, Uganda, <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html> (last updated Sept. 24, 2015) [hereinafter CIA Factbook].

<sup>15</sup> See Peter Bouckaert et al., Human Rights Watch, *Hostile to Democracy: The Movement System and Political Repression in Uganda* (1999), [http://www.hrw.org/reports/1999/uganda/Uganweb-06.htm#P551\\_76978](http://www.hrw.org/reports/1999/uganda/Uganweb-06.htm#P551_76978). For example, the Buganda kingdom, located in the south of Uganda, held the most land and economic power; they were allowed to retain their traditional power structure, and served as tax collectors in the other kingdoms. *Id.* at 28-29. The British considered the Acholi people in the north a "martial tribe" who were preferentially appointed to the officer corps of the colonial army. Terrell G. Manyak & Isaac Wasswa Katono, *Impact of Multiparty Politics on Local Government in Uganda*, 1 *Afr. Conflict & Peacebuilding Rev.* 8, 11 (2011).

<sup>16</sup> See Phares Mutibwa, *Uganda Since Independence: A Story of Unfulfilled Hopes* 2-4 (1992).

<sup>17</sup> See Alok Gupta, Human Rights Watch, *This Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism* (2008), [https://www.hrw.org/sites/default/files/reports/lgbt1208\\_web.pdf](https://www.hrw.org/sites/default/files/reports/lgbt1208_web.pdf). [hereinafter *Origins of Sodomy Laws*].

<sup>18</sup> Uganda is now ranked 23 out of 178 on the 2015 Fragile States Index, placing the state in its "alert" category, along with Guinea Bissau, Burundi, Niger, Ethiopia, Kenya, Liberia, Eritrea, Libya, Mauritania, Myanmar,

Uganda gained independence from Britain in 1962.<sup>19</sup> Since that time, the country's history has been rife with both internal and international armed conflict, successive military coups, and autocratic rule.<sup>20</sup> Such constant conflict reflects and reinforces the persistence of active ethnic antagonisms and weak state institutionalization. Absent an effective rule of law, serious rights violations are being committed with impunity against minority groups, including the LGBTI population.

1. Risk Factor 1: Situations of Armed Conflict or Other Forms of Instability  
(Indicators 1.1, 1.2, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10 & 1.11)

The existence of armed conflict or other forms of instability, including political, economic and social instability, are among the conditions that increase the probability of atrocity crimes. There are eleven indicators involved in the assessment of this risk factor, ten of which are present in Uganda, which is indicative of a very high degree of instability. (See Table 2.)

**Table 2: Indicators for Risk Factor 1**

<b>Risk Factor 1: Situations of Armed Conflict or Other Forms of Instability</b>	
1.1	International or non-international armed conflict.
1.2	Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighboring countries, threats of external interventions or acts of terrorism.
1.3	Humanitarian crisis or emergency, including those caused by natural disasters or epidemics.
1.4	Political instability caused by abrupt or irregular regime change or transfer of power.
1.5	Political instability caused by disputes over power or growing nationalist, armed or radical opposition movements.
1.6	Political tension caused by autocratic regimes or severe political repression.
1.7	Economic instability caused by scarcity of resources or disputes over their use or exploitation.
1.8	Economic instability caused by severe crisis in the national economy.
1.9	Economic instability caused by acute poverty, mass unemployment or deep horizontal inequalities.
1.10	Social instability caused by resistance to or mass protests against State authority or policies.
1.11	Social instability caused by exclusion or tensions based on identity issues, their perception or extremist forms.

Since 1986, Uganda has experienced a number of armed rebellions and insurgencies.<sup>21</sup> The internal armed conflicts have largely emerged from the country's historically marginalized and underdeveloped northern and eastern regions.<sup>22</sup> In 1986, the Lord's Resistance Movement/Army (LRA) commenced a twenty-year conflict against the governing party of President Yoweri

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Cameroon, North Korea, Mali, Sierra Leone, Bangladesh, Congo, Sri Lanka, Timor-Leste, Nepal, Rwanda, and Egypt. See *The Fragile States Index*, The Fund for Peace (formerly, *The Failed States Index*) (2015), <http://fsi.fundforpeace.org/rankings-2015>.

<sup>19</sup> CIA Factbook, *supra* note 14.

<sup>20</sup> "Uganda . . . experienced coups in 1966, 1971, 1979, 1980, and 1985." Sebastiano Rwengabo, *Regime Stability in Post-1986 Uganda: Counting the Benefits of Coup-Proofing*, 39 *Armed Forces & Soc'y* 531, 532 (2012).

<sup>21</sup> The seven civil wars include: Uganda's People Democratic Army (1986-1988); Holy Spirit Movement (1986-1987); Lord's Resistance Army (1987-2006); Uganda People's Army (1987-1992); West Nile Bank Front (1995-1997); Allied Democratic Forces (1996-2002); Uganda National Rescue Front (1998-2002). See Stefan Lindemann, *Just Another Change of Guard? Broad-Based Politics and Civil War in Museveni's Uganda*, 110 *Afr. Aff.* 387, 388 (2011).

<sup>22</sup> See *id.*

Museveni and the Ugandan Peoples' Defence Forces (UPDF),<sup>23</sup> resulting in countless atrocities and internally displacing nearly two million Ugandans.<sup>24</sup> Additionally, the eastern Karamojong region of Uganda, on the border of Kenya, has suffered continual inter- and intra-ethnic violence.<sup>25</sup>

Uganda also has been extensively involved in international armed conflict throughout the Great Lakes region. The Ugandan government's pursuit of the LRA into their temporary safe havens in Democratic Republic of the Congo (DRC), South Sudan, and Central African Republic has resulted in commission of atrocities against civilians and combatants on all sides.<sup>26</sup> In addition, Uganda has actively supported the South in the Sudan-South Sudan conflict and then aligned the government with one side in the South Sudan civil war that erupted in late 2013.<sup>27</sup> This engagement has produced enemies,<sup>28</sup> as does Uganda's role as the largest contributing nation to

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<sup>23</sup> See Ted Dagne, *Uganda: Current Conditions and the Crisis in North Uganda* 4 (2011). The LRA has been responsible for the killing of civilians, torture, sexual abuse (including rape and forced child marriage to rebel leaders), and the abduction and recruitment of child soldiers; the Ugandan Peoples' Defence Forces (UPDF) has also committed human rights abuses, including extra-judicial killing, torture, and rape; see also Human Rights Watch, *World Report 2006* 146-53 (2006), <https://www.hrw.org/legacy/wr2k6/wr2006.pdf>; Human Rights Watch, *World Report 2009* 130-35 (2009), [http://www.hrw.org/sites/default/files/reports/wr2009\\_web.pdf](http://www.hrw.org/sites/default/files/reports/wr2009_web.pdf); Human Rights Watch, *Uganda: Violence, Reprisals in Western Region, Inadequate Investigations, Unfair Trials, Irregular Amnesties* (Nov. 5, 2014), <http://www.hrw.org/news/2014/11/05/uganda-violence-reprisals-western-region>; Annette Weber et al., Human Rights Watch, *Abducted and Abused: Renewed Conflict in Northern Uganda* 41 (July 2003), <http://www.hrw.org/reports/2003/uganda0703/uganda0703.pdf>.

<sup>24</sup> See Ted Dagne, *Uganda: Current Conditions and the Crisis in North Uganda* 4 (2011); see also U.S. Dep't of State, Office of the Spokesperson, *Fact Sheet: The Lord's Resistance Army* (Mar. 23, 2012), available at <http://www.state.gov/r/pa/prs/ps/2012/03/186734.htm>.

<sup>25</sup> Human Rights Watch, "Get the Gun!" *Human Rights Violations by Uganda's National Army in Law Enforcement Operations in Karamoja Region* (Sept. 2012), (<https://www.hrw.org/reports/2007/uganda0907/>); Kees Kingma et al., *Security Provision and Small Arms in Karamoja: A Survey of Perceptions*, 28-30, 66-69 (Sept. 2012), <http://www.smallarmssurvey.org/fileadmin/docs/C-Special-reports/SAS-SR17-Karamoja.pdf>.

<sup>26</sup> See *The LRA in Congo, CAR, and South Sudan*, Enough, <http://www.enoughproject.org/conflicts/lra/congo-car-south-sudan> (last visited Oct. 7, 2015); *UPDF in Kony Hunt Accused of Rape, Looting*, The Observer (Mar. 2, 2012), [http://www.observer.ug/index.php?option=com\\_content&view=article&id=17456:updf-in-kony-hunt-accused-of-rape-looting](http://www.observer.ug/index.php?option=com_content&view=article&id=17456:updf-in-kony-hunt-accused-of-rape-looting); see also Xan Rice, *Uganda Rejects UN Report on War Crimes in Congo*, The Guardian (Oct. 1, 2010), <http://www.theguardian.com/law/2010/oct/01/uganda-un-war-crimes-congo>.

<sup>27</sup> Ken Opalo, *Why is Uganda's Army in South Sudan?*, The Christian Science Monitor (Feb. 3, 2014), <http://www.csmonitor.com/World/Africa/Africa-Monitor/2014/0203/Why-is-Uganda-s-Army-in-South-Sudan>; Jeremy Binnie, *South Sudan Opposition Says Uganda has Deployed Su-30s to Juba*, HIS Jane's 360 (Nov. 26, 2014), <http://www.janes.com/article/46364/south-sudan-opposition-says-uganda-has-deployed-su-30s-to-juba>. Some observers are concerned that the UPDF's presence may lead to ongoing proxy wars in the contested region, such as the one fought in DRC. See *Uganda Admits Combat Role in South Sudan*, Al Jazeera (Jan. 16, 2014, 11:03 GMT), <http://www.aljazeera.com/news/africa/2014/01/ugandan-troops-battling-south-sudan-rebels-201411683225414894.html>.

<sup>28</sup> See *Uganda Admits Combat Role in South Sudan*, Al Jazeera (Jan. 16, 2014, 11:03 GMT), <http://www.aljazeera.com/news/africa/2014/01/ugandan-troops-battling-south-sudan-rebels-201411683225414894.html> (arguing that "[t]he involvement of a foreign army in South Sudan's conflict could escalate a crisis set off by a power struggle between President Salva Kiir and Riek Machar, the fugitive former deputy president who commands rebel forces.").

the African Union's Mission in Somalia,<sup>29</sup> which exposes the country to Somali-based militant Islamist group Al Shabaab's threat of retaliatory attacks.<sup>30</sup>

In addition to internal and international armed conflict, successive military coups and autocratic regimes have dominated Uganda's post-independence history. In 1986, for instance, President Museveni came to power as a result of the National Resistance Army's (NRA's) overthrow of then President Milton Obote.<sup>31</sup> Museveni has remained in power since that time, reportedly allowing the state's bureaucratic apparatus to function to the extent that it does not constrain his own exercise of authority.<sup>32</sup> Although Uganda has had a multi-party political system since 2005, the government has maintained control over candidates and election outcomes through legal restraints and amid numerous allegations of fraud, intimidation, and violence.<sup>33</sup> This dynamic has produced a political system that is created by and reproduced through perpetual instability.

Additionally, corruption<sup>34</sup> and economic mismanagement severely curtails Uganda's ability to fulfill its obligations to its citizens and has contributed to a severe economic crisis in the country.<sup>35</sup> The economic crisis is reflected in acute poverty, mass unemployment, particularly in urban areas, soaring inflation,<sup>36</sup> and deep horizontal inequalities.<sup>37</sup> Given that the south served as the economic and administrative backbone of the colonial state,<sup>38</sup> a north-south division of labor,

<sup>29</sup> Dan Damon, *Why is Uganda Fighting in 'Hellish' Somalia?*, BBC World Service (Mar. 15, 2012), <http://www.bbc.com/news/world-africa-16853499>.

<sup>30</sup> Ludovica Iaccino, *Somalia: Al-Shabaab Threatens Terror Attacks in Burundi and Uganda*, International Business Times (May 15, 2015, 13:37 BST), <http://www.ibtimes.co.uk/somalia-al-shabaab-threatens-terror-attacks-burundi-uganda-1501511>.

<sup>31</sup> Federal Research Division, Library of Congress, *Uganda: A Country Study* 204-08 (Rita M. Byrnes ed., 2d ed. 1992), [http://cdn.loc.gov/master/frd/frdcstdy/ug/ugandacountrystu00byrn\\_0/ugandacountrystu00byrn\\_0.pdf](http://cdn.loc.gov/master/frd/frdcstdy/ug/ugandacountrystu00byrn_0/ugandacountrystu00byrn_0.pdf); *East Africa Living Encyclopedia: Uganda – History*, African Studies Center, University of Pennsylvania, <http://www.africa.upenn.edu/NEH/uhistory.htm> (last visited Sept. 29, 2015).

<sup>32</sup> See Roger Tangri & Andrew M. Mwenda, *President Museveni and the Politics of Presidential Tenure in Uganda*, 28 J. Contemp. Afr. Stud. 31, 36 (2010).

<sup>33</sup> European Union Election Observation Mission, *Uganda 2011 Elections: Improvements Marred by Avoidable Failures* 5-7 (Feb. 20, 2011), [http://www.eucom.eu/files/pressreleases/english/preliminary\\_statement\\_uganda\\_2011\\_en.pdf](http://www.eucom.eu/files/pressreleases/english/preliminary_statement_uganda_2011_en.pdf); S. Gloppen et al., CHR. Michelsen Institute, *Uganda's 2006 Presidential and Parliamentary Elections* 11-13, 17-18 (2006), <http://www.cmi.no/publications/file/2391-ugandas-2006-presidential-and-parliamentary.pdf>.

<sup>34</sup> See e.g., Human Rights Watch & Yale Law School Allard K. Lowenstein International Human Rights Clinic, *"Letting the Big Fish Swim" – Failures to prosecute High-Level Corruption in Uganda* 1 (2013), [http://www.hrw.org/sites/default/files/reports/uganda1013\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/uganda1013_ForUpload_1.pdf); see also *UK Suspends Uganda Aid Over Corruption*, Al Jazeera (Nov. 17, 2012 16:13 GMT), <http://www.aljazeera.com/news/africa/2012/11/20121117155051480786.html>.

<sup>35</sup> The crisis has been exacerbated by high food costs, the global economic situation and the depreciation of the shilling against the dollar. See Jeremy Liebowitz & Robert Sentamu, Afrobarometer, *Public Perceptions of Uganda's Economy: In Crisis?* 5 (Mar. 2012), <http://afrobarometer.org/sites/default/files/publications/Briefing%20paper/AfrobriefNo101.pdf>.

<sup>36</sup> Following the last presidential election, inflation was rampant in Uganda and the shilling "lost 19 percent of its value between January and September 2011." See *id.* at 1. Inflation has led to "increased levels of deprivation in people's everyday lives," including food and water insecurities. See *id.* at 3.

<sup>37</sup> According to Frances Stewart and Graham Brown, "horizontal inequality" is "when cultural differences coincide with economic and political differences between groups. . . caus[ing] deep resentment that may lead to violent struggles." See Frances Stewart, Bradford Development Lecture 2009, *Horizontal Inequalities as a Cause of Conflict* 2 (Nov. 2009), <http://www.bradford.ac.uk/ssis/media/ssis/BDLStewart.pdf>.

<sup>38</sup> Due to varied climatic patterns, the climate in the south is more favorable to growing coffee, cotton, and sugar

overlapping with ethnic and tribal identities, contributes to deep horizontal inequalities between north and south, and group identity thus has continued to be linked to political, economic, and social status.<sup>39</sup>

2. Risk Factors 2 & 3: Serious Human Rights Violations & Weak Rule of Law (Indicators 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 3.2, 3.3, 3.5, 3.6, 3.7, 3.9 & 3.10)

Risk Factor 2 requires an analysis of a country's record of "serious violations of international human rights and humanitarian law" "that have not been prevented, punished, or adequately addressed and, as a result, create a risk of further violations."<sup>40</sup> Risk Factor 3 requires an analysis of a state's structures and "circumstances that negatively affect the capacity of a State to prevent or halt atrocity crimes."<sup>41</sup> My assessment is that all of the 8 indicators for Risk Factor 2, and 7 out of 10 indicators for Risk Factor 3 are present in the situation in Uganda. (See Table 3.)

**Table 3: Indicators for Risk Factors 2 & 3**

<b>Risk Factor 2: Record of Serious Violations of International Human Rights and Humanitarian Law</b>	
2.1	Past or present serious restrictions to or violations of international human rights and humanitarian law, particularly if assuming an early pattern of conduct and if targeting protected groups, populations or individuals.
2.2	Past acts of genocide, crimes against humanity, war crimes or their incitement.
2.3	Policy or practice of impunity for or tolerance of serious violations of international human rights and humanitarian law, of atrocity crimes, or of their incitement.
2.4	Inaction, reluctance or refusal to use all possible means to stop planned, predictable or ongoing serious violations of international human rights and humanitarian law or likely atrocity crimes, or their incitement.
2.5	Continuation of support to groups accused of involvement in serious violations of international human rights and humanitarian law, including atrocity crimes, or failure to condemn their actions.
2.6	Justification, biased accounts or denial of serious violations of international human rights and humanitarian law or atrocity crimes.
2.7	Politicization or absence of reconciliation or transitional justice processes following conflict.
2.8	Widespread mistrust in State institutions or among different groups as a result of impunity.
<b>Risk Factor 3: Weakness of State Structures</b>	
3.1	National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties.
3.2	National institutions, particularly judicial, law enforcement and human rights institutions that lack sufficient resources, adequate representation or training.
3.3	Lack of an independent and impartial judiciary.
3.4	Lack of effective civilian control of security forces.

cane. Furthermore, the south is also rich in "mineral resources such as copper, tin, limestone, phosphates, and oil." See *Bondage of Boundaries and Identity Politics in PostColonial Africa: The 'Northern Problem' and Ethno-Futures* 239 (Sabelo J. Ndlovu-Gatsheni & Brilliant Mhlana eds., 2013).

<sup>39</sup> Uganda: *No Resolution to Growing Tensions*, International Crisis Group, Africa Report No. 187 2 (Apr. 5, 2012), <http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/uganda/187-uganda-no-resolution-to-growing-tensions.pdf>. In November 2014, the Uganda Bureau of Statistics noted an ongoing trend of regional inequality whereby the northern and eastern regions continued to be plagued with high levels of poverty at, respectively, 43.7% and 24.5%, while the western and central regions had lowered their poverty rates to, respectively, 8.7% and 4.7%. See Uganda Bureau of Statistics, *2014 Statistical Abstract* 30 (Nov. 2014), [http://www.ubos.org/onlinefiles/uploads/ubos/statistical\\_abstracts/Statistical%20Abstract%202014.pdf](http://www.ubos.org/onlinefiles/uploads/ubos/statistical_abstracts/Statistical%20Abstract%202014.pdf).

<sup>40</sup> UN Framework of Analysis, *supra* note 1, at 11 (Risk Factor 2).

<sup>41</sup> *Id.* at 12.

3.5	High levels of corruption or poor governance.
3.6	Absence or inadequate external or internal mechanisms of oversight and accountability, including those where victims can seek recourse for their claims.
3.7	Lack of awareness of and training on international human rights and humanitarian law to military forces, irregular forces and non-State armed groups, or other relevant actors.
3.8	Lack of capacity to ensure that means and methods of warfare comply with international humanitarian law standards.
3.9	Lack of resources for reform or institution-building, including through regional or international support.
3.10	Insufficient resources to implement overall measures aimed at protecting populations.

Despite Uganda's edifice of laws and institutions, the country suffers from an ineffectual rule of law. Global Integrity's 2011 "Scorecard" for Uganda succinctly demonstrates the problems facing Uganda today: while for "legal framework," Uganda received a "very strong" rating, for "actual implementation," Uganda was rated "very weak."<sup>42</sup>

In Uganda, there is a long-standing history of serious human rights violations and atrocity crimes<sup>43</sup> continuing into the present. According to the 2014 U.S. Department of State Country Report, the three most serious human rights issues in Uganda were: (1) "unlawful killings, torture, and other abuse of suspects and detainees;" (2) "restrictions on civil liberties;" and (3) "violence and discrimination against marginalized groups," including LGBTI people.<sup>44</sup> Perpetrators of these abuses are rarely arrested, tried or convicted for carrying out these crimes.<sup>45</sup>

Although Uganda has instituted anti-corruption laws and measures,<sup>46</sup> corruption is pervasive at all levels of government and appears to be increasing.<sup>47</sup> Reports of bribes and embezzlement by Government officials are frequent, and anti-corruption enforcement mechanisms remain weak.<sup>48</sup>

<sup>42</sup> Global Integrity, *Global Integrity Report: Scorecard: Uganda 2011*, <https://www.globalintegrity.org/global/report-2011/uganda/>.

<sup>43</sup> See Patrick Keatley, *Obituary: Idi Amin*, *The Guardian* (Aug. 17, 2003), <http://www.theguardian.com/news/2003/aug/18/guardianobituaries> (describing the dictator's brutal regime); see also Freedom House, *Freedom in the World 2015: Individual Country Ratings and Status 1973-2015*, <https://freedomhouse.org/report-types/freedom-world>. A "decree in 1972 by Ugandan President Idi Amin ordering the departure of Uganda's population of South Asian origin sparked a mass exodus. . . . [D]iscontent among the urban population and within the armed forces drove Amin to seek a scapegoat for the country's economic ills." Office of the United Nations High Commissioner for Refugees, *The State of the World's Refugees, 2000: Fifty Years of Humanitarian Action* 69 (Mark Cutts et al. eds., 2000), <http://www.unhcr.org/4a4c754a9.html>.

<sup>44</sup> U.S. Dep't of State, *Uganda 2014 Human Rights Report* 1 (2014), <http://www.state.gov/documents/organization/236630.pdf>.

<sup>45</sup> See U.S. Dep't of State, *Uganda 2014 Human Rights Report* 7 (2014), <http://www.state.gov/documents/organization/236630.pdf>.

<sup>46</sup> See Human Rights Watch & Yale Law School Allard K. Lowenstein International Human Rights Clinic, "Letting the Big Fish Swim" – *Failures to prosecute High-Level Corruption in Uganda* 22-23 (2013), [http://www.hrw.org/sites/default/files/reports/uganda1013\\_ForUpload\\_1.pdf](http://www.hrw.org/sites/default/files/reports/uganda1013_ForUpload_1.pdf).

<sup>47</sup> See *id.* at 13; see also The World Bank, *Worldwide Governance Indicators: Country Data Report for Uganda 1996-2014* 7, <http://info.worldbank.org/governance/wgi/pdf/c225.pdf>; see *Uganda 2014 Human Rights Report*, *supra* note 52, at 24; see Marie Chêne, U4 Anti-Corruption Resource Center & Transparency International, U4 Expert Answer (Mar. 4, 2009), <http://www.u4.no/publications/overview-of-corruption-in-uganda/>.

<sup>48</sup> See *e.g.*, Human Rights Watch & Yale Law School, *supra* note 46, at 15-16; see also European Union Election Observation Mission, *Uganda Final Report: General Elections 18 February 2011* 8, 24-25 (Mar. 10, 2011), [http://www.euom.eu/files/pressreleases/english/euom\\_uganda2011\\_final\\_report\\_en.pdf](http://www.euom.eu/files/pressreleases/english/euom_uganda2011_final_report_en.pdf); Angelo Izama & Michael Wilkerson, *Uganda: Museveni's Triumph and Weakness*, 22 *J. of Democracy* 64, 68-69 (July 2011); Rodney

Serious human rights concerns also include acts of mob violence—common, communal forms of extrajudicial punishment and brutality.<sup>49</sup> Ordinary community members take “justice” into their own hands through inhumane acts of violence to enforce communal norms or laws. The prevalent resort to mob violence stems from the inability of the Ugandan police to fulfill its duty to preserve public order and prevent these attacks, as well as from its manifest failure to conduct fair and effective investigations and arrests to deter those who commit such attacks.<sup>50</sup>

Vigilante and parastatal groups linked to the government operate with impunity in Uganda.<sup>51</sup> One of these groups, the 12,000-member Presidential Guard Brigade (PGB), is “the best-trained, best-equipped and best-paid military force in Uganda.”<sup>52</sup> President Museveni controls the PGB’s decision-making structures and his son serves as commander of PGB’s special forces.<sup>53</sup> In effect, the PGB is “the president’s personalised military machine.”<sup>54</sup>

### 3. Risk Factor 4: Motives or Incentives (Indicators 4.1, 4.2, 4.4, 4.5, 4.7 & 4.9)

Risk Factor 4 inquires into drivers that “justify the use of violence against protected groups, populations or individuals, including by actors outside of State borders.”<sup>55</sup> The indicators address a series of interests and motives ranging from “political motives” or economic incentives to “real or perceived threats posed by protected groups” and “ideologies based on the supremacy of a certain identity.” (See Table 4.) Of particular concern for this risk factor are indicators of motives or incentives based on “exclusionary ideology” and accentuation of differences.<sup>56</sup>

**Table 4: Indicators for Risk Factor 4**

Risk Factor 4: Motives or Incentives	
4.1	Political motives, particularly those aimed at the attainment or consolidation of power.
4.2	Economic interests, including those based on the safeguard and well-being of elites or identity groups, or control over the distribution of resources.
4.3	Strategic or military interests, including those based on protection or seizure of territory and resources.

Muhumuza, *Ugandan Leader Donates Sacks of Cash, Drawing Ire*, Associated Press (Apr. 23, 2013 11:50 AM),

<http://news.yahoo.com/ugandan-leader-donates-sack-cash-drawing-ire-155003822.html>; See Angelo Izama & Michael Wilkerson, *Uganda: Museveni’s Triumph and Weakness*, 22 J. of Democracy 64, 68-69 (July 2011).

<sup>49</sup> See Uganda Human Rights Commission (UHRC), *15<sup>th</sup> Annual Report 2012 of the UHRC to the Parliament of The Republic of Uganda* 119 (Apr. 2013), <http://www.rwi.lu.se/NHRIDB/Africa/Uganda/15thAnnualReport2012.pdf> (citing “a qualitative research [study] regarding vigilante justice in modern Uganda,” Robin Glad, Asa Stromberg & Anton Westerlund, *Mob Justice: A Qualitative Research Regarding Vigilante Justice in Modern Uganda* 3 (Apr. 2010), [https://gupea.ub.gu.se/bitstream/2077/23084/1/gupea\\_2077\\_23084\\_1.pdf](https://gupea.ub.gu.se/bitstream/2077/23084/1/gupea_2077_23084_1.pdf)).

<sup>50</sup> Danish Refugee Council, *Situation of LGBT Persons in Uganda, Joint Report from the Danish Immigration Service’s and the Danish Refugee Council’s fact finding mission to Kampala, Uganda from 16 to 25 June 2013*, 22, 31, 39, 54, 60, 61 (Jan. 2014), <https://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf> [hereinafter Danish Refugee Council].

<sup>51</sup> See *Kiboko Squad Revealed*, The Independent (Sept. 15, 2009), <http://www.independent.co.ug/cover-story/1769-kiboko-squad-revealed>.

<sup>52</sup> Roger Tangri & Andrew M. Mwenda, *President Museveni and the Politics of Presidential Tenure in Uganda*, 28 J. of Contemp. Afr. Stud. 31, 44 (2010).

<sup>53</sup> See *id.*

<sup>54</sup> *Id.*

<sup>55</sup> UN Framework of Analysis, *supra* note 1, at 13 (Risk Factor 4).

<sup>56</sup> *Id.*

4.4	Other interests, including those aimed at rendering an area homogeneous in its identity.
4.5	Real or perceived threats posed by protected groups, populations or individuals, against interests or objectives of perpetrators, including perceptions of disloyalty to a cause.
4.6	Real or perceived membership of or support for armed opposition groups, by protected groups, populations or individuals.
4.7	Ideologies based on the supremacy of a certain identity or on extremist versions of identity.
4.8	Politicization of past grievances, tensions or impunity.
4.9	Social trauma caused by past incidents of violence not adequately addressed and that produced feelings of loss, displacement, injustice and a possible desire for revenge.

In times of political tension or economic distress, it may prove useful to mobilize the population to support the government on grounds other than political allegiance or economic interests, since attention to these issues always raises the risk that other parties or groups will begin to bring up very uncomfortable realities, such as rising inequalities, decreasing income and productivity in rural areas, border incursions, or lingering violent insurgencies. In the context of external and internal threat from armed conflict and economic competition among ethnically diverse tribes and regions, it is useful to have a consolidating foil, even if rhetorical, that can occupy the media and distract the crowd. In a society where weak legal enforcement and easily inflamed urban street justice prevail, campaigns of aggression against stigmatized minorities, particularly as documented here against the LGBTI community, play well as theater and arena, symbolic blood-letting in service of a larger subjugation. Government officials and other influential leaders have abundant room to incite and mobilize crowd attacks against individuals and the group as an entirety, knowing that the security systems and the courts may either collude in these actions or at least may not intervene to protect those who are targeted.

As discussed in more detail in Sec. V.B, there has been an apparent alignment of political motives in the targeting and scapegoating of the LGBTI population in Uganda as well as repeated disparagement of homosexuality and LGBTI persons as “unafican” and not consistent with Ugandan culture and identity.<sup>57</sup> The LGBTI community is targeted by government officials, religious leaders and media as presenting a threat to children and Ugandan society.<sup>58</sup>

4. Risk Factors 5 & 6: Capacity to Commit Atrocity Crimes and Absence of Mitigating Factors (Indicators 5.3, 5.4, 5.5, 5.7, 6.1, 6.2, 6.4, 6.7, 6.8 & 6.10)

Risk Factor 5 takes into account a government’s or organization’s capacity to carry out atrocity crimes while Risk Factor 6 looks at whether there are factors that could contribute to preventing or lessening the likelihood or impact of atrocity crimes or violence against protected populations. (See Table 5.) A number of indicators are present which show that there is the capacity in Uganda to carry out such crimes and a disturbing lack of mitigating factors.

<sup>57</sup> See, e.g., Faith Karimi and Nick Thompson, *Uganda's President Museveni signs controversial anti-gay bill into law*, CNN (Feb. 25, 2014: 9:00 AM), <http://www.cnn.com/2014/02/24/world/africa/uganda-anti-gay-bill/>.

<sup>58</sup> See e.g., Paul Gonza, *Gay Groups Targeting Church Leaders, Schools – Kadaga*, Daily Monitor, Dec. 2, 2014, <http://www.monitor.co.ug/News/National/Gay-groups-targeting-church-leaders--schools---Kadaga/-/688334/2541220/-/10169wgz/-/index.html> (last accessed Oct. 27, 2015).

**Table 5: Indicators for Risk Factors 5 & 6**

<b>Risk Factor 5: Capacity to Commit Atrocity Crimes</b>	
5.1	Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement.
5.2	Capacity to transport and deploy personnel and to transport and distribute arms and ammunition.
5.3	Capacity to encourage or recruit large numbers of supporters from populations or groups, and availability of the means to mobilize them.
5.4	Strong culture of obedience to authority and group conformity.
5.5	Presence of or links with other armed forces or with non-State armed groups.
5.6	Presence of commercial actors or companies that can serve as enablers by providing goods, services, or other forms of practical or technical support that help sustain perpetrators.
5.7	Financial, political or other support of influential or wealthy national actors.
5.8	Armed, financial, logistic, training or other support of external actors, including States, international or regional organizations, private companies, or others.
<b>Risk Factor 6: Absence of Mitigating Factors</b>	
6.1	Limited or lack of empowerment processes, resources, allies or other elements that could contribute to the ability of protected groups, populations or individuals to protect themselves.
6.2	Lack of a strong, organized and representative national civil society and of a free, diverse and independent national media.
6.3	Lack of interest and focus of international civil society actors or of access to international media.
6.4	Lack of or limited presence of the United Nations, INGOs or other international or regional actors in the country and with access to populations.
6.5	Lack of membership and effective participation of the State in international or regional organizations that establish mandatory membership obligations.
6.6	Lack of exposure, openness or establishment of political or economic relations with other States or organizations.
6.7	Limited cooperation of the State with international and regional human rights mechanisms.
6.8	Lack of incentives or willingness of parties to a conflict to engage in dialogue, make concessions and receive support from the international community.
6.9	Lack of interest, reluctance or failure of United Nations Member States or international or regional organizations to support a State to exercise its responsibility to protect populations from atrocity crimes, or to take action when the State manifestly fails that responsibility.
6.10	Lack of support by neighbouring States to protect populations at risk and in need of refuge, including by closure of borders, forced repatriation or aid restrictions.
6.11	Lack of an early warning mechanism relevant to the prevention of atrocity crimes.

Uganda's capacity to commit and inability to prevent atrocities results from its under-equipped, poorly financed, and ineffective judicial and law enforcement institutions,<sup>59</sup> the lack of political will to end widespread and high-level government corruption, rampant impunity granted to privileged persons, state actors, or participants in mob violence,<sup>60</sup> the increasing criminalization

<sup>59</sup> Human Rights Watch reported that security forces killed at least 40 people during protests in 2009. No meaningful investigations into these killings have been performed. See Human Rights Watch, *Uganda: Investigate 2009 Kampala Riot Killings* (Sept. 10, 2010), <http://www.hrw.org/news/2010/09/10/uganda-investigate-2009-kampala-riot-killings>; see also Human Rights Watch, *World Report 2014: Uganda* (2014), <http://www.hrw.org/world-report/2014/country-chapters/uganda>.

<sup>60</sup> In December 2011, the Uganda Police Force disbanded its Rapid Response Unit, a group that had received significant criticism from human rights groups. No investigations have been made in connection to this unit. See Human Rights Watch, *World Report 2014: Uganda* (2014), <http://www.hrw.org/world-report/2014/country-chapters/uganda>; see also Human Rights Watch, *Uganda – Violence Instead of Vigilance: Torture and Illegal Detention by Uganda's Rapid Response Unit* (Mar. 2011), <http://www.hrw.org/sites/default/files/reports/uganda0311Web.pdf>.

of and discrimination against LGBTI individuals, and increasing restrictions on the ability of civil society organizations to advocate on behalf of minority groups, including LGBTI people.<sup>61</sup>

As discussed in further detail in Sec. V.B, evidence of the capacity to commit atrocities against the LGBT population includes the government's repressive measures and passage of severely discriminatory legislation that removes legal rights and protections from this population. Evidence of incapacity to prevent includes extensive failure to subdue the Lord's Resistance Army (LRA),<sup>62</sup> tolerance of excesses against Karamojong,<sup>63</sup> and failure to act against brutality of local populations against each other.<sup>64</sup>

Neighboring countries may fail to mitigate the risk of harm. Many LGBTI Ugandans have fled the country to escape persecution, and some have sought refuge in Kenya's Kakuma camp near the Ugandan border, which has proven to be fraught with additional risks.<sup>65</sup> Same-sex sexual conduct is also criminalized in Kenya, which puts refugees at risk of arrest, detention, and violence there as well.<sup>66</sup> In the camps, LGBTI refugees have reported harassment, beatings, and sexual violence.<sup>67</sup> Due to the conditions in the camp, some LGBTI refugees leave for the cities. Once there, they are at risk of violence from those around them and Kenyan police, especially since the government enacted a new anti-terrorism policy that allows police to arrest any refugees found outside of the camps.<sup>68</sup>

## **B. Enabling Circumstances and Evidence of Impact (Risk Factors 7, 11 and 12)**

The analysis thus far has looked at the general context in Uganda. Applying the following indicators to the situation of the LGBTI community in Uganda reveals that in the last 15 years,

<sup>61</sup> See The Non-Governmental Organisations Bill, Bill No. 10 (April 10, 2015), [http://www.ngoforum.or.ug/wp-content/uploads/downloads/2015/04/NGO-Bill\\_2015.pdf](http://www.ngoforum.or.ug/wp-content/uploads/downloads/2015/04/NGO-Bill_2015.pdf); Human Rights Watch, *Uganda: Bill Threatens Rights, Independent Groups* (Apr. 20, 2015), <https://www.hrw.org/news/2015/04/20/uganda-bill-threatens-rights-independent-groups>; Human Rights Watch, *Uganda: Growing Intimidation, Threats to Civil Society* (Aug. 21, 2012), <http://www.hrw.org/news/2012/08/21/uganda-growing-intimidation-threats-civil-society>.

<sup>62</sup> Ted Dagne, *Uganda: Current Conditions and the Crisis in North Uganda* 4 (2011).

<sup>63</sup> Kees Kingma et al., *Security Provision and Small Arms in Karamoja: A Survey of Perceptions*, 28-30, 66-69 (Sept. 2012), <http://www.smallarmssurvey.org/fileadmin/docs/C-Special-reports/SAS-SR17-Karamoja.pdf>; James Bevan, *Crisis in Karamoja: Armed Violence and the Failure of Disarmament in Uganda's Most Deprived Region*, *Small Arms Survey* 16 (June 2008), <http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP21-Karamoja.pdf>.

<sup>64</sup> Human Rights Watch, *Uganda: Violence, Reprisals in Western Region, Inadequate Investigations, Unfair Trials, Irregular Amnesties* (Nov. 5, 2014), <http://www.hrw.org/news/2014/11/05/uganda-violence-reprisals-western-region>.

<sup>65</sup> Katy Migiro, *LGBT Refugees Risk Rape, Death in Kenya*, AL JAZEERA, May 19, 2013, <http://www.aljazeera.com/indepth/features/2013/05/201351914503116836.html> (last visited Oct. 4, 2015); Jacob Kushner, *Inside the Nightmares of Africa's LGBT Refugees*, HUFFINGTON POST, Jun. 26, 2015, [http://www.huffingtonpost.com/the-groundtruth-project/inside-the-nightmares-of\\_b\\_7674502.html](http://www.huffingtonpost.com/the-groundtruth-project/inside-the-nightmares-of_b_7674502.html) (last visited Oct. 4, 2015).

<sup>66</sup> The Penal Code Act (2014) Cap XIV §162 (Kenya).

<sup>67</sup> Jacob Kushner, *Inside the Nightmares of Africa's LGBT Refugees*, Huffington Post (June 26, 2015), [http://www.huffingtonpost.com/the-groundtruth-project/inside-the-nightmares-of\\_b\\_7674502.html](http://www.huffingtonpost.com/the-groundtruth-project/inside-the-nightmares-of_b_7674502.html); Katy Migiro, *LGBT Refugees Risk Rape, Death in Kenya*, Al Jazeera (May 19, 2013), <http://www.aljazeera.com/indepth/features/2013/05/201351914503116836.html>.

<sup>68</sup> Kushner, *supra* note 67.

those who identify as LGBTI have become so stigmatized as unholy and immoral that they constitute a virtual fault line of their own. Religious and political leaders of many varieties, assisted by preachers and orators from within and from afar, and spurred on by mass media messaging, have whipped up such hatred of people in the LGBTI community that LGBTI Ugandans are facing severe discrimination, harassment and violence at the hands of the police as well as private citizens. Some have even fled Uganda in fear of their lives. In certain triggering conditions, as framed by my understanding of the evolution of atrocity crimes, this group could be facing a grave risk of increased human rights abuses and even forced expulsion, torture, or murder.

The targeting of the LGBT population in Uganda often is framed in religious, moral and nationalistic terms. The appeal to virtue, or reliance upon religion or morality to justify and motivate the targeting of others is a common denominator in persecution and genocide, as they are identity- or group-based crimes. As noted by researcher and scholar Dr. Robert J. Lifton, who conducted in-depth, psycho-social studies of other historic atrocities, such ideologies “make ethical claims” and require a “vision of a higher purpose” to support brutal behavior.<sup>69</sup>

A strategy of persecution against a targeted, distinct group, a constituent crime within the definition of crimes against humanity,<sup>70</sup> requires “time to plan, coordinate, and implement.”<sup>71</sup> Not only must perpetrators organize resources to commit such crimes, but also they must manage to single out the target group and rally sufficient opposition against it so that the general population will acquiesce to the group’s persecution, or even assist in perpetrating it.<sup>72</sup>

Risk Factors 7, 11 and 12 focus on events or measures that provide an environment conducive to the commission of atrocity crimes, intergroup tensions or patterns of discrimination against targeted groups, signs of a widespread or systematic attack against a civilian population and signs of a plan or policy to attack a civilian population. The analysis of indicators for these risk factors are revealing of a grave and alarming situation for the LGBTI population in Uganda. (*See* indicators at Table 6.)

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<sup>69</sup> Robert J. Lifton & Erik Markusen, *The Genocidal Mentality: Nazi Holocaust and Nuclear Threat* 92–93 (Basic Books 1992).

<sup>70</sup> Rome Statute of the International Criminal Court, *supra* note 11, art. 7(2)(g).

<sup>71</sup> UN Framework of Analysis, *supra* note 1, at 16.

<sup>72</sup> *Id.* at 5.

**Table 6: Indicators for Risk Factors 7, 11 & 12**

<b>Risk Factor 7: Enabling Circumstances or Preparatory Action</b>	
7.1	Imposition of emergency laws or extraordinary security measures that erode fundamental rights.
7.2	Suspension of or interference with vital State institutions, or measures that result in changes in their composition or balance of power, particularly if this results in the exclusion or lack of representation of protected groups.
7.3	Strengthening of the security apparatus, its reorganization or mobilization against protected groups, populations or individuals.
7.4	Acquisition of large quantities of arms and ammunition or of other objects that could be used to inflict harm.
7.5	Creation of, or increased support to, militia or paramilitary groups.
7.6	Imposition of strict control on the use of communication channels, or banning access to them.
7.7	Expulsion or refusal to allow the presence of NGOs, international organizations, media or other relevant actors, or imposition of severe restrictions on their services and movements.
7.8	Increased violations of the right to life, physical integrity, liberty or security of members of protected groups, populations or individuals, or recent adoption of measures or legislation that affect or deliberately discriminate against them.
7.9	Increased serious acts of violence against women and children, or creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror.
7.10	Imposition of life-threatening living conditions or the deportation, seizure, collection, segregation, evacuation, or forced displacement or transfer of protected groups, populations or individuals to camps, rural areas, ghettos or other assigned locations.
7.11	Destruction or plundering of essential goods or installations for protected groups, populations or individuals, or of property related to cultural and religious identity.
7.12	Marking of people or their property based on affiliation to a group.
7.13	Increased politicization of identity, past events or motives to engage in violence.
7.14	Increased inflammatory rhetoric, propaganda campaigns or hate speech targeting protected groups, populations or individuals.
<b>Risk Factor 11: Signs of a Widespread or Systematic Attack Against Any Civilian Population</b>	
11.1	Signs of patterns of violence against civilian populations, or against members of an identifiable group, their property, livelihoods and cultural or religious symbols.
11.2	Increase in the number of civilian populations or the geographical area targeted, or in the number, types, scale or gravity of violent acts committed against civilian populations.
11.3	Increase in the level of organization or coordination of violent acts and weapons used against a civilian population.
11.4	Use of the media or other means to provoke or incite to violent acts.
11.5	Signs of a plan or policy to conduct attacks against civilian populations.
11.6	Establishment of new political or military structures that could be used to commit violent acts.
11.7	Access to or increasing use of significant public or private resources for military or belligerent action, including the acquisition of large quantities of weaponry or other instruments that can cause death or serious harm.
11.8	Signs of development or increased use of means or methods of violence that are incapable of distinguishing between civilian and military targets or that are capable of mass destruction, persecution or weakening of communities.
<b>Risk Factor 12: Signs of a Plan or Policy to Attack Any Civilian Population</b>	
12.1	Official documents, political manifestos, media records, or any other documentation through which the existence of a State or organizational plan or policy to target civilian populations or protected groups is directly revealed, or could be inferred.
12.2	Adoption of discriminatory security procedures against different groups of the civilian population.
12.3	Adoption of measures that result in the alteration of the ethnic, religious, racial or political composition of the overall population, including in defined geographical areas.
12.4	Establishment of parallel institutions or autonomous political or military structures, or organization of a network of potential perpetrators belonging to a specific ethnic, religious, national, racial or political group.
12.5	Preparation and use of significant public or private resources, whether military or other kinds.
12.6	Access to and use of weaponry or other instruments not easily obtained inside the country.

12.7	Preparation or mobilization of armed forces en masse against civilian populations.
12.8	Facilitating or inciting violence against the civilian population or protected groups, or tolerance or deliberate failure to take action, with the aim of encouraging violent acts.
12.9	Widespread or systematic violence against civilian populations or protected groups, including only parts of them, as well as on their livelihoods, property or cultural manifestations.
12.10	Involvement of State institutions or high-level political or military authorities in violent acts.

1. Forbidding Legal Environment and Criminalization of LGBTI Ugandans (Indicators 7.1, 7.2, 7.7, 11.5, 12.1 & 12.2)

Same-sex sexual activity has been criminalized since British colonial rule and is expressly punished by life imprisonment under the Penal Code Act of 1950.<sup>73</sup> However, it has only been in the past decade, amid increasing anti-LGBTI rhetoric and propaganda, that further discrimination and stigma have begun to be enshrined in broader legal sanctions, state practice and forms of enforcement that have had the effect of criminalizing the very identity of LGBTI persons.

Beginning in 2005, legislation began to emerge formalizing in law discrimination against the LGBTI community when the constitution was amended to prohibit same-sex marriage.<sup>74</sup>

Two years later, the Equal Opportunities Commission Act established a Commission specifically entrusted with the authority to eliminate discrimination and take affirmative action in favor of marginalized groups.<sup>75</sup> From its inception, the law excluded LGBTI individuals from the scope of its mandate based on a prohibition against investigating “any matter involving behavior which is considered to be (i) immoral and socially harmful, or (ii) unacceptable, by the majority of the cultural and social communities in Uganda.”<sup>76</sup> The legislative history of this section reveals intent to bar LGBTI individuals from filing discrimination claims under the Act’s provisions.<sup>77</sup> In early 2009, LGBTI advocates and allies filed a Constitutional challenge to this provision of the Act;<sup>78</sup> however, as of October 2015, a decision has not been issued, and the matter remains pending.<sup>79</sup>

<sup>73</sup> The Penal Code Act of 1950, § 145, Cap. 120 (rev. ed. 2000) (Uganda). *See also*, Human Rights Awareness and Promotional Forum and Civil Society Coalition on Human Rights and Constitutional Law, *Protecting ‘Morals’ by Dehumanising Suspected LGBTI Persons? A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda* (2013),

[http://www.hrapf.org/sites/default/files/publications/section\\_145\\_research\\_report\\_full\\_version.pdf](http://www.hrapf.org/sites/default/files/publications/section_145_research_report_full_version.pdf).

<sup>74</sup> Constitution of the Republic of Uganda, page 47, section 31(2a) official reprint, 15 February 2006.

<sup>75</sup> The Equal Opportunities Commission Act (2007) (Uganda),

[http://www.hrapf.org/sites/default/files/publications/equal\\_opportunities\\_commission\\_act\\_2007.pdf](http://www.hrapf.org/sites/default/files/publications/equal_opportunities_commission_act_2007.pdf)

<sup>76</sup> *Id.* § 15(6)(d).

<sup>77</sup> Human Rights Awareness and Promotional Forum, *The Human Rights Advocate* 11 (2013),

[http://hrapf.org/sites/default/files/publications/the\\_human\\_rights\\_advocate.pdf](http://hrapf.org/sites/default/files/publications/the_human_rights_advocate.pdf). During a reading of the bill, the Minister of Gender, Labour and Social Development stated that “if [immoral behaviour or generally unacceptable conduct] is not properly put in the clause, [homosexuals] can easily find their way through fighting discrimination. They can claim that since they are part of the minority, they can fight against marginalisation.” *Id.* at 20.

<sup>78</sup> *Jjuuko Adrian v Attorney General*, Constitutional Petition No. 1 of 2009, was filed on 5th January 2009.

<sup>79</sup> Press Release, Human Rights Awareness and Promotional Forum, Court Resuscitates the Case of Jjuuko Adrian v. Attorney General (June 5, 2015), available at <http://www.hrapf.org/news-events/court-resuscitates-case-jjuuko-adrian-v-attorney-general>.

In 2009, David Bahati, a Member of the Ugandan Parliament, introduced the Anti-Homosexuality Bill (AHB) in Parliament.<sup>80</sup> The express intention of the bill was “to fill the gaps in the provisions of other laws in Uganda,” explaining:

The Penal Code Act (Cap120) has no comprehensive provision catering for anti homosexuality. It focuses on unnatural offences under section 145 and lacks provisions for penalizing the procurement, promoting, disseminating literature and other pantographic materials concerning the offences of homosexuality hence the need for legislation to provide for charging, investigating, prosecuting, convicting and sentencing of offenders.

This legislation comes to complement and supplement the provisions of the Constitution of Uganda and the Penal Code Act Cap 120 by not only criminalizing same sex marriages but also same-sex sexual acts and other related acts.<sup>81</sup>

The AHB sought to criminalize “homosexual acts,” “aggravated homosexuality” (the commission of more than one “act” would be punishable by life in prison), “attempts to commit homosexuality,” “aiding and abetting homosexuality,” “conspiracy to engage in homosexuality,” “procuring homosexuality by threats,” “detention with intent to commit homosexuality,” running brothels, entering into or performing same-sex marriage, “promoting homosexuality,” and failure to report homosexuality.<sup>82</sup> The “promotion of homosexuality” category expressly included criminal liability for the director of non-governmental organizations violating this provision of the act with up to seven years imprisonment.<sup>83</sup> The failure to report category was so broadly defined that service providers, including health care professionals, could be in violation of the law if they knew one of their patients was LGBTI and did not report that person to the authorities. Parents could also be in violation of the law if they knew that one of their children was LGBTI and did not evict or report their child to authorities.

The campaign for the AHB and associated persecution of LGBTI people was unfolding in the context of an intensifying public discussion of the role of religion and morality in Uganda. Religious issues have become a litmus test for Ugandan politicians, and many politicians appear to try to establish their religious credentials with the electorate by advancing anti-gay legislation. In addition to its chief proponent, David Bahati, supporters included prominent figures such as Speaker of Parliament Rebecca Kadaga, Former Minister of Ethics and Integrity James Buturo,

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<sup>80</sup> See The Anti-Homosexuality Bill, No. 18 (2009), Uganda Gazette Supplement No. 47. The AHB was nicknamed Uganda’s “kill the gays bill” because of Bahati’s original insistence on the inclusion of the death penalty, which did not make it into the final bill or law. See The Anti-Homosexuality Bill, No. 18 (2009), Uganda Gazette Supplement No. 47 §3.2, available at <http://www.boxturtlebulletin.com/btb/wp-content/uploads/2009/10/Bill-No-18-Anti-Homosexuality-Bill-2009.pdf>; see also Janson Wu, *Uganda’s ‘Kill the Gays’ Bill Is Back*, Daily Beast (Mar. 1, 2015, 6:45 AM), <http://www.thedailybeast.com/articles/2015/03/01/uganda-s-kill-the-gays-bill-is-back.html>; Lindsay Funk, *Uganda Kill the Gays Bill: Everything You Need to Know about Anti Gay Bill*, Policy Mic (Nov. 28, 2012), <http://mic.com/articles/19695/uganda-kill-the-gays-bill-everything-you-need-to-know-about-anti-gay-bill>.

<sup>81</sup> The Anti-Homosexuality Bill, No. 18 §2.1 (2009), Uganda Gazette Supplement No. 47, available at <http://www.boxturtlebulletin.com/btb/wp-content/uploads/2009/10/Bill-No-18-Anti-Homosexuality-Bill-2009.pdf>.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* § 13.

current Minister of Ethics and Integrity Simon Lokodo (a former Catholic priest), President Museveni, and First Lady Janet Museveni.<sup>84</sup> These political leaders claimed that the AHB protected children from sexual violence and from being recruited into the “homosexual lifestyle;” they also argued that homosexuality was “un-African” and a danger to children.<sup>85</sup>

In December 2013, the Ugandan legislature passed the bill as the Anti-Homosexuality Act (“AHA”).<sup>86</sup> In the new version, the death penalty was replaced with life imprisonment and the failure to report provision was removed. The provisions concerning promotion of homosexuality and aiding and abetting were retained.<sup>87</sup> President Museveni signed the AHA into law in February 2014, and the AHA was in effect for five months until the Constitutional Court invalidated it on the basis of a parliamentary irregularity.<sup>88</sup>

During the period the law was in effect, violence and discrimination escalated, and the climate of homophobia intensified. One example is the police raid and temporarily closure of two organizations accused of “promoting homosexuality.”<sup>89</sup>

The enactment of the AHA appears to have affected the interpretation of Section 145 of the Penal Code (the provision criminalizing same-sex sexual conduct). In June 2014, in a case arising out of the raid of a 2012 human rights advocacy workshop for LGBTI activists, the High Court of Uganda found that, under the penal code, direct and indirect “promotion of homosexuality” amounts to incitement to commit “homosexual acts” and “conspiracy to effect unlawful purposes.”<sup>90</sup> As a result, the court found that the raid of the LGBTI activists’ workshop did not amount to a “breach of their Constitutional rights.”<sup>91</sup>

<sup>84</sup> *Ugandan Lawmakers to Revive Anti-gay Law: Parliamentarian Says the Bill will be treated as a ‘National Priority,’* CBS News (Aug. 6, 2014 11:23 AM), <http://www.cbc.ca/news/world/ugandan-lawmakers-to-revive-anti-gay-law-1.2728943>; see also *Anti-Gay Bill: Speaker Kadaga Promises to Speed up Law*, Civ. Soc’y Coalition on Hum. Rts. and Const. Law, <http://www.ugandans4rights.org/index.php/video-records/video/random/anti-gay-bill-speaker-kadaga-promises-to-speed-up-law-.html> (last visited Oct. 4, 2015).

<sup>85</sup> *M7 Reaffirms Promise to Sign Anti-gay Bill into Law*, Redpepper (Feb. 21, 2014), <http://www.redpepper.co.ug/m7-reaffirms-promise-to-sign-anti-gay-bill-into-law/> (reproducing President Yoweri Museveni’s statement on the passage of the bill stating that “Africans do not seek to impose their views on anybody [and] do not want anybody to impose their views on [them]. This very debate was provoked by Western groups who come to our schools and try to recruit children into homosexuality. It is better to limit the damage rather than exacerbate it.”).

<sup>86</sup> The Anti-Homosexuality Act (2014) (Uganda), <http://www.ulii.org/files/Anti-Homosexuality-Act-2014.pdf>.

<sup>87</sup> *Id.* §§ 7, 13.

<sup>88</sup> *Oloka-Onyango v. Attorney General*, No. 08, Constitutional Court of Uganda (Aug. 1, 2014), <http://www.ulii.org/ug/judgment/constitutional-court/2014/14>.

<sup>89</sup> Amnesty International, *Rule by law: Discriminatory Legislation and Legitimated Abuses in Uganda* 41 (2014), <http://www.amnestyusa.org/sites/default/files/afr59062014en.pdf> [hereinafter *Rule by law*]. See also The Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, *Uganda Report of Violations Based on Gender Identity and Sexual Orientation* 15 & 30 (2015), [http://www.hrapf.org/sites/default/files/publications/15\\_02\\_22\\_lgbt\\_violations\\_report\\_2015\\_final.pdf](http://www.hrapf.org/sites/default/files/publications/15_02_22_lgbt_violations_report_2015_final.pdf) [hereinafter Consortium].

<sup>90</sup> See *Nabagesera and 3 Ors. v. Attorney General & Anor* (2014) UGHCCD (Uganda), available at <http://www.ulii.org/ug/judgment/high-court/2014/85>.

<sup>91</sup> *Id.*

2. Intentional and Severe Discrimination, and Violence Against LGBTI Ugandans  
(Indicators 7.3, 7.7, 7.8, 7.9, 11.1, 11.2, 11.3, 12.8, 12.9 & 12.10)

The impact of the inflammatory rhetoric, propaganda campaigns and criminalization of LGBTI Ugandans has been significant. Clear evidence exists of political and legal harassment,<sup>92</sup> state-private violence,<sup>93</sup> constricted use and barriers to health services,<sup>94</sup> and forced evictions.<sup>95</sup> Threats and fear of exposure or potential harm have been found to pervade the LGBTI community, and reports of flight from the country in anticipation of targeted violence are also common.<sup>96</sup>

a. State and Private Physical and Sexual Violence Against LGBTI Individuals  
(Indicators 7.3, 7.8, 7.9, 11.1, 11.3, 12.9 & 12.10)

State actors and private citizens have perpetrated systematic violence against LGBTI individuals. This violence is characterized, in particular, by sexual violence, such as forced “anal examinations” in detention<sup>97</sup> and “corrective rapes”.<sup>98</sup> The Ugandan Police Force (UPF) has been accused of numerous instances of torture and other cruel, inhuman, or degrading treatment against members of the LGBTI community. LGBTI individuals arrested by the police, often arbitrarily, reported that the police, among other mistreatment, beat them, forced them to strip, fondled their genitals, ordered medical examiners to forcibly probe them anally, and committed acts of sexual violence against them.<sup>99</sup>

<sup>92</sup> See *Rule by law*, supra note 89.

<sup>93</sup> See e.g., Int’l Gay and Lesbian Hum. Rts. Comm’n & Freedom and Roam Uganda, *Shadow Report: Violation of the Human Rights of Lesbian, Bisexual, Transgender (LBT), and Kuchu People in Uganda* 9 (2010), <http://www.iglhrc.org/sites/default/files/445-1.pdf> [hereinafter Int’l Gay and Lesbian Hum. Rts. Comm’n]; Chapter Four, *Uganda: Where Do We Go For Justice. The Abuse of the Rights of Sexual Minorities in Uganda’s Criminal Justice System* 17 (2015) <http://www.scribd.com/doc/257167995/Uganda-Report-Police-Abuse-Exams> [hereinafter Chapter Four].

<sup>94</sup> See e.g., Consortium, supra note 89; *Rule by law*, supra note 89, at 62.

<sup>95</sup> See, e.g., *Rule by law*, supra note 89, at 55–56; Consortium, supra note 89, at 18, 23, 31–33; Sunnive Brydum, *Ugandan Lesbian Evicted, Landlord cites ‘Jail the Gays’ Law*, Advocate (Mar. 5, 2014, 04:25 PM), <http://www.advocate.com/world/2014/03/05/ugandan-lesbian-evicted-landlord-cites-jail-gays-law>.

<sup>96</sup> Consortium, supra note 89, at 16; Hum. Rts. Watch, *Uganda: Anti-Homosexuality Act’s Heavy Toll, Discriminatory Law Prompts Arrests, Attacks, Evictions, Flight* (May 14, 2014), <https://www.hrw.org/news/2014/05/14/uganda-anti-homosexuality-acts-heavy-toll> [hereinafter Human Rights Watch].

<sup>97</sup> See also Consortium, supra note 89, at 29; *Rule by law*, supra note 89, at 34–35; Org. for Refugee, Asylum & Migration, *Country of Origin Rep.: Sexual and Gender Minorities Uganda* 36 (2014), [http://www.oraminternational.org/images/stories/PDFs/Countryoforigin\\_report.pdf](http://www.oraminternational.org/images/stories/PDFs/Countryoforigin_report.pdf) [hereinafter *Uganda Country of Origin Report*].

<sup>98</sup> “Sexually nonconforming women have reported incidents and threats of ‘curative’ rape, where attackers rape in order to ‘cure’ homosexuality.” *Uganda Country of Origin Report*, supra note 97, at 33; “In some ‘curative’ rape cases, the attackers are members of the victim’s family or neighbors.” *Id.*

<sup>99</sup> See, e.g., Chapter Four, supra note 93, at 11-12, 21–22; *Rule by law*, supra note 89 at 34-35, 37; Mukasa & Another v. Attorney General (2008) AHRLR 248, 3 (Uganda), <http://www.chr.up.ac.za/index.php/browse-by-subject/490-uganda-mukasa-andanother-v-attorney-general-2008-ahrlr-ughc-2008-.pdf> (last visited Oct. 27, 2015); see also Human Rights Watch, supra note 96; E.g., Consortium, supra note 89, at 29; *Uganda Country of Origin Report*, supra note 97, at 25.

Individuals suspected of homosexuality-related crimes have been subject to severe cruel, inhuman and degrading treatment in police custody.<sup>100</sup> For example, there are reports that police arrested LGBTI individuals and forced them to strip, sometimes publicly, to determine whether they were men or women.<sup>101</sup> Police and forensic medical examiners systematically conduct “anal examinations” to suspected perpetrators and victims of “homosexuality” related crimes.<sup>102</sup> Without obtaining consent from the accused, police officers take individuals in custody to doctors who forcibly insert[] their “fingers in the rectum to determine the circumference of the rectum and locate any signs of rectum penetration.”<sup>103</sup> Doctors and victims subjected to anal probing report that police officers order suspects or victims to remove their clothing, and either to bend over or to lie on an examination table with one leg up while the examiner looks for bruising, lesions, or sexually transmitted infections and then inserts fingers or other objects into their rectums to test “anal tone” for signs of penetration.<sup>104</sup>

Police have also forced suspects to appear before media outlets while reporters photograph them and publicly read their police statements.<sup>105</sup> Such public humiliation, media parading, and “outing” puts LGBTI individuals at risk for additional violence or harms within their communities. For instance, one LGBTI individual reported that, after police arrested him and paraded him before the media, an “anti-gay vigilante group” in his community tried to lynch him.<sup>106</sup>

The Ugandan police have also been accused of extortion against LGBTI people, which usually takes the form of a police officer’s threat to “out” LGBTI people by informing others about the individual’s sexuality.<sup>107</sup>

Sexual violence at the hands of non-state actors has been reported, with little or no recourse to state institutions to file a complaint or receive active investigation of the crime. LGBTI

<sup>100</sup> Consortium, *supra* note 89, at 24-29; *See also* Mukasa, AHRLR 248, at 3-4.

<sup>101</sup> Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 12 (quoting Interview #6 with member of FARUG on Aug. 31, 2010) (“the two female officers came in and stripped me and touched my private parts.”); *Id.* (“in most cases with the arrests that I’ve had there’s that element of stripping which up to now, what I think about it, actually brings tears to my eyes.”); Danish Refugee Council, *Situation of LGBT Persons in Uganda, Joint Report from the Danish Immigration Service’s and the Danish Refugee Council’s fact finding mission to Kampala, Uganda from 16 to 25 June 2013*, 45 (Jan. 2014), <https://www.nyidanmark.dk/NR/rdonlyres/C0BC7D6B-C3E0-46DA-B151-EA7A28E4362F/0/SituationofLGBTpersonsInUgandaFinal.pdf> (“A list of the complaints filed by LGBT individuals [with UHRC]: . . . Undressing victims to check for exact gender”). *See also*, Mukasa, AHRLR 248, at 3 (finding that when a female taken into custody had been forced to urinate on herself, strip naked in front of male authorities to prove her sex, and was sexually assaulted, it amounted to cruel, inhuman and degrading treatment). *See also*, Glenna Gordon, *Being Gay in Uganda: One Couple’s Story*, Time World, (Mar. 8, 2010), <http://www.time.com/time/world/article/0,8599,1969667,00.html>.

<sup>102</sup> Chapter Four, *supra* note 93, 10-11.

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 25.

<sup>106</sup> *Id.* at 26.

<sup>107</sup> International Gay & Lesbian Human Rights Commission, *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* 8 (2006), available at <http://www.iglhrc.org/sites/default/files/105-1.pdf> (“The police themselves often act as the blackmailer, and when they are not, they are still often complicit in the crime.”). *See also*, Danish Refugee Council, *supra* note 101 at 21; *Rule by law*, *supra* note 89 at 34.

individuals have faced rape or other forms of sexual violence at the hands of other Ugandans who find out or suspect they are LGBTI.<sup>108</sup> There are also reports of “corrective rape,” sometimes organized by family members, as an attempt to change the individual’s sexual orientation.<sup>109</sup> Some individuals also report that, when family members found out that they were gay, the family forced them into marriage in order to prevent the community from finding out their sexuality.<sup>110</sup>

b. Denial of Health Care Access, including Sexual Health Services, and HIV Testing and Treatment, for LGBTI Individuals (Indicators 7.2, 7.7 & 7.8)

There has been a particularly concerning impact on sexual health services offered to LGBTI people. In 2006, the Uganda AIDS Commission stated that gays and lesbians were omitted from the “national strategic framework, because the practice of homosexuality is illegal.”<sup>111</sup> Since the AHB was first introduced in Parliament in 2009, LGBTI people have experienced a further decrease in access to physical and mental health services.<sup>112</sup> Specifically, the law’s prohibition on “promoting homosexuality” has resulted in severe discrimination against LGBTI people in Uganda in obtaining healthcare, endangering lives and health. A health care provider to the gay population in Kampala, Most At Risk Populations Initiative, or MARPI, reported a marked decrease from ten to three LGBT patient visits per week between 2008 and 2010.<sup>113</sup> Transgender women are reluctant to go for medical assistance and tests, fearing they will have to justify their sexuality and gender identity to health care providers.<sup>114</sup>

The International HIV/AIDS Alliance warned that anti-gay legislation would add to this number, especially among those most at risk, such as gay and transgender people.<sup>115</sup> The denial of or limitations on access to health services appears to have had such an impact on HIV rates.

<sup>108</sup> E.g., Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 11 (quoting Interview #4 with member of FARUG on Aug. 30, 2010, with interviewee recounting that “...they said ‘you remind us, aren’t you that lesbian that lives up there with your funny girlfriend?’ (...) they told me to close my eyes. So one does his thing and I’m like you’re done, can I please go? The man says, ‘No, it’s my turn now.’”).

<sup>109</sup> *Uganda Country of Origin Report*, *supra* note 97, at 33 (“In some ‘curative’ rape cases, the attackers are members of the victim’s family or neighbors.”). See also Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 9 (“LBT/kuchu people are verbally and physically attacked and raped in the public sphere and in private, by police, by teachers, by neighbours, by family members, and by strangers.”).

<sup>110</sup> Danish Refugee Council, *supra* note 101, at 57.

<sup>111</sup> *Uganda Stuck in the Closet: Gays Left Out of HIV/AIDS Strategy*, IRIN (Mar. 17, 2006), <http://www.irinnews.org/report/39429/uganda-stuck-in-the-closet-gays-left-out-of-hiv-aids-strategy>; J. Oloka-Onyango, ‘We Are More Than Just Our Bodies’: HIV/AIDS and the Human Rights Complexities Affecting Young Women who have Sex with Women in Uganda 36 (2012).

<sup>112</sup> *Rule by law*, *supra* note 89, at 61.

<sup>113</sup> Homas Muyunga, *Effects of a Two Year Sustained Anti-Gay Campaign on Health Seeking Behaviour of the Sexual Minorities in Uganda*, 1 (Jan. 10, 2010),

<http://www.msmgf.org/files/msmgf/SubSaharanAfrica/EffectsUganda.pdf>.

<sup>114</sup> *Uganda Country of Origin Report*, *supra* note 97 (citing *Ugandan Transwomen Demand an End to Gender Based Violence and Institutional Prejudice against Them*, Transgender Equality Uganda (Nov. 30, 2012)).

<sup>115</sup> Int’l HIV/AIDS Alliance, *Uganda’s “Anti-Homosexuality” Bill Will Have a Disastrous Impact on Country’s HIV Response*, Thomson Reuters Foundation (Dec. 20, 2013), <http://www.trust.org/item/20131220135510-8rqz9/?source=hptop>.

According to the latest estimates from UNAIDS (2013), the number of Ugandans living with HIV has increased from 1.2 million in 2007 to 1.6 million in 2013.<sup>116</sup>

During the five months the AHA was in effect, LGBTI individuals faced increased levels of discrimination and denial of necessary health care treatment at some clinics.<sup>117</sup> The AHA criminalized “promoting homosexuality” in terms so vague that health care providers feared prosecution for treating LGBTI HIV/AIDS patients, resulting in a chilling effect on providing care. Following the April 3, 2014 police raid of the U.S.-funded Makerere University Walter Reed Project, known for its HIV/AIDS services to LGBT people,<sup>118</sup> there was a drop in both available sexual health services and the number of HIV-positive LGBTI individuals pursuing treatment due to an increased fear of police raids and arrests.<sup>119</sup> Icebreakers, an organization operating a clinic providing free medical services to LGBTI people, reported a 50 percent decrease in visits by LGBTI people when the AHA was in effect.<sup>120</sup> In August 2014, Prime Minister Ruhakana Rugunda, the former Ugandan Minister of Health, acknowledged the existence of discrimination against gay men and sex workers at health centers and noted that the government lacked the capacity to address it.<sup>121</sup>

The negative health impact of the AHA was further compounded by the HIV and AIDS Prevention Control Act, signed into law on July 31, 2014,<sup>122</sup> which threatens to further discourage LGBTI people from seeking HIV/AIDS medical assistance because it criminalizes attempted and intentional transmission of HIV.<sup>123</sup> These retributive provisions will further stigmatize and cause greater discrimination against those living with HIV/AIDS.

c. Increasing Discrimination and Violence Perpetrated against LGBTI Individuals in Work, Housing and Education (Indicators 7.3, 7.8, 7.9, 11.1, 11.3, 12.9 & 12.10)

The media’s propaganda campaigns and criminalization of LGBTI individuals have resulted in a hostile environment in which state and non-state actors have taken a number of oppressive and discriminating initiatives against members of the LGBTI community, especially in the workplace, in housing, and in educational institutions. Particularly effective anti-LGBTI rhetoric is the campaign against those who “promote homosexuality” and the idea that homosexuality is a

<sup>116</sup> Uganda AIDS Commission, *The Republic of Uganda: HIV and AIDS Uganda Country Progress Report VI* (2013), [http://www.unaids.org/sites/default/files/country/documents/UGA\\_narrative\\_report\\_2014.pdf](http://www.unaids.org/sites/default/files/country/documents/UGA_narrative_report_2014.pdf).

<sup>117</sup> *Rule by law*, *supra* note 89, at 62.

<sup>118</sup> The program was temporarily shut down for allegedly “training youths in homosexuality.” The police also arrested one of the clinic’s employees for “unethical research” and “recruiting homosexuals.” See Press Release, U.S. Dep’t of St., *Raid on the Makerere University Walter Reed Project by Ugandan Authorities* (Apr. 4, 2014), <http://www.state.gov/r/pa/prs/ps/2014/04/224431.htm>; see also Rodney Muhumuza, *Uganda’s Makerere University Walter Reed Project Raided in Wake of Anti-Gay Law*, Huffpost (Apr. 4, 2014), [http://www.huffingtonpost.com/2014/04/04/uganda-aids-group-gay-law\\_n\\_5092692.html](http://www.huffingtonpost.com/2014/04/04/uganda-aids-group-gay-law_n_5092692.html).

<sup>119</sup> *Rule by law*, *supra* note 89, at 62–63.

<sup>120</sup> *Id.* at 63.

<sup>121</sup> Maria Burnett, *President Kim's Clarion Call*, World Post (Oct. 07, 2014, 5:44 PM), [http://www.huffingtonpost.com/maria-burnett/president-kims-clarion-ca\\_b\\_5948676.html](http://www.huffingtonpost.com/maria-burnett/president-kims-clarion-ca_b_5948676.html).

<sup>122</sup> The HIV and AIDS Prevention Control Act (2014) (Uganda), available at <https://www.scribd.com/doc/237225003/Signed-Ugandan-HIV-and-AIDS-Prevention-and-Control-Act-2014>.

<sup>123</sup> *Id.* at §§41, 43.

personal lifestyle choice into which individuals—especially children and youth—can be recruited.<sup>124</sup> Individuals and NGOs who might otherwise aim to protect LGBTI people have thus become vulnerable to criminal arrests, prosecutions and convictions “for promoting” or “aiding and abetting” homosexuality, which could involve merely tolerating LGBTI people at work, at school, as tenants and members of the household, or as customers.

Discrimination and harassment in the workplace are reportedly common and have increased as a result of the propaganda and criminalization efforts against LGBTI people. Individuals who are LGBTI have been denied employment or harassed on the basis of their appearance, sexual orientation or gender.<sup>125</sup> Sometimes people will leave their jobs before they can be “outed,” as the potential of being exposed as an LGBTI individual puts them at risk of various forms of violence, including rape and other physical or sexual assault, in the community.<sup>126</sup>

Additionally, increased housing discrimination and forced evictions have been reported since the enactment of the AHA. By making it a crime for individuals to own, occupy or manage a property and knowingly allow same-sex sexual activity in it, Uganda legalized direct discrimination against LGBTI individuals in housing.<sup>127</sup> There have been a number of reports by LGBTI persons that landlords evicted them after the enactment of the AHA; these LGBTI individuals are then left vulnerable, which sometimes causes them to seek refuge in other cities or countries.<sup>128</sup>

There have also been reports that school officials frequently expel people from school for being suspected of or caught engaging in intimate relations with a person of the same sex or because they are known or perceived to be LGBTI.<sup>129</sup> In 2005, the Ugandan Ministry of Education

<sup>124</sup> Kristen Cheney, *Locating Neocolonialism, “Tradition,” and Human Rights in Uganda’s “Gay Death Penalty”* 55 *Afr. Stud. Rev.* 77, 84, 89 (2012),

[https://muse.jhu.edu/login?auth=0&type=summary&url=/journals/african\\_studies\\_review/v055/55.2.cheney.pdf](https://muse.jhu.edu/login?auth=0&type=summary&url=/journals/african_studies_review/v055/55.2.cheney.pdf).

<sup>125</sup> Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 25 (quoting Interview #8 with member of FARUG on Aug. 31, 2010: “In my case I’ve really tried to apply for job, and when they look at me . . . then someone tells me, ‘but you have to change your dress code, you have to.’”) (quoting Interview #4 with member of FARUG on Aug. 30, 2010: “they tried to sexually harass me . . . so [the boss] asked me, it’s taken me four years to ask this question, are you a lesbian? (...) I told him, I hope you don’t use this against me some day, yes I am and he said, awesome so how do you guys do it? (...) he was under a lot of pressure, he had to write a letter to sack me.”).

<sup>126</sup> *E.g.*, Danish Refugee Council, *supra* note 101, at 56 (“According to the Co-coordinators Clare Byarugaba and Geoffrey Ogwaro of the CSCHRCL, LGBT individuals face harassment at the workplace. The CSCHRCL had knowledge about direct harassment by employers and/or colleagues, as well as indirect harassment, where LGBT persons had left their job out of fear of being outed as an LGBT person.”); Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 25 (quoting Interview #11 with member of FARUG on Aug. 30, 2010: “my workmates didn’t like me due to the fact that they were suspecting something . . . they blamed me leaving the job by blackmailing me so I decided to leave by myself . . .”).

<sup>127</sup> The Anti-Homosexuality Act § 11(2) (2014) (Uganda), available at <http://www.ulii.org/files/Anti-Homosexuality-Act-2014.pdf>.

<sup>128</sup> Danish Refugee Council, *supra* note 101, at 54–55; see *Uganda Country of Origin Report*, *supra* note 97, at 48. See also, Brydum, *supra* note 95.

<sup>129</sup> *E.g.*, Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 20 (quoting Interview #9 with member of FARUG on August 31, 2010: “I was even expelled in a certain school, in college, because girls were fighting for me.”). *Id.* (quoting Interview #1: “Most trans people are forced out of school or they drop out . . . are punished (...) you either have to fight or drop out of be forced out of your school.”); Danish Refugee Council, *supra* note 101, at 66 (A list of the complaints filed by LGBT with UHRC included “[d]ismissal from school on grounds of sexual orientation.”).

warned that any students caught engaging in “homosexual activity” would be suspended indefinitely.<sup>130</sup> School officials have accused LGBTI individuals of “teaching people how to become lesbians” or “spoiling the school.”<sup>131</sup>

### 3. Inflammatory Rhetoric and Propaganda Campaigns (Indicators 7.12, 7.13, 7.14 & 12.8)

#### a. Religious and Political Leaders’ Rhetoric and Campaigns Against LGBTI Ugandans

Eighty-five percent of its population identifies as Christian.<sup>132</sup> A significant portion of practicing Christians can be categorized as Protestant.<sup>133</sup> A number of Christian congregations in Uganda are connected with anti-gay evangelicals and leaders in the U.S.<sup>134</sup>

Morality and religion play an integral role in Ugandan political decisions,<sup>135</sup> and political and religious leaders have used these value systems to motivate and mobilize for the passage of anti-LGBTI legislation and other discrimination against LGBTI.<sup>136</sup>

The long-standing instability of Ugandan political and communal relationships provides a further context in which the salience of a common enemy can prove useful in mobilizing political or social consensus in times of crisis. Over the last decade, religious and political leaders in

<sup>130</sup> Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 47. *See also* F. Ahimbisibwe, *Students Warned on Homosexuality*, New Vision (Feb. 4, 2005), <http://www.newvision.co.ug/D/8/13/416267>.

<sup>131</sup> *E.g.*, Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 20–21 (quoting Interview #10 with member of FARUG on Sept. 1, 2010: “I was expelled from school, because I was a lesbian, spoiling the school.”); *Id.* (quoting Interview #4 with member of FARUG on Aug. 30, 2010: “In school I was expelled because the father [of a girl who had written me a note] thought I was teaching the girls how to be lesbians, teaching people how to become lesbians (...) when I was expelled they didn’t give me a specific reason, they just gave me a note and said you have to give it to your mother...and she said, is this what I send you to school for? So she threw me out.”).

<sup>132</sup> U.S. Dep’t of St., Bureau of Democracy, Hum. Rts., and Lab., *2013 Report on International Religious Freedom* (2014), <http://www.state.gov/documents/organization/222321.pdf> (“According to government data, 85 percent is Christian, 12 percent Muslim, and 3 percent Hindu, Jewish, or Bahai or adheres to indigenous beliefs. Among Christians, 42 percent are Roman Catholics, 36 percent Anglicans, 15 percent Pentecostal or Orthodox Christians, and 7 percent members of evangelical groups.”).

<sup>133</sup> Central Intelligence Agency (CIA), *The World Fact Book*, <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html> (last updated Sept. 25, 2015); Uganda Bureau of Statistics, *National Population and Housing Census 2014: Provisional Results* (rev. ed. 2014), available at <http://www.ubos.org/onlinefiles/uploads/ubos/NPHC/NPHC%202014%20PROVISIONAL%20RESULTS%20REPORT.pdf>.

<sup>134</sup> Kapya Kaoma, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia*, Political Research Associations (2009), <http://www.politicalresearch.org/wp-content/uploads/downloads/2012/11/africa-full-report.pdf>.

<sup>135</sup> Ben Jones, *The Church in the Village, the Village in the Church: Pentecostalism in Teso, Uganda*. 178 *Cahiers d’Études africaines* 497, 497 (2005).

<sup>136</sup> *See* Daisy Carrington, *On homosexuality: Uganda’s religious leaders*, CNN (Oct. 16, 2014, 11:04 AM), <http://www.cnn.com/2014/10/16/world/africa/on-homosexuality-ugandas-religious-leaders/>; Daniella Zalcmán, *Faces of Faith: Where Religious Leaders in Uganda Stand on LGBT Rights*, Mashable (Sept. 30, 2014), [http://mashable.com/2014/09/30/faces-of-faith-where-religious-leaders-in-uganda-stand-on-the-lgbt-community/#\\_k3taNxiF8qy](http://mashable.com/2014/09/30/faces-of-faith-where-religious-leaders-in-uganda-stand-on-the-lgbt-community/#_k3taNxiF8qy); Bahati, *Ssempe Face Possible ICC Arrest over Anti-Gay Bill*, Redpepper (Sept. 16, 2013), <http://www.redpepper.co.ug/bahatisempe-face-possible-icc-arrest-over-anti-gay-bill/>.

Uganda—with significant guidance from foreign religious and conservative actors—have elaborated and promulgated a growing picture of the Ugandan LGBTI community as amoral and predatory.<sup>137</sup>

Religious leaders portray the LGBTI community as threatening religious doctrine and belief, violating traditional African norms of family and child rearing, and destroying the health and decorum of a sound society.<sup>138</sup> This view has created an inflamed atmosphere in which the expanding discrimination and restrictions or removal of legal rights is taking place. Public actors—including government officials and police officers—and ordinary people alike deliberately discriminate, harass and intentionally commit violence against this population by violent speech, acts and oppression.<sup>139</sup> In this context, expanding criminalization of homosexuality can become a “pretext” or justification for mob violence against LGBTI people.<sup>140</sup>

These developments are dangerous when viewed through an atrocity lens.<sup>141</sup> Enabling conditions already exist for possible trigger events or unfolding tensions to precipitate mob actions against LGBTI Ugandans as scapegoats, or to permit organized official campaigns of escalating violence against this population to distract from internal or external fissiparous threats.<sup>142</sup>

This strategy especially holds when members of the target group are difficult to identify outwardly, as is the case with many LGBTI people. Even though more members of the LGBTI community are beginning to seek solidarity and visibility, few LGBTI Ugandans identify themselves as LGBTI.<sup>143</sup>

<sup>137</sup> See, e.g., Cheney, *supra* note 124, at 77, 89; Kapyia Kaoma, *Top Uganda Politician: Western Gays Adopting Children to Turn Them Gay*, Pol. Res. Assoc. (Dec. 3, 2014), <http://www.politicalresearch.org/2014/12/03/top-uganda-politician-western-gays-adopting-children-to-turn-them-gay/#sthash.pgmATkKG.dpbs>.

<sup>138</sup> See e.g., Morrison Rwakakamba, *Uganda's 'Kill the Gays' bill: Pastor Martin Ssempe and the Anti-Gay Lobby*, Transformation (Mar. 25, 2014), <https://www.opendemocracy.net/transformation/morrison-rwakakamba/ugandas-kill-gays-bill-pastor-martin-ssempe-and-antigay-lobby>; Preamble to The Anti-Homosexuality Bill, No. 18 (2009), Uganda Gazette Supplement No. 47 § 1.1, available at <http://www.boxturtlebulletin.com/btb/wp-content/uploads/2009/10/Bill-No-18-Anti-Homosexuality-Bill-2009.pdf> (“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. There is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.”). See also, Cheney, *supra* note 124, at 80, 82, 86.

<sup>139</sup> *Rule by law*, *supra* note 89, at 46–54.

<sup>140</sup> Consortium, *supra* note 89, at 24, 29.

<sup>141</sup> Alex J. Bellamy, *Operationalizing the 'Atrocity Prevention Lens': Making Prevention a Living Reality*, in *Reconstructing Atrocity Prevention* (Sheri Rosenberg et al., eds., 2015).

<sup>142</sup> See Sylvia Tamale, *Confronting the Politics of Nonconforming Sexualities in Africa*, 56 Afr. Stud. Rev. 31, 33 (2013), [http://muse.jhu.edu/journals/african\\_studies\\_review/v056/56.2.tamale.pdf](http://muse.jhu.edu/journals/african_studies_review/v056/56.2.tamale.pdf); see also *Rule by law*, *supra* note 89, at 46–54.

<sup>143</sup> See Prince Karakire, *Revisiting Homophobia in Times of Solidarity, Identity, and Visibility in Uganda*, VI Rupkatha J. 2, 97–107 (2014). See also, Human Rights Awareness and Promotional Forum and Civil Society Coalition on Human Rights and Constitutional Law, *Protecting 'Morals' by Dehumanising Suspected LGBTI Persons? A Critique of the Enforcement of the Laws Criminalising Same-Sex Conduct in Uganda* (2013), [http://www.hrpf.org/sites/default/files/publications/section\\_145\\_research\\_report\\_full\\_version.pdf](http://www.hrpf.org/sites/default/files/publications/section_145_research_report_full_version.pdf).

In general, criminal prosecutions under anti-sodomy laws have been difficult to prove in court because of the inherently private nature of the illegal conduct.<sup>144</sup> Thus, regimes seeking to criminalize LGBTI people must gain widespread public support in order for citizens to act as informers and enforcers of the persecutory laws.<sup>145</sup> Due to their leadership status, popular influence, and public stature, politicians, religious leaders, and the media each may play a role in creating an atmosphere of widespread discrimination and antipathy against members of the target group, and thereby facilitate the public to support, either actively or passively, antagonistic measures or outright violence against the stigmatized population.<sup>146</sup> Frequent failures to find sufficient evidence to convict individuals under anti-sodomy laws combined with successfully creating widespread anti-LGBTI public sentiment means that much of the damage to LGBTI individuals happens as a result of campaigns of public “outing” and the consequent abuse in mob violence scenarios and during arrest and detainment.

Scholars have found that inflammatory speech is a catalyst<sup>147</sup>—and therefore an important indicator<sup>148</sup>—of mass violence against specific targets. Factors include: (1) the power of the speaker, (2) the susceptibility of the audience to the speaker’s message, (3) a clear call to violence, (4) the social and historical context, and (5) the level of influence of the means of transmission.<sup>149</sup> These preconditions are well fulfilled in Uganda. High-level government officials, for example, have made public statements containing vitriolic rhetoric that encourage discrimination and violence against LGBTI people.<sup>150</sup> Public identification and “outing” of

<sup>144</sup> *Proud Heritage: People, Issues, and Documents of the LGBT Experience Vol. 1* 781 (Chuck Stewart ed., 2015); see also, Sylvia Tamale, *Confronting the Politics of Nonconforming Sexualities in Africa*, 56 *Afr. Stud. Rev.* 31, 37, (2013), [http://muse.jhu.edu/journals/african\\_studies\\_review/v056/56.2.tamale.pdf](http://muse.jhu.edu/journals/african_studies_review/v056/56.2.tamale.pdf); Michael Hollander, *Gay Rights in Uganda: Seeking to Overturn Uganda’s Anti-Sodomy Laws*, 50 *Va. J. of Int’l L.* 219, 221 (2009), <http://www.vjil.org/assets/pdfs/vol50/issue1/Hollander-Final-10-27.pdf> (“Like their statutory counterparts in the United States prior to the U.S. Supreme Court’s decision in *Lawrence v. Texas*, the Ugandan antisodomy laws are rarely, if ever, enforced.”).

<sup>145</sup> See generally *Nabagesera*, UGHCCD 85, (denying Plaintiffs’ request for an injunction, in a case concerning “promoting” same sex activity that was largely supported by affidavits).

<sup>146</sup> See *Rule by law*, *supra* note 89, at 8.

<sup>147</sup> *Propaganda, War Crimes Trials and International Law: From Speakers’ Corner to War Crimes* 254 (Predrag Dojcinovic ed., 2012); see also Susan Benesch, *Dangerous Speech: A Proposal to Prevent Group Violence*, The Dangerous Speech Project (2012), <http://www.worldpolicy.org/sites/default/files/Dangerous%20Speech%20Guidelines%20Benesch%20January%202012.pdf>.

<sup>148</sup> UN Framework of Analysis, *supra* note 1. A recent study of the Rwandan genocide finds empirical evidence of a causal link between inflammatory speech and anti-Tutsi violence. The evidence presented not only demonstrated the impact of inflammatory speech on the immediate audience but also its indirect impact on others through a wide range of social and economic interactions. See David Yanagizawa-Drott, *Propaganda and Conflict: Evidence from the Rwandan Genocide* (2014), <http://www.hks.harvard.edu/fs/dyanagi/Research/RwandaDYD.pdf>. A brief submitted to the U.N. Office of the Special Adviser on the Prevention of Genocide and the Responsibility to Protect recounted escalating hate speech against the Roma in Hungary as an early warning of increasing mass atrocity crimes against that population. See FXB Center for Health & Human Rights, *Accelerating Patterns of Anti-Roma Violence in Hungary* (2014), available at <http://cdn2.sph.harvard.edu/wp-content/uploads/sites/5/2014/02/FXB-Hungary-Report-Released-February-4-2014.pdf> (last visited Oct. 27, 2015).

<sup>149</sup> Benesch, *supra* note 148.

<sup>150</sup> See, e.g., Elizabeth Landau et. al., *Uganda president: Homosexuals are ‘disgusting’*, CNN (Feb. 25, 2014, 9:03 AM), <http://www.cnn.com/2014/02/24/WORLD/AFRICA/UGANDA-HOMOSEXUALITY-INTERVIEW/>; *Homos Targeting Kindergartens, Says Bahati*, Red Pepper (Nov. 5, 2015), <http://www.redpepper.co.ug/homos-targeting-kindergartens-says-bahati/>; Philippa Croome, *Uganda’s Gays Fear Mounting Violence in Wake of Anti-Gay Bill’s*

suspected LGBTI individuals and groups have become routine in the last ten years,<sup>151</sup> while inflammatory speech directed against the LGBTI community has been disseminated through a variety of channels including all levels of public pronouncement by government and parliamentary officials, religious leaders, and a wide range of state and private media outlets.<sup>152</sup>

The content of public messaging has been deeply stigmatizing and exposing,<sup>153</sup> encouraging of physical abuse,<sup>154</sup> imprisonment,<sup>155</sup> forced expulsion,<sup>156</sup> and even murder.<sup>157</sup> For instance, in 2007, former Minister of Justice and Chairman of the Uganda Land Commission J.S. Mayanja-Nkangi branded LGBTI people a “sexually predatory group” and “morally corrupt,” whose effects on Uganda “must be erased.”<sup>158</sup> In 2010, Member of Parliament Odonga Otto publicly stated that gays should suffer death by hanging and public stoning.<sup>159</sup>

There also exists a mobilizing power of the embedded argument against the LGBTI community: President Museveni and other leaders invoke an implied threat to bedrock religious values and play upon a growing anxiety about the pernicious challenge of Western modernity to established traditional norms of family and community.<sup>160</sup> For example, President Museveni publicly stated

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*Passage*, CNN (Dec. 23, 2013, 7:45 PM), <http://www.cnn.com/2013/12/23/world/africa/uganda-anti-gay-bill/> (quoting Simon Lokodo, Uganda’s Minister for Ethics and Integrity, stating that “[w]hat we are convinced and sure of is that nobody can in one’s right conscience and consciousness choose to be homosexual. . . . This must be under pressure or conditions because we know that the natural tendency is always for a male to go for a female and vice-versa.”).

<sup>151</sup> See *100 Pictures of Uganda’s Top Homos Leak*, Rolling Stone (Uganda) (Oct. 2, 2010); see also *Kasha Jacqueline, Pepe Onziema & David Kato v. Giles Muhame & Rolling Stone Publications Ltd.* (2011) Misc. Cause No. 163/2010 1, 9 (Uganda), available at [http://www1.chr.up.ac.za/images/files/documents/smr/cases/SMR-Jacqueline%20Kasha%20&%20Others%20v.%20Rolling%20Stone%20Ltd%20\(2010\).PDF](http://www1.chr.up.ac.za/images/files/documents/smr/cases/SMR-Jacqueline%20Kasha%20&%20Others%20v.%20Rolling%20Stone%20Ltd%20(2010).PDF); *Exposed! Uganda’s 200 Top Homos Named*, Redpepper (Feb. 25, 2014); see also *Ugandan ‘homosexuals’ named in Red Pepper paper*, BBC News (Feb. 25, 2014), <http://www.bbc.com/news/world-africa-26338941>.

<sup>152</sup> See, e.g., Elizabeth Landau et. al., *Uganda president: Homosexuals are ‘disgusting’*, CNN (Feb. 25, 2014, 9:03 AM), <http://www.cnn.com/2014/02/24/WORLD/AFRICA/UGANDA-HOMOSEXUALITY-INTERVIEW/>; Kapyia Kaoma, *Top Uganda Politician: Western Gays Adopting Children to Turn Them Gay*, Pol. Res. Assoc. (Dec. 3, 2014), <http://www.politicalresearch.org/2014/12/03/top-uganda-politician-western-gays-adopting-children-to-turn-them-gay/#sthash.pgmATkKG.dpbs>; *100 Pictures of Uganda’s Top Homos Leak*, Rolling Stone (Uganda) (Oct. 2, 2010); Dudeuter, *Eat Da Poo Poo: Intense Uganda Hate speech Against Homosexuals*, YouTube (May 24, 2014), <https://www.youtube.com/watch?v=euXQbZDwV0w>.

<sup>153</sup> Danish Refugee Council, *supra* note 101, at 10.

<sup>154</sup> *Id.* at 23.

<sup>155</sup> *Rule by law*, *supra* note 89, at 32.

<sup>156</sup> Int’l Gay and Lesbian Hum. Rts. Comm’n, *supra* note 93, at 20.

<sup>157</sup> *100 Pictures of Uganda’s Top Homos Leak*, Rolling Stone (Oct. 2, 2010) (containing pages with certain individuals’ information under the headline “hang them”).

<sup>158</sup> J.S. Mayanja-Nkangi, *Homosexuals, Lesbians, Erode National Decency*, New Vision (Dec. 16, 2007), <http://www.newvision.co.ug/D/8/459/602379>.

<sup>159</sup> Ondonga Otto, *MP’s FORUM: I Can’t Believe Some People’s Stand on Gays*, THE OBSERVER, Feb. 28, 2010, [https://web.archive.org/web/20100302201716/http://www.observer.ug/index.php?option=com\\_content&task=view&id=7449&Itemid=66](https://web.archive.org/web/20100302201716/http://www.observer.ug/index.php?option=com_content&task=view&id=7449&Itemid=66); Human Rights First, *Communities Under Siege: LGBTI Rights Abuses in Uganda*, <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf> (last visited Oct. 2, 2015); see also *Uganda Country of Origin Report*, *supra* note 97, at 38.

<sup>160</sup> Preamble to The Anti-Homosexuality Bill, No. 18 (2009), Uganda Gazette Supplement No. 47 § 1.1, available at <http://www.boxturtlebulletin.com/btb/wp-content/uploads/2009/10/Bill-No-18-Anti-Homosexuality-Bill-2009.pdf> (“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

that homosexuality was “a decadent culture . . . being passed by Western nations . . . [and] a danger not only to the [Christian] believers but to the whole of Africa.”<sup>161</sup> In other words, according to political and religious leaders’ rhetoric, LGBTI individuals are responsible for the erosion of family and community values in Uganda.<sup>162</sup>

b. Media “Outing” Campaigns (Indicator 11.4)

Major media outlets in Uganda have echoed the homophobic declarations and political decisions of political and religious leaders. The media’s most dangerous tactic is the “outing” campaign, whereby media outlets specifically identify and single out alleged LGBTI individuals to the police and the public for discrimination and violence. For example, the *Rolling Stone*, a tabloid newspaper, has published the names, pictures and other identifying information about individuals who they claim are LGBTI.<sup>163</sup> The *Red Pepper* also invites the public to contribute names to support its “outing” campaign.<sup>164</sup> Despite the 2010 judgment by the Ugandan High Court holding that such lists produced by the media violate the right to privacy,<sup>165</sup> newspapers have continued to engage in these tactics.<sup>166</sup>

c. Escalating Dangerous Speech Against the LGBTI Community (Indicator 7.14)

The escalation and accelerating pace of dangerous speech, campaigns and government legal action against the gay population in Uganda invokes a crucial analytic component of the U.N. Framework. Early warning for atrocity is grounded on an assessment of timeframe: how recent are the events, how rapidly are they accumulating, and what evidence is there of incitement linked to the pace of events. This information lends empirical credence to the concern of seasoned observers that a campaign against vulnerable groups is underway and becoming more hostile; that it may become progressively more violent against individual members of the group;

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sexual rights activists seeking to impose their values of sexual promiscuity on the people of Uganda. There is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.”). See also, Cheney, *supra* note 126, at 80, 82, 86.

<sup>161</sup> Gupta, *supra* note 17, at 3-4.

<sup>162</sup> Faith Karimi and Nick Thompson, *Uganda's President Museveni signs controversial anti-gay bill into law*, CNN (Feb. 25, 2014, 9:00 AM), <http://www.cnn.com/2014/02/24/world/africa/uganda-anti-gay-bill/>; Morrison Rwakakamba, *Uganda's 'Kill the Gays' Bill: Pastor Martin Ssempe and the Anti-Gay Lobby*, Transformation (Mar. 25, 2014), <https://www.opendemocracy.net/transformation/morrison-rwakakamba/ugandas-kill-gays-bill-pastor-martin-ssempe-and-antigay-lobby>.

<sup>163</sup> *100 Pictures of Uganda's Top Homos Leak*, Rolling Stone (Oct. 2, 2010).

<sup>164</sup> Cecilia Strand, *Homophobia as a Barrier to Comprehensive Media Coverage of the Ugandan Anti-Homosexual Bill*, 59 J. of Homosexuality 564, 567-68 (2012). In addition to *Red Pepper*, other newspapers have contributed to “outing” campaigns. See, e.g., Jim Burroway, *Second Ugandan Tabloid Gets Into the “Outing” Act*, Box Turtle Bulletin (Nov. 1, 2010), <http://www.boxturtlebulletin.com/2010/11/01/27680> (reproducing an image of a Ugandan Newspaper, the *Sunday Onion*, which featured a front page headline purporting to expose LGBT persons).

<sup>165</sup> Kasha Jacqueline, Pepe Onziema & David Kato v. Giles Muhame & Rolling Stone Publications Ltd.(2011) Misc. Cause No. 163/2010 1, 9 (Uganda), available at [http://www1.chr.up.ac.za/images/files/documents/smr/cases/SMR-Jacqueline%20Kasha%20%20Others%20v.%20Rolling%20Stone%20Ltd%20\(2010\).PDF](http://www1.chr.up.ac.za/images/files/documents/smr/cases/SMR-Jacqueline%20Kasha%20%20Others%20v.%20Rolling%20Stone%20Ltd%20(2010).PDF).

<sup>166</sup> *Exposed! Uganda's 200 Top Homos Named*, Redpepper (Feb. 25, 2014); see also Ugandan 'homosexuals' named in Red Pepper paper, BBC News (Feb. 25, 2014), <http://www.bbc.com/news/world-africa-26338941> (discussing the *Redpepper*'s publication of individuals who are homosexual).

and that potentially this campaign—whether explicitly directed or now more spontaneous and hard to control—might ignite outright violence against the entire group.

This attention to time span and acceleration is mediated by understanding gleaned through historical analysis of mass atrocity and genocide. The factors contributing to the possible eruption of widespread atrocity may accumulate over decades, may accelerate in number and intensity in the course of a year or even a few months, and may continue at a steady smoldering state for an indefinite period thereafter or erupt into atrocities. In other words, assessing *precisely* in terms of time and action when and how intermittent assaults may explode into a more widespread atrocity crime is not feasible, and thus beyond the horizon of predictive capacity. What, as an expert I can discern is that, at a certain point of cumulative stigmatization and popular mobilization, the odds of impending atrocities radically increase.

The following timeline of events is a useful barometer of the evolving events in Uganda affecting the LGBTI community. It, by definition, cannot be comprehensive. However, it illustrates the acceleration of dangerous speech, oppression and severe deprivation of fundamental rights against the LGBTI community in Uganda.

4. Illustrative Timeline of Escalating Dangerous Speech, Oppression & Severe Deprivation of Fundamental Rights Against LGBTI Ugandans

**Table 7: Timeline of Escalating Dangerous Speech, Oppression & Severe Deprivation of Fundamental Rights Against LGBTI Ugandans**

Date	Escalating Dangerous Speech, Oppression & Severe Deprivation of Fundamental Rights Against LGBTI Ugandans
1990	Uganda raised the penalty for violating Penal Code Act, Section 145 to life imprisonment. State officials later used the law to justify excluding LGBTI individuals from HIV/AIDS treatment programs. <sup>167</sup>
July 1998	In one of his earliest pronouncements on the LGBTI community, President Museveni publicly professed during a press conference that: “if you have a rally of twenty homosexuals here, I would disperse it.” <sup>168</sup>
September 1999	President Museveni publicly stated that he “told the CID [Criminal Investigations Department] to look for homosexuals, lock them up and charge them.” <sup>169</sup>
2002	Stephen Langa founded the Family Life Network, a conservative Christian anti-abortion, abstinence-only focused, anti-LGBTI organization. <sup>170</sup>
March & June	Scott Lively, a U.S.-based attorney and evangelical minister, made two trips to

<sup>167</sup> Gupta, *supra* note 17 (citing *Government warns UNAIDS over gays*, The Daily Monitor (Nov. 29, 2004)); *Uganda: Stuck in the Closet: Gays Left out of HIV/AIDS Strategy*, Plus News (Mar. 17, 2006), <http://www.plusnews.org/report.aspx?reportid=39429>.

<sup>168</sup> *Id.*; Jonathan Cohen and Tony Tate, Human Rights Watch, *The Less They Know the Better: Abstinence-Only HIV/AIDS Programs in Uganda* VI (2005), <http://www.hrw.org/reports/2005/uganda0305/index.htm> (citing *Museveni warns off homosexuals*, The Monitor (Uganda) (Jul. 22, 1998).

<sup>169</sup> Chris McGreal, *Debt? War? Gays Are The Real Evil, Say African Leaders*, THE GUARDIAN (Oct. 1, 1999), <http://www.theguardian.com/world/1999/oct/02/chrismcgreal>.

<sup>170</sup> Political Research Associates, *Profiles on the Right: Stephen Langa*, <http://www.politicalresearch.org/profiles-on-the-right-stephen-langa/#sthash.AmZsQubd.dpbs> (last visited Oct. 2, 2015); Facebook Profile, Family Life Network (Uganda), [https://www.facebook.com/pages/Family-Life-Network-Uganda/119799578104954?sk=info&tab=page\\_info](https://www.facebook.com/pages/Family-Life-Network-Uganda/119799578104954?sk=info&tab=page_info) (last visited Oct. 2, 2015).

<b>2002</b>	Uganda and spoke about “homosexualization” issues, connecting with Ugandan pastors Stephen Langa and Martin Ssempe. <sup>171</sup> He served as a keynote speaker at a major seminar to address “the globalists who use the sexual revolution” and the “global homosexual movement.” <sup>172</sup> He conducted seminars, media interviews, and met with members of the Kampala City Council, and mayor. <sup>173</sup>
<b>October 2004</b>	As Minister of Information, James Nsaba Buturo made public statements urging both legal action against LGBTI people and censorship of their free expression on many occasions. He ordered police to investigate and “take appropriate action against” a gay association allegedly organized at Makerere University, warning that “activities of foreign funded local groups as well as individuals are threatening to undermine our values.” <sup>174</sup>
<b>October 2004</b>	The government fined and forced the station <i>Radio Simba</i> to publicly apologize for hosting homosexuals and discussing issues related to the LGBTI community. <sup>175</sup>
<b>November 29, 2004</b>	The Ugandan Minister of Information called on the U.N. and Ugandan authorities to exclude LGBTI people from HIV/AIDS programs due to Penal Code Act, Section 145. <sup>176</sup>
<b>July 6, 2005</b>	<i>New Vision</i> , a state-owned newspaper, published an article calling on the government to arrest homosexuals and stifle the media from expressing support for homosexuality: “The police should visit the holes mentioned in the press, spy on the perverts, arrest and prosecute them. Relevant government departments must outlaw or restrict websites, magazines, newspapers and television channels promoting immorality – including homosexuality, lesbianism, pornography, etc.” <sup>177</sup>
<b>July 20, 2005</b>	The police raided the home of prominent trans LGBTI activist, Victor Mukasa, and seized documents related to their work. <sup>178</sup>
<b>September 29, 2005</b>	President Museveni signed a Constitutional amendment banning same-sex marriage and abolishing presidential term limits. <sup>179</sup>
<b>May 1, 2006</b>	Buturo urged East African governments to harmonize information technology policies “to counter the evils of technology like homosexuality and pornographic trade that are morally repugnant to the majority of our peoples.” <sup>180</sup>

<sup>171</sup> Scott Lively, *Witness to Revival in Africa: A Report of the Ministry of Scott and Anne Lively in Uganda, Kenya and Egypt, June 12-25* (2002), <http://www.defendthefamily.com/docs/resources/3038513.pdf>.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> Human Rights Watch, *Letter to Congressional Caucus about US Support for Ugandan Homophobia* (Oct. 11, 2007), <http://www.hrw.org/news/2007/10/10/letter-congressional-caucus-about-us-support-ugandan-homophobia> (citing Mwanguhya Charles Mpigi & Hussein Bogere, *Police told to probe MUK Gays*, *The Daily Monitor* (Oct. 29, 2004)).

<sup>175</sup> *Fine for Uganda Radio Gay Show*, BBC (Oct. 3, 2004), <http://news.bbc.co.uk/2/hi/africa/3712266.stm>.

<sup>176</sup> HUMAN RIGHTS WATCH, *THIS ALIEN LEGACY: THE ORIGINS OF “SODOMY” LAWS IN BRITISH COLONIALISM 3* (2008) (citing *Government warns UNAIDS over gays*, *THE DAILY MONITOR (UGANDA)* Nov. 29, 2004), [https://www.hrw.org/sites/default/files/reports/lgbt1208\\_web.pdf](https://www.hrw.org/sites/default/files/reports/lgbt1208_web.pdf).

<sup>177</sup> Gupta, *supra* note 17.

<sup>178</sup> *Mukasa*, AHRLR 248, at 3.

<sup>179</sup> E.g., Human Rights Watch, *Uganda: Same-Sex Marriage Ban Deepens Repression*, Jul. 12, 2005, <https://www.hrw.org/news/2005/07/12/uganda-same-sex-marriage-ban-deepens-repression> (last visited Oct. 2, 2015); *Uganda Bans Gay Marriage*, News24 (Sept. 9, 2005), <http://www.news24.com/World/News/Uganda-bans-gay-marriage-20050929>; Human Rights Watch, *Uganda: Press Homophobia Raises Fears of Crackdown: Government Campaign Against Gay and Lesbian Community Escalates*, Sept. 8, 2006, <https://www.hrw.org/news/2006/09/08/uganda-press-homophobia-raises-fears-crackdown>.

<sup>180</sup> Scott Long, Human Rights Watch, *Letter to Congressional Caucus about US Support for Ugandan Homophobia*, Oct. 11, 2007, <http://www.hrw.org/news/2007/10/10/letter-congressional-caucus-about-us-support-ugandan-homophobia> [hereinafter Scott Long Letter to Congressional Causus] (citing Al-Mahdi Ssenkibirwa, *East Africa: We Need to Regulate IT Laws in East Africa, Says Buturo*, *The Daily Monitor* (May 1, 2006), <http://www.mask.org.za/article.php?cat=kenya&id=1046>).

<b>August 8, 2006</b>	<i>Red Pepper</i> , a Ugandan tabloid, publicly “outed” LGBTI Ugandans, identifying 45 individuals as homosexuals under the headline “GAY SHOCK!” The newspaper “outed” lawyers, army officers, university lecturers, entertainers, bankers, students, and priests. <i>Red Pepper</i> listed the profession, the city of origin, and information on the friends and partners of those accused of being LGBTI. <sup>181</sup>
<b>September 7, 2006</b>	<i>Red Pepper</i> reported that the police in Jinja, Uganda’s second largest city, “launched an operation to repress the gays, who were on the verge of winning the heterosexual generation of the district,” under the headline, “JINJA COPS HUNT FOR GAYS.” The tabloid enlisted the public to track down “sodomites” to prevent them from “polluting” the general population, published the photo of a young gay man who was said to have intimate links to a man already imprisoned for homosexuality—punishable with life imprisonment—and urged its readers to help track him down. <sup>182</sup>
<b>September 8, 2006</b>	<i>Red Pepper</i> exposed thirteen alleged lesbians and published a picture of two women embracing under the headline “KAMPALA’S NOTORIOUS LESBIANS UNEARTHED.” The newspaper continued: “[t]o rid our motherland of the deadly vice, we are committed to exposing all the lesbos in the city” of Kampala, while telling its readers to “send more names” with “the name and occupation of the lesbin [ <i>sic</i> ] in your neighborhood and we shall shame her.” The newspaper also gave its readers a special telephone number to call with tips. <sup>183</sup>
<b>August 2007</b>	Martin Ssempe, an influential preacher and associate of Scott Lively, <sup>184</sup> and who served as Ugandan First Lady’s representative on HIV/AIDS issues called for LGBTI people to be excluded from Uganda’s HIV/AIDS programs. <sup>185</sup>
<b>August 21, 2007</b>	Martin Ssempe organized a rally in Kampala “on behalf of victims of homosexuality.” <sup>186</sup> <i>Radio One</i> announced that Ugandan Deputy Attorney General Fred Ruhindi called for criminal anti-sodomy laws to be used against lesbians and gays. Ethics and Integrity Minister James Nsaba Buturo declared that homosexuality broke three laws, “the law of God, the law of nature, and the law of the land.” <sup>187</sup> Days earlier, he publicly called homosexuality “unnatural”—and warned “[w]e know them, we have details of who they are.” <sup>188</sup>
<b>August 23, 2007</b>	A website ( <a href="http://kobsrugby.com/demo/">http://kobsrugby.com/demo/</a> ) published an official statement by Ssempe, representative of the rally organizers, that listed Ugandan LGBTI rights activists by name. It posted their pictures and contacts, calling them “homosexual promoters.” <sup>189</sup>

<sup>181</sup> Doug Ireland, *Uganda Witch Hunt Escalates*, Gay City News (Sept. 14, 2006), [http://gaycitynews.nyc/gcn\\_537/ugandawitchhunt.html](http://gaycitynews.nyc/gcn_537/ugandawitchhunt.html); Human Rights Watch, *Uganda: Press Homophobia Raises Fears of Crackdown: Government Campaign Against Gay and Lesbian Community Escalates*, Sept. 8, 2006, <https://www.hrw.org/news/2006/09/08/uganda-press-homophobia-raises-fears-crackdown>.

<sup>182</sup> Ireland, *supra* note 181.

<sup>183</sup> Peter Tatchell, *Uganda is the new Zimbabwe*, The Guardian (Sept. 13, 2006), <http://www.theguardian.com/commentisfree/2006/sep/13/ugandagaysaretheproblemno>; Ireland, *supra* note 181.

<sup>184</sup> Mariah Blake, *Meet the American Pastor Behind Uganda’s Anti-Gay Crackdown*, Mother Jones (Mar. 10, 2014), <http://www.motherjones.com/politics/2014/03/scott-lively-anti-gay-law-uganda>.

<sup>185</sup> Gupta, *supra* note 17, at 4.

<sup>186</sup> Ephraim Kasozi, *Churches Plan Demo Against Homos*, The Daily Monitor (Aug. 21, 2007), <http://allafrica.com/stories/printable/200708210057.html>.

<sup>187</sup> Scott Long Letter to Congressional Causus, *supra* note 180 (citing Katherine Roubos, *Rally denounces homosexuality*, The Daily Monitor (Aug. 22, 2007), <http://allafrica.com/stories/200708220267.html>; *Ugandans hold anti-gay sex rally*, BBC News (Aug. 21, 2007), <http://news.bbc.co.uk/2/hi/africa/6952157.stm>).

<sup>188</sup> *Id.*

<sup>189</sup> *Id.* (citing “The Official Statement of Inter Faith, Culture and Family Coalition against Homosexuality in Uganda to the Uganda Government,” Aug. 23, 2007, <http://kobsrugby.com/demo> (last visited Aug. 23, 2007)).

<b>August 30, 2007</b>	The Ugandan Broadcasting Council suspended <i>Capital FM Radio</i> presenter Gaetano Kaggwa and program controller George Manyali for hosting gays and lesbians on their programs. <sup>190</sup>
<b>September 6, 2007</b>	Minister of Ethics and Integrity James Buturo, in an interview to the <i>Sunday Vision</i> newspaper, said the government was “considering changing the laws so that promotion [of homosexual conduct] itself becomes a crime” and to have “catalogues of people [the government] think[s] are involved in perpetuating the vice of homosexuality.” <sup>191</sup>
<b>September 9, 2007</b>	<p><i>Red Pepper</i> continued to “out” LGBTI Ugandans with headlines that read: “Homo Terror! We name And Shame Top Gays In The City.”<sup>192</sup></p> 
<b>September 2007</b>	Martin Ssempe declared to news outlets: “Homosexuals should absolutely not be included in Uganda's HIV/AIDS framework. It is a crime, and when you are trying to stamp out a crime you don't include it in your programmes.” <sup>193</sup>
<b>October 11, 2007</b>	Human Rights Watch wrote a letter to the U.S. Congress concerned about the “expanding pattern of attacks in Uganda upon the human rights of lesbian, gay, bisexual, and transgender (LGBT) people.” <sup>194</sup>
<b>December 16, 2007</b>	A state-owned newspaper, <i>New Vision</i> , <sup>195</sup> and a privately owned newspaper, the <i>Daily Monitor</i> , published an editorial by former Minister of Justice and Chairman of the Uganda Land Commission J.S. Mayanja-Nkangi, branding LGBTI people a “sexually predatory group” and “morally corrupt,” whose effects on Uganda “must be erased.” <sup>196</sup>
<b>December 18, 2007</b>	Ethics and Integrity Minister, James Nsaba Buturo, compared homosexuality to Satan. <sup>197</sup>
<b>July 14, 2008</b>	President Museveni calls homosexuality “a decadent culture . . . being passed by Western nations . . . [and] a danger not only to the [Christian] believers but to the whole of Africa.” <sup>198</sup>

<sup>190</sup> Human Rights Watch, A Media Minefield: Increased Threats to Freedom of Expression in Uganda 13 (2010), <http://www.hrw.org/sites/default/files/reports/uganda0510webwcover.pdf> (last visited Oct. 3, 2015); *Cablegate: Uganda: Homosexuality Remains Illegal and Controversial*, WikiLeaks (Sept. 27, 2007), <http://www.scoop.co.nz/stories/WL0709/S00668/cablegate-uganda-homosexuality-remains-illegal-and-controversial.htm>.

<sup>191</sup> Scott Long Letter to Congressional Causus, *supra* note 180 (citing Alfred Wasike, *Tough anti-gay law due*, *Sunday Vision* (Aug. 25, 2007), <http://sundayvision.co.ug/detail.php?mainNewsCategoryId=7&newsCategoryId>).

<sup>192</sup> *Id.* (citing *Homo Terror! We Name And Shame Top Gays In The City*, *The Red Pepper*, Sept. 9, 2007).

<sup>193</sup> *Id.*

<sup>194</sup> *Id.* (citing Plus News (Aug. 24, 2007), <http://www.plusnews.org/report.aspx?ReportID=73931>).

<sup>195</sup> Scott Long Letter to Congressional Causus, *supra* note 180.

<sup>196</sup> Mayanja-Nkangi, *supra* note 158.

<sup>197</sup> *Id.*

<sup>198</sup> Gupta, *supra* note 17 (citing *Join Politics, Buturo Tells Balokole*, *New Vision* (Dec. 18, 2007)).

<b>August 16, 2008</b>	Speaking as chief guest at the consecration of the Rev. Canon Patrick Gidudu at St. Andrew’s Cathedral, President Museveni praised Anglican bishops for “resisting homosexuality.” Museveni described homosexuality as <i>mtumbavu</i> (stupid) and said “Don’t fear, resist and do not compromise on that. It is a danger not only to the believers but to the whole of Africa. It is bad if our children become complacent and think that people who are not in order are alright.” <sup>199</sup>
<b>March 5, 2009</b>	Scott Lively and two other Americans, including an ex-gay proponent of sexual re-orientation therapy, travel to Uganda to present anti-LGBTI views at Stephen Langa’s Family Life Network “Seminar on Exposing the Homosexuals’ Agenda,” which included police and politicians. Lively and Langa linked homosexuality to pedophilia and other evils and discussed future anti-gay efforts. <sup>200</sup> During this public seminar, Lively stated: “[n]ow, usually if I’m in the U.S. and I bring this up in an audience and there are screams, ‘how dare you say homosexuality and pedophilia are equated?’ Well, they are equated, because the very same arguments that we can make for homosexuality apply equally to pedophilia in many ways.” <sup>201</sup> At another moment, he accused LGBTI people of being predatory, stating that: “[o]ften there are people who were molested themselves and they’re turning it around and looking for other people to be able to prey upon. When they see a child that’s from a broken home it’s like they have a flashing neon sign over their head, you know, ‘my dad doesn’t love me’ or ‘I’m discouraged and full of fear about my future,’ whatever, that child is so vulnerable to a man [...] to come along and say ‘I care about you.’ Now, the next thing you know, that child is identifying as homosexual.” <sup>202</sup> Lively also advised his audience that gay people were responsible for the Holocaust and were “probably” responsible for the Rwandan genocide as well. <sup>203</sup>
<b>March 15, 2009</b>	Stephen Langa reportedly formed an Anti-Gay Task Force to “wipe out” gay practices in Uganda in the wake of the Family Life Network Conference held on March 5–8, 2009. <sup>204</sup> Langa convened a follow-up seminar on March 15, 2009, where he disseminated copies of Scott Lively’s writings and DVD’s of his speech

<sup>198</sup> *Id.* at 3–4 (2008) (citing *Museveni Lauds Citizens on Anti-Gay Stand*, NEW VISION, Jul. 14, 2008, <http://www.newvision.co.ug/D/8/18/639029>).

<sup>199</sup> Milton Olupot & Daniel Edyegu, *Museveni Backs Church Against Gays*, NEW VISION (Aug. 17, 2008), <http://www.newvision.co.ug/D/8/12/644954>.

<sup>200</sup> Political Research Associates, *Profiles on the Right: Stephen Langa*, <http://www.politicalresearch.org/profiles-on-the-right-stephen-langa/#sthash.AmZsQubd.dpbs> (last visited Oct. 2, 2015); Kapyra Kaoma, *American Cultural Warriors in Africa*, Political Research Associates 21 (2014); Jeffrey Gettleman, *Americans’ Role Seen in Ugandan Anti-Gay Push*, N.Y. Times (Jan. 3, 2010), <http://www.nytimes.com/2010/01/04/world/africa/04uganda.html>; Scott Lively, *Report from Uganda*, Mar. 17, 2009, <http://www.defendthefamily.com/pfrc/archives.php?id=2345952> (last visited Oct. 2, 2015); Kapyra Kaoma, *American Cultural Warriors in Africa* at 21; Political Research Associates, *FULL – Scott Lively Uganda Anti-Homosexuality Conference 2009*, (2014) <https://www.youtube.com/watch?v=e9F9k4guN3M> (last visited Oct. 2, 2015).

<sup>201</sup> Political Research Associates, *Profiles on the Right: Stephen Langa*, <http://www.politicalresearch.org/profiles-on-the-right-stephen-langa/#sthash.AmZsQubd.dpbs> (last visited Oct. 2, 2015); Gettleman, *supra* note 200; Lively, *supra* note 200; Kaoma, *supra* note 200 at 21; *Scott Lively Uganda Anti-Homosexuality Conference*, *supra* note 200.

<sup>202</sup> Political Research Associates, *Profiles on the Right: Stephen Langa*, <http://www.politicalresearch.org/profiles-on-the-right-stephen-langa/#sthash.AmZsQubd.dpbs> (last visited Oct. 2, 2015); Gettleman, *supra* note 200; Lively, *supra* note 200; Kaoma, *supra* note 200 at 21; *Scott Lively Uganda Anti-Homosexuality Conference*, *supra* note 200.

<sup>203</sup> Jim Burroway, *Lively’s Lies: A Profile of Scott Lively*, Political Research Associations (Mar. 1, 2011), <http://www.politicalresearch.org/2011/03/01/livelys-lies-a-profile-of-scott-lively/#sthash.ZMOCDcUa.dpbs>.

<sup>204</sup> *Anti-homosexuality group formed in Uganda*, IOL NEWS, March 8, 2009, <http://www.iol.co.za/news/africa/anti-homosexuality-group-formed-in-uganda-1.436641#.VjeoE9LnXsY>; Warren Throckmorton, *Uganda National Pastor Task Force Against Homosexuality Demand Apology from Rick Warren*, Patheos (Dec. 19, 2009), <http://www.patheos.com/blogs/warrenthrockmorton/2009/12/19/uganda-national-pastors-task-force-against-homosexuality-demand-apology-from-rick-warren/>.

	at the March 5–8 seminar to “come up with a way forward.” He used Lively’s talking points in his power point presentation. The director of research for Uganda’s Parliament was present and stated that Parliament needed to “draft a new law that comprehensively deals with this issue – the gay agenda as we have seen it.” <sup>205</sup> Attendees reportedly marched to parliament to petition lawmakers to stiffen the punishment for homosexuality. <sup>206</sup>
<b>March 17, 2009</b>	Lively published a report from Uganda in which he described his anti-LGBTI meetings and speeches as “like a nuclear bomb against the ‘gay’ agenda in Uganda.” <sup>207</sup>
<b>March 25, 2009</b>	Stephen Langa held a press conference where he reportedly said there are agents involved in recruiting children into homosexuality and lesbianism through deception, manipulation and coercion. <sup>208</sup> Langa announced they would travel around the country to gather signatures for a petition to be delivered to the President and Parliament. <sup>209</sup> Langa included a purported “ex-gay” man at the press conference who “confessed to recruiting school children into the practice” <sup>210</sup> but who later reported he’d been offered money by Martin Ssempe to “switch sides.” <sup>211</sup>
<b>April 1, 2009</b>	Several members of Parliament spoke out during a parliamentary session of the need for a new law against homosexuality and protesting that “homosexuals” had been “given the opportunity to address press conferences,” demanding a government response. <sup>212</sup>
<b>April 15, 2009</b>	After Minister of Ethics and Integrity James Buturo announced that the government would be introducing a bill soon on homosexuality to deal with “recruitment” and warning that if Uganda were to legalize homosexuality, it would “spell the end of human civilization as we know it today,” Shadow Minister of Information and National Guidance, Mr. Christopher Kibansanga, stated: “We must exterminate homosexuals before they exterminate society.” <sup>213</sup>
<b>April 19, 2009</b>	<i>Red Pepper</i> publicly “outed” prominent LGBTI Ugandans, especially activists and even non-LGBT allies, primarily in Kampala. <sup>214</sup>

<sup>205</sup> Blake, *supra* note 184.

<sup>206</sup> *Id.*

<sup>207</sup> Lively, *supra* note 200.

<sup>208</sup> *Ugandan Parents Speak Out on Homosexuality*, Uganda Pulse (Mar. 25, 2009), <https://web.archive.org/web/20090403040658/http://www.ugpulse.com/articles/daily/news.asp?about=Ugandan%20Parents%20concerned%20on%20homosexuality%20&ID=9084>.

<sup>209</sup> Moses Mulondo, *Eight Denounce Homosexuality*, New Vision (Mar. 26, 2009), <http://www.newvision.co.ug/D/8/12/675844>.

<sup>210</sup> *Id.*

<sup>211</sup> Josh Kron, *Pulling Out All the Stops to Push an Anti-Gay Bill*, N.Y. Times (Apr. 13, 2011), [http://www.nytimes.com/2011/04/14/world/africa/14uganda.html?pagewanted=2&\\_r=2](http://www.nytimes.com/2011/04/14/world/africa/14uganda.html?pagewanted=2&_r=2).

<sup>212</sup> Proceedings of the Parliament of Uganda (Apr. 1, 2009), <http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard>.

<sup>213</sup> Proceedings of the Parliament of Uganda (Apr. 15, 2009), <http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard>.

<sup>214</sup> *Top Homos in Uganda Named*, THE RED PEPPER, Apr. 19, 2009.

	 <p><b>SUNDAY PEPPER, APRIL 19, 2009</b></p> <p><b>news</b></p> <p><b>TOP HOMOS IN UGANDA NAMED</b></p> <p>BY OUR INVESTIGATOR</p> <p>This is a killer dossier: a list of names and nationalities that largely ignores Uganda's shameless men and women who have been instrumental in spreading the gay virus. Lesbian vice in schools kill the minds of our lovely kids!</p> <p>So nerve-breaking the article is that proportion victims should not dare count through!</p> <p>Today, we expose the big forces that have been secretly on rampage, surreptitiously terrorizing the baby boom of husbands and the details of women that have been enjoying steamy orgies and dangerous snogs with fellow women.</p> <p><b>Sarahaga:</b> He is a top city businessman. He travels a lot especially to the US on big business trips. This homo star resides in Ntinda. He is tall, fat and with curved legs. He likes sharing boys with fellow businessmen. In his early 40s, this gentleman covers his romantic eyes with black sunglasses. He has a posh car and is a shareholder in a bar where gay superstars roam for martinis.</p> <p><b>Nick:</b> She works with an NGO as a sports coordinator. She calls herself Salango. Before she gave birth to a baby girl, her girlfriend is named Jean, a singer model. Before she joined the Lesbian society, she was dumped by her Italian based boyfriend.</p> <p><b>Opie:</b> He sells shoes. He's black, slender and tall. He is called Letitia in the gay community. He stays in Gaba. He changes boys like</p> <p>with homosexuals. He likes handling boys who get and is nicknamed mother superior in the gay world.</p> <p><b>Dan:</b> He is a musician. He is booked by the popular print. He stays in Old Kampala. He was chased from the Pentecostal Church for his homosexual behavior. He behaves like a woman. Pat says he wants to pursue religious studies so as to be ordained a priest.</p> <p>commands respect among the gays and he drives the latest Mercedes Benz.</p> <p><b>Pat:</b> A very small and tall man of Asian origin. He looks tough and hardly smiles. He owns one of the most expensive pads in a city suburb. He formerly owned an entertainment club which he sold. He drives a fresh Mercedes Benz. He is always in the company of young boys especially companions.</p> <p>gays to foreigners. He stays in a city suburb. He is called Senga because of his work. He runs a website that supports gays.</p> <p><b>Steve:</b> Short and big with dreadlocks, he is a fun-boyant lad and one of the most talented gays in the music industry.</p> <p><b>Jesse:</b> Fat and with girlish looks. He is a computer analyst with a shipping company. He stays in a happening city suburb.</p> <p><b>Michael:</b> He is a medium sized young man who presents on TV.</p> <p><b>Sam:</b> He is brown and medium sized. He works for a soft drinks company.</p> <p><b>Bobby:</b> He is short and medium sized. He spots dreadlocks and works in London. When in Uganda he stays in Bugabbi or Namanda. He was an actor in a top drama group.</p> <p><b>Kawaja:</b> A medium sized businessman who puts on goggles. He stays in Bugabbi. He was once married and has kids.</p> <p><b>Shean:</b> A short and fat young man sporting dreadlocks, he works with an NGO based in Washington and stays in Bonga. He walks like a woman.</p> <p><b>Hamain:</b> A tall and medium sized young man; he operates a website that helps to meet gays with HIV. He stays in Kanab.</p> <p><b>Geoffrey:</b> A dark skinned medium aged gay. He works with a bank.</p>
<p><b>April 21, 2009</b></p>	<p>Stephen Langa and Martin Ssemua led a march on Parliament where they handed over a petition to the Deputy Speaker of Parliament and told her that “[t]he serious threat that homosexuality poses to the stability and survival of the family and social fabric of the nation has come to light in the recent past. This threat is real and has the potential to destabilize the country socially, politically and health wise.”<sup>215</sup></p>
<p><b>April 26, 2009</b></p>	<p>The <i>Red Pepper</i> “outed” more LGBTI Ugandans under the headline “MORE HOMOS IN UGANDA NAMED.”<sup>216</sup></p> 
<p><b>April 29, 2009</b></p>	<p>Member of Parliament David Bahati moved to table the Anti-Homosexuality Bill as a private member’s bill in Parliament. Before he discussed the Bill itself, he introduced an 11-year-old boy present in the gallery and who had reportedly been sexually assaulted by an adult male as a reason for needing the new law.<sup>217</sup> Martin Ssemua, Stephen Langa, and James Buturo were mentioned as being present in the Parliament when the bill was introduced.<sup>218</sup></p>
<p><b>June 8, 2009</b></p>	<p>The Observer ran an article entitled “SODOMY BOOKS INVADE SCHOOLS” that raised alarm about a book on sexuality for teenagers published by UNICEF.<sup>219</sup></p>
<p><b>October 14, 2009</b></p>	<p>Member of Parliament David Bahati tabled the Anti-Homosexuality Bill (the first version of the AHA) with the death penalty.<sup>220</sup> Bahati and other evangelical MPs</p>

<sup>215</sup> Mercy Nalugo, *Homosexuality Threat to Ugandans – Activists*, Daily Monitor (Apr. 24, 2009) [https://web.archive.org/web/20090427134005/http://www.monitor.co.ug/artman/publish/news/Homosexuality\\_threat\\_to\\_Ugandans\\_activists\\_83727.shtml](https://web.archive.org/web/20090427134005/http://www.monitor.co.ug/artman/publish/news/Homosexuality_threat_to_Ugandans_activists_83727.shtml).

<sup>216</sup> *MORE HOMOS IN UGANDA NAMED*, THE RED PEPPER, Apr. 26, 2009.

<sup>217</sup> Proceedings of the Parliament of Uganda (Apr. 29, 2009), <http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard>.

<sup>218</sup> *Id.*

<sup>219</sup> *Sodomy Books Invade Schools*, THE OBSERVER (June 8, 2009), <http://www.observer.ug/component/content/article?id=3692:sodomy-books-invade-schools>.

	continued to attempt parliamentary readings of this bill until its eventual passage without the death penalty provision, but with life imprisonment, in December 2013.
<b>January 4, 2010</b>	Kassiano E. Wadri, a member of Parliament and the former chief whip of the opposition, were reported to have stated: “I detest gays in my heart” and that a gay man “needs psychotherapy. You must break him.” <sup>221</sup>
<b>February 15, 2010</b>	Martin Ssempe led a march in Jinja calling for the passage of the Anti-Homosexuality Bill, during which he accused homosexuals of violently raping children in schools. <sup>222</sup>
<b>February 18, 2010</b>	Martin Ssempe screened graphic, sadomasochistic gay pornography for his congregation during a church service. He then blessed MP David Bahati and prayed for passage of the Anti-Homosexuality Bill. <sup>223</sup>
<b>February 28, 2010</b>	Member of Parliament Odonga Otto publicly stated that gays should suffer death by hanging and public stoning. <sup>224</sup>
<b>March 3, 2010</b>	Lively sent a letter to Ugandan Parliament via Martin Ssempe advising them on the anti-homosexuality legislation under consideration. He advised them to remove the death penalty as it is “disproportionately harsh” and that doing so would “take the wind out of the sails of their current campaign against the bill.” <sup>225</sup>
<b>September 24, 2010</b>	After giving interviews detailing his experiences as an LGBTI man and teacher in Uganda, <i>Red Pepper</i> ran a cover story distorting his interviews and accusing an LGBTI asylum-seeker of raping young schoolboys, published his photo and in the story title called him a “GAY MONSTER.” <sup>226</sup>

<sup>220</sup> *Uganda MP Urges Death for Gay Sex*, BBC (Oct. 15, 2009), <http://news.bbc.co.uk/2/hi/africa/8308912.stm>; Joanne Nanyange, *Let's Kill the Gays: The Would Be Implications of Section 5(1) of the Anti Homosexuality Act 2014*, *The Human Rights Advocate* 18–19 (Mar. 2015), [http://www.hrapf.org/sites/default/files/publications/15\\_04\\_30\\_hrapf\\_second\\_issue\\_of\\_the\\_human\\_rights\\_advocate.pdf](http://www.hrapf.org/sites/default/files/publications/15_04_30_hrapf_second_issue_of_the_human_rights_advocate.pdf).

<sup>221</sup> Gettleman, *supra* note 200; International Human Rights Program: University of Toronto Faculty of Law, *Uganda: Country Report for Use in Refugee Claims Based on Persecution Relating to Sexual Orientation and Gender Identity 20* (2010), [http://ihrp.law.utoronto.ca/utfl\\_file/count/documents/SOGI/Uganda\\_SOGI\\_2010.pdf](http://ihrp.law.utoronto.ca/utfl_file/count/documents/SOGI/Uganda_SOGI_2010.pdf) (last visited Oct. 2, 2015).

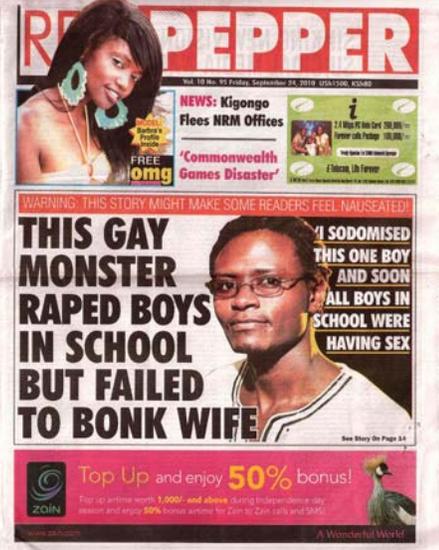
<sup>222</sup> NTVUganda, *Anti-Gay Campaign: Kampala Activists Take March to Jinja*, (2010) <https://www.youtube.com/watch?v=fCgigtgmBMmU> (last visited Oct. 27, 2010).

<sup>223</sup> Current TV/Vanguard, *Missionaries of Hate, Part 4 of 5*, (2010) <https://www.youtube.com/watch?v=vKvq6aVp34I> (last visited Oct. 27, 2015); *Uganda Cleric Shows Gay Porn Film*, BBC News (Feb. 18, 2010), <http://news.bbc.co.uk/2/hi/africa/8521471.stm>.

<sup>224</sup> Ondonga Otto, *MP'S FORUM: I Can't Believe Some People's Stand on Gays*, *THE OBSERVER*, Feb. 28, 2010, [https://web.archive.org/web/20100302201716/http://www.observer.ug/index.php?option=com\\_content&task=view&id=7449&Itemid=66](https://web.archive.org/web/20100302201716/http://www.observer.ug/index.php?option=com_content&task=view&id=7449&Itemid=66).

<sup>225</sup> Scott Lively, *My Letter to the Ugandan Parliament and Reply* (Jan. 27, 2011), <http://www.defendthefamily.com/pfrc/newsarchives.php?id=3261726>.

<sup>226</sup> Will O'Bryan, *Radical Retelling*, *METRO WEEKLY* (Oct. 2, 2010), <http://www.metroweekly.com/2010/10/radical-retelling/>; Will O'Bryan, *The Promised Land*, *METRO WEEKLY* (Jul. 28, 2010), <http://www.metroweekly.com/2010/07/the-promised-land/>.

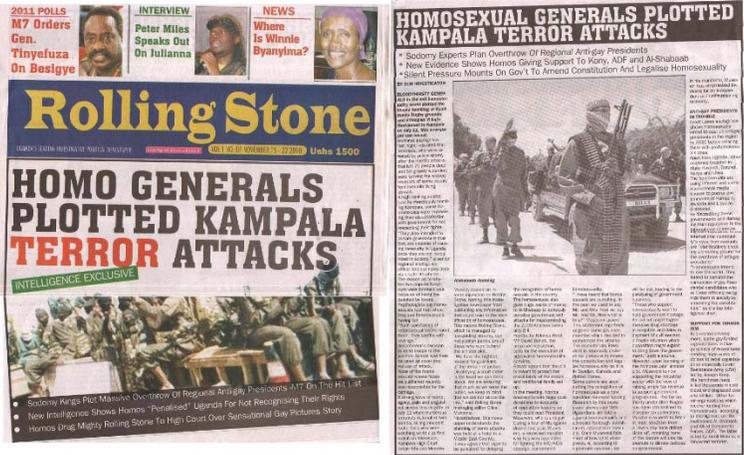
	
<p><b>October 2010</b></p>	<p><i>Rolling Stone</i> featured a list of 100 names of alleged gays and lesbians with pictures and addresses, and urged the public to “Hang Them.”<sup>227</sup> The front page also warned of the LGBTI community’s plans to recruit one million children.<sup>228</sup> Some of those listed were attacked shortly after the story was published.<sup>229</sup></p> 
<p><b>November 1, 2010</b></p>	<p><i>Rolling Stone</i> continued its campaign to expose LGBTI individuals by publishing an article with the title “MORE HOMOS’ FACES EXPOSED,” accusing the targeted individuals for spreading HIV and recruiting and raping children.<sup>230</sup></p>

<sup>227</sup> Xan Rice, *Ugandan Paper Calls for Gay People to be Hanged*, THE GUARDIAN (Oct. 21, 2010), <http://www.theguardian.com/world/2010/oct/21/ugandan-paper-gay-people-hanged>.

<sup>228</sup> *Id.*

<sup>229</sup> Godfrey Oluka & Jason Straziuso, *Gays in Uganda Say They’re Living in Fear*, NBC NEWS (Oct. 19, 2010), [http://www.nbcnews.com/id/39742685/ns/world\\_news-africa/#.VHFHB2TF9rl](http://www.nbcnews.com/id/39742685/ns/world_news-africa/#.VHFHB2TF9rl).

<sup>230</sup> *Uganda Country of Origin Report*, *supra* note 97, at 42–43 (2014).

	 <p>231</p>
<p>November 15, 2010</p>	<p>Rolling Stone accused homosexuals of plotting the July 2010 terror attacks in Kampala.<sup>232</sup></p>  <p>233</p>
<p>December 30, 2010</p>	<p>Granting an injunction against <i>Rolling Stone</i> to prevent further publication of LGBTI Ugandans' names, photos, and addresses, the Ugandan High Court ruled that publishing such information violates the right to privacy.<sup>234</sup></p>
<p>April 5, 2011</p>	<p>Martin Ssempe led a group of religious leaders and purportedly “former homosexuals” into the Ugandan Parliament to demand a debate on the anti-homosexuality bill, presenting a portion of what he said were two million signatures gathered from around Uganda in support of the law.<sup>235</sup></p>

<sup>231</sup> Jim Burroway, *Ugandan Tabloid Resumes Anti-Gay Vigilante Campaign*, Box Turtle Bulletin (Nov. 1, 2010), <http://www.boxturtlebulletin.com/2010/11/01/27639>.

<sup>232</sup> Rice, *supra* note 227.

<sup>233</sup> Throckmorton, *supra* note 233.

<sup>234</sup> Kasha Jaqueline v. Rolling Stone Ltd., No. 163, High Court of Uganda (Dec. 30, 2010), <http://iglhrc.org/sites/default/files/2010%20Kasha%20Jacqueline%20v%20Rolling%20Stone.pdf> (last visited Oct. 2, 2015).

<sup>235</sup> Michael Onyiego, *Religious Groups Demand Debate on Uganda Anti-Homosexuality Bill*, Voice of America, (Apr. 5, 2011), <http://www.voanews.com/content/religious-groups-demand-debate-on-uganda-anti-homosexuality-bill-119334459/157836.html>. Shortly after the march on Parliament, one of the people Ssempe claimed to be a “former homosexual” recanted to the New York Times and claimed Ssempe had offered him money to “switch

<b>May 11, 2011</b>	Members of Parliament attempt to push the Anti-Homosexuality Bill up on Parliament's agenda before the expiration of the Eighth Session. <sup>236</sup>
<b>September 6, 2011</b>	Stephen Langa's Family Life Network held a press conference to launch the "Pass the Bill Now" campaign to pressure MP's to enact the legislation by sounding "a serious warning that we will recall any MP who betrays our children, our people and our nation." <sup>237</sup>
<b>October 25, 2011</b>	Parliament voted to reopen debate on the Anti-Homosexuality Bill. <sup>238</sup>
<b>February 7, 2012</b>	David Bahati moved that the Anti-Homosexuality Bill be "read" for the first time and it was committed to the relevant committee for review. <sup>239</sup>
<b>February 14, 2012</b>	Minister of Ethics and Integrity Simon Lokodo ordered police to raid and shut down a workshop hosted by Freedom and Roam Uganda (FARUG) on human rights advocacy and leadership for LGBTI activists. <sup>240</sup> Lokodo justified the raid by claiming the attendees were "recruiting people" and that "[y]ou cannot allow terrorists to organise and destroy your country." <sup>241</sup>
<b>June 10, 2012</b>	Religious leaders in the Uganda Joint Christian Council asked Parliament to "speed up" the passage and enactment of the Anti-Homosexuality Bill to prevent an "attack on the Bible and the institution of marriage." <sup>242</sup>
<b>June 18, 2012</b>	Minister of Ethics and Integrity Simon Lokodo ordered the raid of a meeting of LGBTI and human rights groups in Uganda and informed media that he would make sure "all is done to bring them to book" so that "everybody else will know that at least in Uganda we have no room here for homosexuals and lesbians." <sup>243</sup>
<b>June 20, 2012</b>	Lokodo announced government's intention to ban 38 non-governmental organizations (NGOs) because they "exist not for humanitarian reasons but to destroy the traditions and culture of this country by promoting homosexuality." <sup>244</sup>
<b>September 2012</b>	The police arrested and the government eventually deported British theater producer David Cecil for promoting homosexuality by staging a play, "The River and the Mountain," with a gay Ugandan protagonist who "came out" and was later murdered. <sup>245</sup>

sides." Josh Kron, *Pulling Out All the Stops to Push an Anti-Gay Bill*, N.Y. Times (Apr. 13, 2011),

<http://www.nytimes.com/2011/04/14/world/africa/14uganda.html?pagewanted=2&r=2>.

<sup>236</sup> Proceedings of Parliament of Uganda (May 11, 2011), available at

<http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard> (last visited Oct. 27, 2015).

<sup>237</sup> Parents Launch Bid to Pass Shelved Gays Bill, Daily Monitor (Sept. 5, 2011),

<http://www.monitor.co.ug/News/National/-/688334/1230484/-/bjcqkmz/-/>.

<sup>238</sup> Proceedings of Parliament of Uganda (Oct. 25, 2011), available at

<http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard> (last visited Oct. 27, 2015).

<sup>239</sup> Proceedings of Parliament of Uganda (Feb. 7, 2012), available at

<http://www.parliament.go.ug/new/index.php/documents-and-reports/daily-hansard> (last accessed Oct. 27, 2015).

<sup>240</sup> *Uganda: Government Raid on LGBT-Rights Workshop*, Amnesty International (Feb. 14, 2012),

<https://www.amnesty.org/en/latest/news/2012/02/uganda-government-raid-lgbt-rights-workshop/>.

<sup>241</sup> *Ugandan Minister Shuts Down Gay Rights Conference*, The Guardian (Feb. 15, 2012),

<http://www.theguardian.com/world/2012/feb/15/ugandan-minister-gay-rights-conference>.

<sup>242</sup> John Tugume, *Bishops Want Shelved Anti-Gay Bill Dusted*, Daily Monitor (June 10, 2012),

<http://www.monitor.co.ug/News/National/Bishops+want+shelved+anti+gay+Bill+dusted/-/688334/1424158/-/lec25uz/-/index.html>.

<sup>243</sup> NTVUganda, *Gay Activists to Be Charged After Investigations* (2012),

[https://www.youtube.com/watch?feature=player\\_embedded&v=JIZpU04i7eM](https://www.youtube.com/watch?feature=player_embedded&v=JIZpU04i7eM).

<sup>244</sup> *Uganda Bans 38 Organizations Accused of Promoting Homosexuality*, The Guardian (June 20, 2012),

<http://www.theguardian.com/world/2012/jun/20/uganda-bans-organisations-promoting-homosexuality>.

<sup>245</sup> Maev Kennedy, *Stars Sign Petition Over British Theatre Producer's Uganda Arrest*, The Guardian (Sept. 20, 2012), <http://www.theguardian.com/world/2012/sep/20/petition-british-theatre-producer-uganda>; Okuyo Joel Atiku

Prynne, *I Play a Gay Man in Uganda Where Homosexuality Is Illegal*, The Observers, (Sept. 11, 2012),

<http://observers.france24.com/en/20120910-play-gay-character-uganda-homosexuality-illegal-theatre-actor-river-mountain-kampala-media-council-law>; Mark Brown, *Theatre Producer Deported by Uganda for Play Vows Fight to*

<b>October 3, 2012</b>	Martin Ssempe and co-defendants were found guilty of conspiracy to injure the reputation of a rival pastor by accusing him of having “sodomized several youths at his church.” <sup>246</sup>
<b>October 31, 2012</b>	Speaker of Parliament Rebecca Kadaga informed a crowd that gathered to greet her at the airport that she would instruct the parliamentary committee to “quickly bring the report on the Anti-Homosexuality Bill” back to the floor for a vote. <sup>247</sup>
<b>November 13, 2012</b>	Speaker of Parliament Rebecca Kadaga reiterated her instruction to speed along the review of the Anti-Homosexuality Bill because “there is high demand by the population to address the escalating problem of promoting and recruiting minors into homosexuality.” <sup>248</sup> Kadaga was quoted as saying, “Ugandans want that law as a Christmas gift. They have asked for it and we’ll give them that gift.” <sup>249</sup>
<b>December 18, 2012</b>	State-owned <i>NBS Morning Breeze</i> talk show featured an interview of Pepe Onziema, a human rights activist and trans man, with surprise guest Martin Ssempe. <sup>250</sup> This interview included inflammatory quotes about child sexual abuse and recruitment and crude, graphic descriptions of transitioning.
<b>April 2, 2013</b>	A Ugandan newspaper reported that some Members of Parliament wanted to discuss the Anti-Homosexuality Bill in a closed-door session because of the “sensitive nature of the bill.” <sup>251</sup>
<b>October 19, 2013</b>	A gay British man and his Ugandan partner were arrested after a Ugandan newspaper published sexual photos of them after the British citizen’s laptop was stolen. The British citizen was eventually deported instead of prosecuted. The most recent information on the Ugandan man is that he is still facing charges of “gross indecency.” <sup>252</sup>
<b>November 5, 2013</b>	Sam Ganafa, a prominent LGBTI activist and executive director of Spectrum Initiatives Uganda, an NGO for LGBTI people, was arrested and held for three days before being charged with sodomy. Upon his arrest, police searched his house and arrested three men staying there. Police never produced a warrant for the arrest or the search and he was paraded by police before the media and subjected to an HIV/AIDS test without his consent. <sup>253</sup>

*Return*, The Guardian (Feb. 15, 2013), <http://www.theguardian.com/world/2013/feb/15/threatre-producer-deported-uganda-fight-return>.

<sup>246</sup> Betty Ndagire, *Six Pastor Kayanja Sodomy Accusers Convicted*, Daily Monitor (Oct. 3, 2012), <http://www.monitor.co.ug/News/National/Six++Pastor+Kayanja+accusers+convicted+/-/688334/1523898/-/1ny4js/-/index.html>.

<sup>247</sup> NTVUganda, *Kadaga: Uganda Can Survive Without Donations* (2012), <https://youtu.be/XULpsYqvyy4> (last visited Oct. 27, 2015).

<sup>248</sup> Sheila Naturinda, *Kadaga Wants Anti-Gay Bill Tabled*, Daily Monitor (Nov. 16, 2012), <http://www.monitor.co.ug/News/National/Kadaga-wants-anti-gay-Bill-tabled/-/688334/1621218/-/j0h230z/-/index.html>.

<sup>249</sup> *Uganda to pass anti-gay law as 'Christmas gift'*, BBC NEWS, Nov. 13, 2012, <http://www.bbc.com/news/world-africa-20318436>.

<sup>250</sup> NBS Television Station, *Morning Breeze: Homosexuality Debate* (2012), <https://www.youtube.com/watch?v=LKP-PUAI96U> (last visited Nov. 2, 2015).

<sup>251</sup> Sulaiman Kakaire, *Gay Bill: Why MPs Fear Open Vote*, The Observer (April 1, 2013), [http://www.observer.ug/index.php?option=com\\_content&view=article&id=24518:gay-bill-why-mps-fear-open-vote&catid=34:news&Itemid=114](http://www.observer.ug/index.php?option=com_content&view=article&id=24518:gay-bill-why-mps-fear-open-vote&catid=34:news&Itemid=114).

<sup>252</sup> David Smith, *Gay Briton Facing Jail in Uganda Over Stolen Images May Be Deported*, The Guardian (Nov. 28, 2013), <http://www.theguardian.com/world/2013/nov/28/gay-briton-facing-jail-uganda-stolen-images-deported>.

<sup>253</sup> Colin Stewart, *Police Arrest Ugandan LGBT Leader Sam Ganafa*, Erasing 76 Crimes (Nov. 12, 2013), <http://76crimes.com/2013/11/12/police-arrest-ugandan-lgbt-leader-sam-ganafa/>; Miriam Berger, *Uganda Arrests Leading LGBT Activist*, BuzzFeed (Nov. 15, 2013), <http://www.buzzfeed.com/miriamberger/ugandan-arrests-leading-lgbt-activist#.etOa9pm6G>.

December 20, 2013	Parliament passed the Anti-Homosexuality Act (AHA) with life imprisonment instead of the original death penalty. <sup>254</sup>
December 20, 2013	A “legislative committee” stated that there was a need to protect children from the “increasing attempts” to raise children in homosexual relationships “through adoption and foster care.” <sup>255</sup>
February 6, 2014	President Museveni signed the Anti-Pornography Act, which bans sexual and pornographic displays so vaguely that opponents and the media nicknamed the law Uganda’s “mini-skirt ban.” <sup>256</sup>
February 24, 2014	President Museveni signed the Anti-Homosexuality Act (AHA) into law. <sup>257</sup> As international criticism of the AHA mounts, he declares homosexuals “disgusting.” <sup>258</sup>
February 24, 2014	Martin Ssempe organized a rally in the National Theater in Kampala in celebration of Museveni signing the AHA. <sup>259</sup>
February 25, 2014	<p>One day after President Museveni signed the AHA, <i>Red Pepper</i> resumed its “outing” practice by running the front-page headline “EXPOSED! Uganda’s 200 Top Homos Named” with a list of 200 supposed LGBTI people (including private citizens as well as activists on the cover).<sup>260</sup> Media “outings” continued all week.</p> 

<sup>254</sup> E.g., Faith Karimi, *Uganda Parliament Passes Anti-Gay Bill That Includes Life in Prison*, CNN (Dec. 23, 2013), <http://www.cnn.com/2013/12/21/world/africa/uganda-anti-gay-bill/>.

<sup>255</sup> Alan Cowell, *Ugandan Lawmakers Pass Measure Imposing Harsh Penalties on Gays*, N.Y. Times (Dec. 20, 2013), <http://www.nytimes.com/2013/12/21/world/africa/ugandan-parliament-approves-antigay-law.html>.

<sup>256</sup> Anti-Pornography Act, Uganda (2014), <http://www.ulii.org/files/Anti%20Pornography%20Act%20of%202014.pdf>; *Confusion over Uganda's 'miniskirt ban' leads to public attacks on women*, THE GUARDIAN, Feb. 28., 2014, <http://www.theguardian.com/fashion/fashion-blog/2014/feb/28/uganda-miniskirt-ban-attacks-women>.

<sup>257</sup> Karimi, *supra* note 254.

<sup>258</sup> E.g., Landau et al., *supra* note 150.

<sup>259</sup> Risdell Kasasira, *Joy, Anger as Museveni Signs Law Against Gays*, The Daily Monitor (Feb. 25, 2014), <http://www.monitor.co.ug/News/National/Joy--anger-as-Museveni-signs-law-against-gays/-/688334/2220400/-/ep9v42z/-/index.html>.

<sup>260</sup> Saad Abedine & Elizabeth Landau, *Ugandan Tabloid Prints List of 'Homosexuals,'* CNN (Feb. 25, 2014), <http://www.cnn.com/2014/02/25/world/africa/uganda-anti-gay-law/>.

<p><b>March 1, 2014</b></p>	<p><i>Red Pepper</i> published “Homo Cabinet List Leaks” featuring LGBT activists</p>  <p>261</p>
<p><b>March 2, 2014</b></p>	 <p>262</p>
<p><b>March 14, 2014</b></p>	<p>The Ugandan government sent a letter to the Refugee Law Project (RLP) suspending its services in refugee settlements on the grounds that the Project was “promoting homosexuality under the guise of human rights promotion and protection. The Project played a key role Civil Society Coalition for Human Rights and Constitutional Law, a coalition of diverse non-governmental organizations formed to oppose the Anti-Homosexuality Bill.”<sup>263</sup></p>
<p><b>March 31, 2014</b></p>	<p>Following the passage of the AHA, the Inter-Religious Council of Uganda organized a gathering of approximately 30,000 people to praise the President for passing the Act.<sup>264</sup> The President and MP David Bahati were present.<sup>265</sup></p>
<p><b>April 3, 2014</b></p>	<p>Ugandan police raided the Makerere University Walter Reed Project, resulting in the arrest of one of the clinic’s employees, for conducting “unethical research” and “recruiting homosexuals.”<sup>266</sup> While the clinic reopened after a brief suspension, it now offers scaled back services for the MSM (men who have sex with men)</p>

<sup>261</sup> Jim Burroway, *Ugandan Tabloids Continue Outing Campaigns*, Box Turtle Bulletin (Mar. 1, 2014), <http://www.boxturtlebulletin.com/2014/03/01/62964>.

<sup>262</sup> *Id.*

<sup>263</sup> Lauren Markham, *Uganda’s Anti-Gay Witch Hunt Has Officially Begun*, Vice (June 27, 2014), <http://www.vice.com/read/ugandas-anti-gay-witch-hunt-has-officially-begun-627>.

<sup>264</sup> Rebecca Hodes, *Uganda Throws a Party to Celebrate Passing of Anti-Gay Law*, The Guardian (Apr. 2, 2014), <http://www.theguardian.com/world/2014/apr/02/uganda-celebrates-anti-gay-law>.

<sup>265</sup> *Rule by law*, *supra* note 89, at 25–26; NTV Uganda, *Anti-Gay Prayers; Museveni: “Ugandan Doesn’t Need Donor Aid”* (2014) <https://www.youtube.com/watch?v=kHR8vBnstlA> (last visited Nov. 2, 2015).

<sup>266</sup> Press Statement, Marie Harf, Deputy Department Spokesperson, U.S. Department of State, *Raid on Makerere University Walter Reed Project by Ugandan Authorities*, <http://www.state.gov/r/pa/prs/ps/2014/04/224431.htm> (last visited Oct. 27, 2015).

	population. A local media outlet described the incident as a raid of a “homosexual training camp in Kampala.” <sup>267</sup>
<b>May 20, 2014</b>	The Ugandan government sent a second letter to the Refugee Law Project suspending its direct services in the Capital in addition to the previous suspension of its services in the refugee settlements. <sup>268</sup>
<b>June 24, 2014</b>	The Ugandan High Court decided a lawsuit brought by Kasha Jacqueline Nabagesera, Pepe Julian Onziema, Frank Mugisha, and Geoffrey Ogwaro against Minister of Ethics Simon Lokodo and the Attorney General for a 2012 raid on a workshop hosted by Nabagesera’s organization, FARUG, on LGBTI rights. The Court found the raid and the shutting down of the workshop constitutional because the subject matter of the workshop constituted promotion of homosexuality, which is illegal. <sup>269</sup>
<b>August 1, 2014</b>	The Ugandan Constitutional Court nullified the AHA in August 2014 because of a procedural issue: a quorum of members was not present at the time of the vote. <sup>270</sup>
<b>October 29, 2014</b>	Members of Parliament reportedly drafted new legislation, The Prohibition of Unnatural Sexual Practices Bill, criminalizing homosexual “incitement,” promotion and acts, and described it as a “streamlined version of the nullified Anti-Homosexuality Act.” <sup>271</sup>
<b>November 20, 2014</b>	The Parliamentary opposition chief whip, Cecilia Ogwal, expressed the opposition’s support for anti-gay legislation, and particularly the new bill that was focused on prohibiting the “promotion” of homosexuality, based on the belief that homosexuals target “children and vulnerable people.” <sup>272</sup>
<b>December 2, 2014</b>	MP Rebecca Kadaga, Speaker of Parliament stated: “[b]e very careful because gays are here to distort our heritage. We have discovered that they adopt our children and confine them in gay communities abroad to train them on gay practices. By the time they come back home, they are already influenced homosexuality and are used to influence others in the community.” <sup>273</sup>
<b>February 2015</b>	Sexual Minorities Uganda (“SMUG”) filed to incorporate as a company. Its representation, attorneys at the Human Rights Awareness and Promotion Forum (“HRAPF”), reported that the Uganda Registration Services Bureau rejected the name as “undesirable” and on the grounds that SMUG would be “involved in criminal activities” since “[s]ame sex sexual conduct is criminalized in the Penal Code Act.” <sup>274</sup>
<b>October 23, 2015</b>	Human Rights Awareness and Promotional Forum calls attention to spate of violent attacks on five LGBTI activists over the course of six days. <sup>275</sup>

<sup>267</sup> *Police Bust Homosexual Training Camp in Kampala*, Galaxy 100.2 FM (April 8, 2014), <http://www.galaxyfm.co.ug/2014/04/08/police-bust-homosexual-training-camp-kampala>.

<sup>268</sup> Markham, *supra* note 263.

<sup>269</sup> Nabagesera and 3 Ors.v. Attorney General & Anor (2014) UGHCCD 85 (Uganda), *available at* <http://www.ulii.org/ug/judgment/high-court/2014/85>.

<sup>270</sup> *Oloka-Onyango v. Attorney General*, No. 08, Constitutional Court of Uganda (Aug. 1, 2014), <http://www.ulii.org/ug/judgment/constitutional-court/2014/14>.

<sup>271</sup> Chapter Four, *supra* note 93, at 2; *Uganda Planning New Anti-Gay Law Despite Opposition*, BBC News (Nov. 10, 2014), <http://www.bbc.com/news/world-africa-29994678>.

<sup>272</sup> *New Anti-Gay Bill Drawn Up in Uganda*, AL JAZEERA (Nov. 20, 2014), <http://www.aljazeera.com/news/africa/2014/11/new-anti-gay-bill-drawn-up-uganda-20141120123219934655.html>.

<sup>273</sup> Paul Gonza, *Gay Groups Targeting Church Leaders, Schools – Kadaga*, Daily Monitor (Dec. 2, 2014), <http://www.monitor.co.ug/News/National/Gay-groups-targeting-church-leaders--schools---Kadaga-/688334/2541220/-/10169wgz/-/index.html>.

<sup>274</sup> Newsletter Issue No. 6, Human Rights Awareness and Promotion Forum at 5 (Jan. – Mar. 2015) [http://www.hrapf.org/sites/default/files/publications/15\\_07\\_01\\_final\\_hrapf\\_newsletter\\_6th\\_issue\\_h.pdf](http://www.hrapf.org/sites/default/files/publications/15_07_01_final_hrapf_newsletter_6th_issue_h.pdf).

<sup>275</sup> *Outbreak of anti-LGBTI attacks in Uganda*, Erasing 76 Crimes (Oct. 23, 2015), <http://76crimes.com/2015/10/23/outbreak-of-anti-lgbti-attacks-in-uganda/>.

### C. Triggering Factors (Risk Factor 8)

Atrocity crimes unfold or escalate in dynamic processes, which are not the same in all situations. Along with structural factors, which can make an environment more or less conducive to the perpetration of atrocity crimes, there are dynamic elements that can catapult a society into mass or heightened atrocity. Among these dynamic elements is what is known as “triggering factors.”<sup>276</sup> Of the twelve indicators under this risk factor, six are present<sup>277</sup> and three are likely to become present<sup>278</sup> in Uganda. (See Table 8.)

The triggering conditions most likely to assail Uganda in the months and years ahead are considered by experts to fall into one of three categories: sudden disruptions in politics with abrupt and contested regime change; existential threats to the state through eruption of civil war or invasion; or rapid and marked distortions in elite access to wealth (such as oil and oil lands). In one or all of these contexts, which would inflame the traditional divisions within the country, the government might easily resort to a violently distracting campaign against the one group that has no ties to ethnicity, land, or tribe. Grossly stereotyped as evil and repugnant, as grave threats to intensely held religious norms, the LGBTI community can become the target against which all the devout can rally. LGBTI people, who now persist in a state of continual jeopardy, could in easily foreseen scenarios confront mobilized and mob group forces that seek their ouster and death.

**Table 8: Indicators for Risk Factor 8**

<b>Risk Factor 8: Triggering Factors</b>	
8.1	Sudden deployment of security forces or commencement of armed hostilities.
8.2	Spillover of armed conflicts or serious tensions in neighboring countries.
8.3	Measures taken by the international community perceived as threatening to a States’ sovereignty.
8.4	Abrupt or irregular regime changes, transfers of power, or changes in political power of groups.
8.5	Attacks against the life, physical integrity, liberty or security of leaders, prominent individuals or members of opposing groups. Other serious acts of violence, such as terrorist attacks.
8.6	Religious events or real or perceived acts of religious intolerance or disrespect, including outside national borders.
8.7	Acts of incitement or hate propaganda targeting particular groups or individuals.
8.8	Census, elections, pivotal activities related to those processes, or measures that destabilize them.
8.9	Sudden changes that affect the economy or the workforce, including as a result of financial crises, natural disasters or epidemics.
8.10	Discovery of natural resources or launching of exploitation projects that have a serious impact on the livelihoods and sustainability of groups or civilian populations.
8.11	Commemoration events of past crimes or of traumatic or historical episodes that can exacerbate tensions between groups, including the glorification of perpetrators of atrocities.
8.12	Acts related to accountability processes, particularly when perceived as unfair.

In the fog of conflict and chaos, the LGBTI community—a population already suffering significant discrimination and serious human rights abuses—would be at a significantly higher risk of further atrocity crimes in Uganda. Given the state’s systematic targeting and criminalization of LGBTI people, the Ugandan government would likely be unable and

<sup>276</sup> UN Framework of Analysis, *supra* note 1, at 17. Societies that do not adequately address discrimination or exclusion of protected groups can be more prone to atrocity crimes. See also *id.*, at 11.

<sup>277</sup> *Id.*, specifically, indicators 8.2, 8.3, 8.5, 8.6, 8.7, and 8.10.

<sup>278</sup> See indicators 8.4, 8.8, and 8.9. *Id.*

unwilling to protect LGBTI from victimization at the hands of other public or private actors in the country. Further, LGBTI individuals who are often excommunicated from ethnic groups and tribes, ostracized from religious communities, and disowned by families, would be left extremely vulnerable and without protection from these important social networks on which most Ugandans rely for safety and security.<sup>279</sup>

Several current and potential triggering factors exist in the Ugandan context including (1) acts of incitement and hate propaganda, (2) the upcoming 2016 presidential election, (3) regional armed conflicts and neighboring country tensions, (4) recent oil discoveries, and (5) strong international reactions perceived as threatening Ugandan sovereignty—that may seriously exacerbate existing stigmatization and spark an increase in violence and other forms of persecution against LGBTI Ugandans.

1. Acts of Incitement and Hate Propaganda Targeting LGBTI Individuals (Indicators 8.6 & 8.7)

As explained in detail in Section V.B., politicians, government officials, religious leaders, and the media have and continue to produce anti-LGBTI hate propaganda and religious intolerance, inciting widespread discrimination and violence and scapegoating “homosexuals.”<sup>280</sup>

2. Elections, Potential Regime Change, or other Crises (Indicators 8.4, 8.5, 8.8 & 8.9)

The upcoming 2016 presidential elections may spark ethnic and tribal divisions, unrest, and violence, which would leave LGBTI Ugandans unprotected and even more vulnerable to targeted violence and atrocity crimes. Ethnicity largely defines political affiliation and participation in Uganda.<sup>281</sup> With ethno-politics comes politicians’ increased manipulation of ethnic diversity and a system based on patronage and repression.<sup>282</sup> Uganda’s weak state institutions reinforce these affiliations and divisions, and increase the stakes in presidential elections for political control and resulting security for winning groups.

The presidential election may trigger abrupt or irregular regime change, power transfer, or change in the political power of political groups closely tied to ethnicity.<sup>283</sup> Such destabilizing events greatly increase the risk of ethnic violence, and unprotected LGBTI Ugandans will be

<sup>279</sup> See Danish Refugee Council, *supra* note 101, at 56.

<sup>280</sup> See, e.g., Landau et. al., *supra* note 150; *Homos Targeting Kindergartens, Says Bahati*, Red Pepper (Nov. 5, 2015), <http://www.redpepper.co.ug/homos-targeting-kindergartens-says-bahati/>; Philippa Croome, *Uganda's Gays Fear Mounting Violence in Wake of Anti-Gay Bill's Passage*, CNN (Dec. 23, 2013, 7:45 PM), <http://www.cnn.com/2013/12/23/world/africa/uganda-anti-gay-bill/> (quoting Simon Lokodo, Uganda’s Minister for Ethics and Integrity) (“What we are convinced and sure of is that nobody can in one’s right conscience and consciousness choose to be homosexual.... This must be under pressure or conditions because we know that the natural tendency is always for a male to go for a female and vice-versa.”).

<sup>281</sup> Susan Dicklitch, *Uganda: A Microcosm of Crisis and Hope in Sub-Saharan Africa*, 51 INT’L J., Africa’s Prospects 103, 105 (Winter, 1995/1996). For more on the impact of colonialism and the historical causes of ethnicity, regionalism, and religious division, see Phares Mutibwa, *Uganda Since Independence: A Story of Unfulfilled Hopes* (1992).

<sup>282</sup> See Dicklitch, *supra* note 281, 105–06 (citing Nelson Kasfir, *The Shrinking Political Arena: Participation and Ethnicity in African Politics with a Case Study of Uganda* 113 (1976)).

<sup>283</sup> See Indicators 8.4 and 8.8. UN Framework of Analysis, *supra* note 1, at 17 (Risk Factor 8).

either: (1) easy, obvious, and safe targets for distracting the masses to prevent ethnic violence; or (2) caught in the middle of ethnic violence and civil war.

### 3. Spillover of Armed Conflicts and Serious Tensions in Neighboring Countries (Indicator 8.2)

Regional armed conflicts and tensions in neighboring countries have been spilling over into Uganda, which increases socio-economic tensions and violence, and instability, which increases the vulnerability of already targeted groups.<sup>284</sup> The African Great Lakes Region is generally marked by deep instability, protracted conflict, and growing humanitarian crises.<sup>285</sup> For example, the civil war in South Sudan has destabilized the region<sup>286</sup> with an estimated 1.8 million South Sudanese displaced from their homes, and 453,600 refugees who have “fled to neighboring countries.”<sup>287</sup> Such mass displacement exacerbates the region’s instability, and the ever-increasing influx of refugees into Uganda causes additional stress to its already overwhelmed economy.<sup>288</sup>

The Karimojong region of Uganda shares a border with Kenya and has been plagued by inter- and intra-ethnic violence, which is exacerbated by the proliferation of small arms and light weapons.<sup>289</sup> In addition, the practice of ‘cattle rustling’ and increasing competition over water and grazing land has contributed to inter- and intra-ethnic violence.<sup>290</sup>

The Democratic Republic of Congo (DRC) is still embroiled in a protracted, brutal civil war that has crippled the country, “pitt[ing] government forces, supported by Angola, Namibia, and Zimbabwe, against rebels backed by Uganda and Rwanda.”<sup>291</sup> Uganda arms and actively supports rebel groups because of strategic guerilla alliances, each country’s interest in controlling

<sup>284</sup> See Indicator 8.2. *Id.*

<sup>285</sup> Uganda borders South Sudan, Kenya, the Democratic Republic of the Congo (DRC), Rwanda, and Tanzania. CIA Factbook, *supra* note 14. According to the Fund for Peace’s Fragile States Index for 2014, South Sudan is the most fragile state, out of 178 countries, with the DRC trailing behind in fourth place. Kenya and Rwanda fall into the “Alert” category with Uganda. In comparison, Tanzania fares relatively well as the 65th most fragile state. The Fund for Peace, *The Fragile States Index* (formerly The Failed States Index) (2014), <http://fsi.fundforpeace.org/rankings-2014>.

<sup>286</sup> In late 2013, violence erupted in Juba between supporters of President Salva Kiir and former Vice President Riek Machar. Conflicts in South Sudan, Enough: The Project to End Genocide and Crimes Against Humanity, <http://www.enoughproject.org/conflicts/sudans/conflicts-south-sudan> (updated Oct. 1, 2014).

<sup>287</sup> *Id.*

<sup>288</sup> See Indicators 8.2 and 8.9. UN Framework of Analysis, *supra* note 1, at 17 (Risk Factor 8).

<sup>289</sup> KEES KINGMA ET AL., SECURITY PROVISION AND SMALL ARMS IN KARAMOJA: A SURVEY OF PERCEPTIONS, SMALL ARMS SURVEY 28–30, 66–69 (Sept. 2012), <http://www.smallarmssurvey.org/fileadmin/docs/C-Special-reports/SAS-SR17-Karamoja.pdf>; JAMES BEVAN, CRISIS IN KARAMOJA: ARMED VIOLENCE AND THE FAILURE OF DISARMAMENT IN UGANDA’S MOST DEPRIVED REGION, SMALL ARMS SURVEY 16 (June 2008), <http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP21-Karamoja.pdf>.

<sup>290</sup> Kees Kingma et al., *Security Provision and Small Arms in Karamoja: A Survey of Perceptions*, 19 (Sept. 2012), <http://www.smallarmssurvey.org/fileadmin/docs/C-Special-reports/SAS-SR17-Karamoja.pdf>.

<sup>291</sup> *Africa: Democratic Republic of Congo County Profile – Overview*, BBC NEWS (Aug. 4, 2015), <http://www.bbc.com/news/world-africa-13283212>.

the DRC's mineral wealth, and an apparent desire by Ugandan leadership to maintain power and influence in the region.<sup>292</sup>

#### 4. Discovery of Natural Resources (Indicator 8.10)

Recent oil discoveries may destabilize the region, trigger intra-ethnic violence, and increase the risk of further scapegoating and violence against LGBTI Ugandans. Oil has been found in the Lake Albertine Graben region, which borders and includes lands within the DRC.<sup>293</sup> This area has an enormous amount of biodiversity as well as instability and conflict.<sup>294</sup>

Oil extraction and export requires extensive state structures<sup>295</sup> and “significantly increases the likelihood of secessionist wars.”<sup>296</sup> Serious and growing tensions already exist between the Bunyoro Kingdom, a region demanding redress for crimes committed against its citizens, and the federal government.<sup>297</sup>

In addition, oil discovery contributes to political instability by forcibly displacing populations. Ugandans have begun to migrate to these oil rich regions intending to profit from the oil extraction process. As “almost all land in Bunyoro sub-region and parts of the north is owned communally,” land grabbing by other Ugandans, but also by oil companies, is rampant.<sup>298</sup> In 2014, for instance, over 700 residents were “evicted and brutalized after a land dispute.”<sup>299</sup> Consistent forced displacement, combined with land grabbing, may eventually lead to social unrest, insurgencies, or a secessionist war.<sup>300</sup>

<sup>292</sup> See Isabella Bauer, *Uganda's Hidden Role in Congo's Conflict*, DW (April 1, 2013), <http://dw.com/p/17CxG>; U.N. Group of Experts on the Democratic Republic of the Congo, Rep. transmitted by letter dated Nov. 12, 2012 from the Chair of the Security Council Comm. established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, U.N. Doc S/2012/843 (Nov. 15, 2012), [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2012/843](http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/843); Aaron Hall & Akshaya Kumar, *Coordinated International Leverage: The Missing Element from Congo's Peace Process*, Enough (Feb. 2013), [http://www.enoughproject.org/files/Coordinated\\_International\\_Leverage.pdf](http://www.enoughproject.org/files/Coordinated_International_Leverage.pdf).

<sup>293</sup> Jacob Kathman & Megan Shannon, *Oil Extraction and the Potential for Domestic Instability in Uganda*, 12 Afr. Stud. Q. 23, 24 (Summer 2011).

<sup>294</sup> *Id.* Within Uganda's borders, the oil is located in the Hoima and Buliisa districts of “the Bunyoro sub-region, including Lake Albert.” *Uganda: No Resolution to Growing Tensions*, International Crisis Group, Africa Report No. 187 2 (Apr. 5, 2012), [http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/uganda/187-uganda-no-resolution-to-growing-tensions.pdf](http://www.crisisgroup.org/~/media/Files/africa/horn-of-africa/uganda/187-uganda-no-resolution-to-growing-tensions.pdf) [hereinafter *Uganda: No Resolution*].

<sup>295</sup> Kathman & Shannon, *supra* note 293, at 28.

<sup>296</sup> Julius Kiiza et al., *Economic Policy Research Centre, Righting Resource-Curse Wrongs in Uganda: The Case of Oil Discovery and the Management of Popular Expectations* 10 (July 2011), <http://ageconsearch.umn.edu/bitstream/150481/2/series78.pdf>.

<sup>297</sup> *Uganda: No Resolution*, *supra* note 294, at 19.

<sup>298</sup> *Id.* at 22.

<sup>299</sup> Lizabeth Paulat, *Land Eviction Breeds Violence in Oil-Rich Hoima, Uganda*, Voice of America (Sept. 24, 2014, 1:04 PM), <http://www.voanews.com/content/land-eviction-breeds-violence-in-oil-rich-hoima-uganda/2460974.html>.

<sup>300</sup> See Brian Dabbs, *Secessionist Winds Blow on Kenya's Coast*, Al Jazeera (Aug. 30, 2012, 1:03 PM), <http://www.aljazeera.com/indepth/features/2012/08/2012826121411849944.html>.

5. International Community Measures Perceived as Threats to State Sovereignty  
(Indicator 8.3)

Strong responses and actions of the international community in response to the discrimination and criminalization of LGBTI Ugandans have been perceived as threatening to Ugandan sovereignty.<sup>301</sup> The international community has publicly condemned the Ugandan government for signing the Anti-Homosexuality Act (AHA) into law.<sup>302</sup> The governments of the Netherlands, Norway and Denmark suspended foreign aid to Uganda while the World Bank delayed a \$90 million loan.<sup>303</sup> Despite the fact that half of Uganda's national budget is dependent upon foreign aid, Museveni fired back by stating he was reaffirming Uganda's sovereignty by signing the law.<sup>304</sup>

## V. CONCLUSION

Risk factor intensity and number have been found to explain, and even predict, outbreaks and instances of atrocity crimes. Efforts to use this Framework and analysis to intervene early along the escalation pathway are now underway in many countries and locales. An observed escalation pathway, in real time terms and in terms of retrospective analysis, can be discerned if events are viewed through an atrocity lens.

In Uganda, the current state for LGBTI people is relentless stigma, intimidation and persecution, which in itself fits the definition of crimes against humanity. The concern is that incitement, internal and external, will fan the coals for even more extreme violence. All risk factors in number and intensity point to high levels of instability along many axes. Additionally, high levels of religious fundamentalism in Ugandan society as well as intense stigmatization against LGBTI individuals as threatening religious and societal norms, values and morals are particularly important factors leading to atrocity crimes and future risk of atrocities.

These existing factors, combined with triggering events, such as conflict and/or contested elections ahead, could unleash severe violence. As has been happening with past and current economic crises in Uganda, the government could continue to scapegoat LGBTI people as threats to national morals and cohesion. In a situation of rising political tension, which is inevitably approaching with the coming elections, vulnerable groups, like the LGBTI population, are at even more heightened risk of escalating violence and atrocity crimes.

<sup>301</sup> See Indicator 8.3. UN Framework of Analysis, *supra* note 1, at 17 (Risk Factor 8).

<sup>302</sup> *Uganda's President Signs Anti-Gay Bill*, AL JAZEERA AMERICA & THE ASSOCIATED PRESS (Feb. 24, 2014, 2:45 AM), <http://america.aljazeera.com/articles/2014/2/24/uganda-s-presidentsignsantigaybill.html>.

<sup>303</sup> *Uganda Hit with Foreign Aid Cuts Over Anti-Gay Law*, Al Jazeera America and the Associated Press (February 27, 2014, 9:45AM), <http://america.aljazeera.com/articles/2014/2/27/uganda-hit-with-foreignaidcutsoverantigaylaw.html>.

<sup>304</sup> Richard Manambwa, *Museveni: I signed Anti-Gay Law to Affirm Ugandan Sovereignty*, AFRICA REVIEW (April 1, 2014, 9:43), <http://www.africareview.com/News/-/979180/2265134/-/8hw20z/-/index.html>.

Thus, based on available and reliable evidence related to the Risk Factors and Indicators of the U.N. Framework of Analysis for Atrocity Crimes, state and private actors have committed atrocities, including persecution and other crimes against humanity, against LGBTI Ugandans, and the risk for further escalation and atrocity crimes against LGBTI individuals is high.



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Dr. Jennifer Leaning

Date: November 2, 2015

# **EXHIBIT 207**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

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SEXUAL MINORITIES UGANDA

Civil Action

3:12-CV-30051 (MAP)

*Plaintiff,*

v.

SCOTT LIVELY, individually and as President  
of Abiding Truth Ministries

*Defendant.*

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**EXPERT REPORT OF DR. ILAN H. MEYER**

I have been retained by the Center for Constitutional Rights to provide written opinion and possible live testimony as an expert witness on behalf of Plaintiff Sexual Minorities Uganda (“Plaintiff”) in connection with the pending action entitled *Sexual Minorities Uganda v. Scott Lively*, U.S. District Court, District of Massachusetts, No. 3:12-cv-30051 and any related litigation.

My work for this report is provided *pro bono*. I am not being compensated for research and the writing of this report. However, Plaintiff is reimbursing me for all reasonable and necessary out-of-pocket expenses incurred in relation to this work, including expenses related to any travel that would be necessary related to my work in this case. In addition, in the event Plaintiff or its counsel recovers attorneys’ fees or costs in this action and/or any related litigation, Plaintiff or its counsel will compensate me at an hourly rate of \$250.00 per hour. Reimbursement of my expenses or other compensation is not in any way conditioned upon or affected by either the substantive results or conclusions of my work, or by the final outcome of this action.

### **I. Qualifications**

I am the Williams Distinguished Senior Scholar of Public Policy at the Williams Institute at the University of California Los Angeles (UCLA) School of Law in Los Angeles, California. The Williams Institute’s website describes its mission as follows:

“The Williams Institute is dedicated to conducting rigorous, independent research on sexual orientation and gender identity law and public policy. A national think tank at UCLA Law, the Williams Institute produces high-quality research with real-world relevance and disseminates it to judges, legislators, policymakers, media and the public.

Experts at the Williams Institute have authored dozens of public policy studies and law review articles, filed amicus briefs in key court cases, provided expert testimony at legislative hearings, been widely cited in the national media, and trained thousands of lawyers, judges and members of the public.” “The Williams Institute is committed to the highest standards of independent inquiry, academic excellence and rigor. Research findings and conclusions are never altered to accommodate other interests, including those of funders, other organizations, or government bodies and officials.”

<http://williamsinstitute.law.ucla.edu/mission/#sthash.9qcEVuIh.dpuf>.

Prior to arriving at the Williams Institute, from July 1994 until June 2011, I served in different roles at Columbia University in New York City. My last position there was as Professor of Clinical Sociomedical Sciences and Deputy Chair for Masters Programs in Sociomedical Sciences at Columbia University’s Mailman School of Public Health.

My area of expertise is the study of the effects of social stress related to prejudice and discrimination on the health of lesbian, gay, bisexual and Transgender (LGBT) populations. This area of study belongs to an area of study called *social epidemiology*. Social epidemiology is concerned with social patterns of disease and risks for disease. “Social epidemiology is about how society’s innumerable social arrangements, past and present, yield differential exposures and thus differences in health outcomes . . . .” (Oakes & Kaufman, 2006, p. 3).

My original theoretical and empirical research focuses on the relationships among stigma and prejudice, minority social status and identity, and mental health and well-being. I have studied, in particular, United States populations defined by sexual orientation (lesbian, gay, bisexual, and heterosexual), gender (men, women, transgender), and race/ethnicity (African Americans, Latinos, and Whites). Through these studies, which use methodologies widely -

accepted in the field of social epidemiology, I have developed a model of social stress referred to as *minority stress* (Meyer, 1995; Meyer, 2003). This model has become the most prominent and commonly used framework for the study of health disparities in LGB individuals (Herek & Garnets, 2007; IOM, 2011) and has generated hundreds of scientific papers by many scientists. For this work, I have received several awards and prizes including the American Psychological Association Division 44 Distinguished Scientific Contribution Award.

I received my Ph.D. in Sociomedical Sciences and Social Psychology from Columbia University's Mailman School of Public Health in 1993. My doctoral dissertation, titled *Prejudice and pride: Minority stress and mental health in gay men*, received distinguished designation, awarded to the top 10% of Columbia University doctoral dissertations, as well as the Marisa De Castro Benton Dissertation Award for outstanding contribution to the sociomedical sciences, and an honorable mention from the mental health section of the American Sociological Association's award for best dissertation. Prior to graduating, I was a pre-doctoral National Institute of Mental Health Fellow in Psychiatric Epidemiology at Columbia University from 1987 to 1992. Later, I was a National Institute of Mental Health Research postdoctoral fellow in health psychology at The Graduate Center at The City University of New York from 1993 to 1995 and a National Institute of Mental Health Research postdoctoral fellow in psychiatry, with a focus on acquired immune deficiency syndrome (AIDS), at Memorial Sloan-Kettering Cancer Center from 1995 to 1996. I returned to Columbia University's Mailman School of Public Health in 1994 and served as an Assistant Professor of Clinical Public Health. In 1998, I was appointed an Assistant Professor of Public Health in the Department of Sociomedical Sciences. I was appointed as an Associate Professor of Clinical Sociomedical Sciences in 2003, Deputy Chair for Masters Programs in the Department of Sociomedical Sciences in 2004, and Professor

in 2010. From 2006 to 2007, I was a Visiting Scholar at the Russell Sage Foundation, a research center devoted to the social sciences in New York City. Further information regarding about my background and experience, as well as a list of my publications, can be found in my *curriculum vitae*, which is attached as Exhibit A to this report.

As reflected in my *curriculum vitae* (Exhibit A), I have published over 80 original, peer-reviewed articles, chapters, reviews, and editorials in scholarly journals and books. I have also co-edited a book, published in 2007 by Springer, titled *The health of sexual minorities: Public health perspectives on lesbian, gay, bisexual and transgender populations*, and three special issues of academic journals on these topics, including the first special issue of the *American Journal of Public Health*, published by the American Public Health Association in 2001 and, most recently, a special issue of *Psychology of Sexual Orientation and Gender Diversity* published by the American Psychological Association in 2015. I have made numerous presentations and invited addresses at professional conferences and meetings. I have received grants for my research from federal, state, and private funders. Currently, I am the Principal Investigator of a National Institutes of Health-funded study of stress, identity, and health among LGBT populations in the United States.

Among other professional activities, I currently serve on the editorial boards of the scientific journals *LGBT Health* and *Psychology of Sexual Orientation and Gender Diversity*. Over the past 15 years, I have served on editorial boards (e.g., the *Journal of Health and Social Behavior*) and reviewed, as *ad hoc* reviewer, numerous manuscripts for many of the top scientific and professional journals in the fields of public health, psychology, sociology, and medicine. From 1993 to 2002, I served as co-chair of the Science Committee of Division 44 of the American Psychological Association, the Society for the Psychological Study of Lesbian,

Gay, Bisexual and Transgender Issues. From 2000 to 2001, I served as Guest Editor for the *American Journal of Public Health's* Special Issue on LGBT health, published in June 2001. In 2004, I served as Leader of the Working Group on Stigma, Prejudice and Discrimination for The Robert Wood Johnson Health and Society Scholars Program at Columbia University's Mailman School of Public Health. In 2006, I served as co-editor of the *Social Science & Medicine* Special Issue on prejudice, stigma, and discrimination in health, published in 2008. From 2012 to 2013, I have served as Leader of the Working Group on Sexual and Gender Identity (Who Is Gay?) at the Williams Institute, UCLA School of Law. From 2014 to 2015, I served as the guest editor for a special issue on resilience in LGBT populations that was published by *Psychology of Sexual Orientation and Gender Diversity*.

At Columbia University's Mailman School of Public Health, I taught graduate-level courses on research methods; stigma, prejudice, and discrimination; and sexual and gender minority (*i.e.*, LGBT) issues in public health. I have also taught other related topics in the past and continue to teach classes as a guest lecturer at UCLA and elsewhere (e.g., Fenway Summer Institute in Boston, MA; George Washington University, Washington, DC). As Deputy Chair for Masters Programs in the department of Sociomedical Sciences at Columbia University's Mailman School of Public Health, I led faculty in administering the MPH and MS programs in public health at our department. We admitted about 100 students per year for the 2-year program. I was responsible for about 200 students' entire tenure at the department, including their admission, academic performance, and graduation.

In the past five years, I have served as an expert either at trial or hearings or through declaration in:

- Expert witness testimony in *Perry v. Schwarzenegger*, 704 F. Supp.2d 921 (N.D. Cal. 2010).

- Expert report – Written testimony in application for asylum, withholding of removal, and/or withholding under the Convention Against Torture. Removal proceedings before Immigration Judge, United States Department of Justice, Executive Office for Immigration Review (2010).

- Expert testimony before the United States Commission on Civil Rights briefing on peer-to-peer violence and bullying in K-12 public schools (2011).

- Expert report – Written testimony in hearing before Immigration Judge on the validity of asylum granted to a bisexual man, United States Department of Justice, Executive Office for Immigration Review (2012).

- Expert report – *Charles Patrick Pratt, et al. vs. Indian River Central School District; Indian River Central School District Board of Education* (2013). Case settled prior to trial.

- Expert report – *Garden State Equality v. Doe*, Superior Court of New Jersey, MER L-1729-11 (2013).

- Expert witness – *U.S. v. Gary Douglas Watland*, Defendant. Criminal Action No. 1:11-cr-00038-JLK-CBS (2014).

- Expert report – *Bayev v. Russia* submitted to the European Court of Human Rights (2014).

## II. Methodology

I have been asked by counsel for Plaintiff to provide an opinion about the impact of the social environment on the health and well-being of LGBT individuals in Uganda. In preparing to write this report I was provided documents to review by counsel for Plaintiff (Exhibit B), including Plaintiff's First Amended Complaint (Case 3:12-cv-30051-MAP, Document 27, Filed 07/13/12).

If Plaintiff calls me to testify at trial as an expert witness, I currently expect that my testimony will relate to the topics discussed herein, including the study of stigma and prejudice that LGBT people face in Uganda, minority stress, and the effect of minority stress on the health and well-being of LGBT populations.

In connection with my anticipated testimony in this action, I may use this report or portions of it or the references cited herein as exhibits. In addition, I may use various documents produced in this case that refer or relate to the matters discussed in this report. I may also create, or assist in the creation of, demonstrative exhibits or summaries of my findings and opinions to assist me in testifying.

I may testify as an expert regarding additional matters, including (a) rebutting positions that the Defendant takes, including opinions of Defendant's experts and materials they discuss or rely upon; (b) addressing issues that arise from documents or other discovery that Defendant or other entities produce; or (c) responding to witness depositions and or testimony that has not yet been given or that I have not reviewed at the time of writing this report. I reserve the right to supplement or amend this report accordingly.

In this report, I rely on my reading and interpretation of current scientific peer-reviewed literature in different disciplines including, but not limited to, psychology, sociology, epidemiology, public health, and medicine. My analysis follows established social science rules of evidence. Social science evidence relies on the following: (a) theory, (b) hypotheses posed based on theory, (c) empirical evidence that assess these hypotheses using quantitative and qualitative methods, and (d) conventions and rules about causal inference developed in these disciplines over decades of methodological writings.

The scientific method allows for testing of theory-based hypotheses that can be nullified using statistical analysis and causal inference. Assessment of error is specific to the finding under study. Statistical analysis provides, in any test of hypotheses, estimates of the rate of error for some of the various ways that error can affect the results. For example, it can assess the impact of sampling error to inform the researcher of how precise a particular value is, such as a

population parameter (for example, the proportion of the population that holds a particular attitude). Other evaluations of error include, but are not limited to, assessments of the methods for sampling, for example, where potential biases can be assessed to understand whether the sample obtained by the researcher represents the population to which the researcher is generalizing his or her results.

Biases of various sorts bring about potential limitations in understanding research results. Because all studies have different methodological limitations, no one article or study is determinative. Indeed, a good scientific article should provide the reader with a thorough review of the study's limitations, as well as suggestions for further study that could address such limitations. The existence of methodological limitations in any one study, or even in a group of studies, does not by itself discredit a study, the area of investigation, or the conclusions that are drawn from this study or area of investigation. Relying on conventions of scientific research methodology and causal inference, a scientist uses his or her judgment about the significance and potential impact of the various limitations in any particular study or group of studies to form conclusions about the questions under study. For these reasons, like other scientists, I base my conclusions on an analysis of the cumulative evidence, a critical review of the theoretical basis for a study, the hypotheses tested, the methodology used, inference conventions and rules, and my years of experience as a researcher.

In choosing which literature to consult, I judge the quality of evidence, including, for example, but not exclusively, the type and prestige of the journal where a peer-reviewed article was published, the purpose of the article (e.g., review vs. original research), and the quality and rigor of the methodology used. My decisions about which scientific articles to review, how many scientific articles to consult, and what weight to give to any one scientific article were

based solely on scientific merit. In making these decisions, I relied on my experience and judgment about the best methods to assess the question under study.

In this report, I also rely upon media reports, witness accounts as reported by media or in social media (e.g., blogs) or other self-published media, and reports of governmental and nongovernmental organizations, such as the United Nations and Amnesty International. These sources are clearly referenced and provided in the list of references used (Exhibit C). As I reviewed such reports I attempted, to the best of my ability, to assess the veracity of the report based on the reputation of the source, cross validation from different sources, and my own assessment of the credibility and feasibility of the facts.

### **III. Definitions and Background**

#### **A. Homosexuality, Gender Roles, and Sexual Identity**

Homosexuality refers to a person's sexual orientation toward persons of the same gender, that is, an enduring pattern of romantic and/or sexual relationship with a person of the same gender, or the propensity for such romantic or sexual relationships.

Although in the past homosexuality was classified as a mental disorder, the American Psychiatric Association reversed this understanding of sexual orientation in 1973. To date, there is a consensus among physicians, psychiatrists, and social and behavioral scientists in Western societies and international organizations (such as the World Health Organization) that homosexuality is a normal and healthy variant of human sexuality.<sup>1</sup> Thus, for example, the

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1. See amicus brief of the American Psychological Association (In re Marriage Cases filed 9/07 California Supreme Court) "Homosexuality Is a Normal Expression of Human Sexuality" (Section II. B., p. 8) available at <http://www.apa.org/about/offices/ogc/amicus/marriage-cases.pdf>.

International Statistical Classification of Diseases and Related Health Problems, which is the most prevalent international classification system published by the World Health Organization, does not list homosexuality as a disorder even though it did so in the past. Similarly, a position statement on sexual and gender diversity adopted by the Psychological Society of South Africa's Council on 24 September 2013 noted "the recognition of LGB sexualities as normal and natural variances in that sexual diversity per se is not the cause of psychological difficulties or pathology" (Victor, Nel, Lynch, & Mbatha, 2014, p.295).

Three aspects of sexuality define sexual orientation: sexual behavior, sexual attraction, and sexual identity (Laumann, Gagnon, Michael, & Michaels, 1994). Sexual orientation based on *behavior* refers to the gender of the partner with whom a person has sexual relationships; *attraction* refers to the gender of the person toward whom one has sexual feelings and desires toward, whether or not they are expressed in any behavior; and sexual *identity* refers to the social identity a person has adopted to refer to their sexuality, such as, for example, whether a man uses the term *gay* to refer to himself. In general, people who have a non-heterosexual orientation in any of these dimensions are also referred to as *sexual minorities*.

There have been debates about whether the terms lesbian, gay, and bisexual (LGB) are Western-specific terms and whether they are fitting for discussion of sexual minorities in non-Western societies. For example, in Uganda, the term *kuchu* is used to describe some sexual minorities. For the purpose of clarity in this report I use the English-language terms, *lesbians*, *gay men*, and *bisexuals*, or *LGB*, to refer to sexual minorities, including Uganda's *kuchu*. My use of the Western terms in this report should not suggest that distinctions among cultures and culture-specific identities and terms are not important for any analysis. Rather, for the purpose of

this report, I use the terms in their broadest sense to indicate a non-heterosexual orientation, synonymous with culturally-specific terms.

Sexual orientation is different from other terms relating to sexuality, including *biological sex*—referring to whether a person is male or female—and *gender identity*—referring to whether a person identifies with the sex assigned at birth or a different sex (e.g., transgender). In most societies there are strongly-held convictions about the personality traits (e.g., aggressive, nurturing), appearance, and behaviors that characterize men and women. These are usually referred to as *gender roles*. There are strong social pressures to conform to socially-sanctioned gender roles. Although societies vary in gender role expectations and gender roles have changed historically, there is in general a tendency to view gender roles as natural and synonymous with biological sex. The view that gender roles are natural, and that they are synonymous with biological sex, imbues social conventions about gender presentation with moral and religious authority.

*Transgender* is an umbrella term used to describe individuals whose gender identity—sometimes referring to gender *expression* regardless of identity—is different from their sex assigned at birth (for example, a person living as a man whose sex at birth was assigned female).

*Transgender* refers to gender identity whereas *LGB* refers to sexual orientation. Therefore, a person who is transgender may be gay or straight (that is, heterosexual), and a gay person may be transgender or, more commonly, not transgender (also referred to as *cisgender*). Transgender is an identity that may or may not be claimed by a person regardless of his or her gender expression.

Sometimes concepts related to sexuality are confused by equating homosexuality (e.g., being a gay man, being attracted to a person of the same gender) with sex or gender (e.g., gay

men are women or women-like; Valdes, 1996). This has led to the conflation (and vilification) of LGB people and people who are gender non-conforming (i.e., a man who appears feminine regardless of his sexual orientation) and is a source of prejudice, stigma, discrimination, and violence toward LGB people in the United States and across the world (Wilets, 1996).

## **B. Stigma and Prejudice in Society and Law**

### ***1. Stigma is a fundamental cause of poor health outcomes.***

Stigma is a “fundamental social cause” of disease, which makes it “a central driver of morbidity and mortality at a population level.” Stigma is called a fundamental cause in that it “influences multiple disease outcomes through multiple risk factors among a substantial number of people.” Stigma leads to poor health outcomes by blocking resources “of money, knowledge, power, prestige, and beneficial social connections” (Hatzenbuehler, Phelan, & Link, 2013, p. 814), increasing social isolation and limiting social support, and increasing stress (Hatzenbuehler, Phelan, & Link, 2013).

Stigma is “a function of having an attribute that conveys a devalued social identity in a particular context” (Crocker, Major & Steele, 1998, p. 506). Stigma can be defined by these five characteristics: “In the first component, people distinguish and label human differences. In the second, dominant cultural beliefs link labeled persons to undesirable characteristics—to negative stereotypes. In the third, labeled persons are placed in distinct categories so as to accomplish some degree of separation of ‘us’ from ‘them.’ In the fourth, labeled persons experience status loss and discrimination that lead to unequal outcomes. Finally, stigmatization is entirely contingent on access to social, economic, and political power that allows the identification of differentness, the construction of stereotypes, the separation of labeled persons into distinct

categories, and the full execution of disapproval, rejection, exclusion, and discrimination” (Link & Phalen, 2001, p. 367).

*Structural* (or *institutional*) stigma is “formed by sociopolitical forces and represents the policies of private and governmental institutions that restrict the opportunities of stigmatized groups” (Corrigan et al., 2005, in Herek, 2009, p. 67). Structural stigma restricts the liberty and dignity of members of a stigmatized group by erecting barriers to their success. One important function of stigma is that it legitimizes the unequal treatment of some groups in society.

“[P]eople of higher status may stigmatize those of lower status to justify [the higher status people’s] advantages” (Crocker, Major, & Steele, 1998, p. 509). When acted upon, antigay stigma is expressed as prejudice, discrimination, and violence against LGB people (Herek, 2009a, 2009b).

***2. Laws can propagate social stigma thus enhancing stigma through the stature of the law.***

Laws are perhaps the strongest of social structures that uphold and enforce stigma. “Law can . . . be a part of the problem by enforcing stigma” (Burris, 2006, p. 530). Laws can also eradicate and dismantle stigma. “Law can be a means of preventing or remedying the enactment of stigma as violence, discrimination, or other harm; it can be a medium through which stigma is created, enforced, or disputed; and it can play a role in structuring individual resistance to stigma” (Burris, 2006, p. 529).

Laws are often used to enhance a nation’s health. In using law to advance public health goals, public health officials and legislators consider the impact of the law on reducing, maintaining, or propagating stigma. From a social science perspective, irrespective of their legal functions or standing, laws both reflect and shape social values and attitudes and enhance or

diminish stigma. Indeed, the role of law in shaping stigma is so clear to public health professionals that they explicitly debate the ethics of using law to promote stigma (for example, related to smoking) even when such laws have undeniable benefits to the public's health by preventing morbidity and mortality (Bayer, 2008).

**C. Stigma, Prejudice, and Discrimination of LGB<sup>2</sup> People have been Widespread in World Societies.**

For many decades LGB people have been stigmatized. Homosexuality has been portrayed, wrongly and stereotypically, as degenerate, criminal, and a mental and physical illness. This has led to wide spread discrimination against LGB people.<sup>3</sup>

Stigma and stereotypes inflame rhetoric against LGB people by using themes that erroneously associate homosexuality with child molestation; accusing LGB people of so-called “recruiting” children (suggesting that LGB people incite children to become LGB); portraying LGB people as hypersexual; associating homosexuality with disease, including HIV and AIDS; and generally portraying LGB people as unclean and unholy.

The accusation that homosexuality is associated with pedophilia has been a particularly venomous rhetoric used by anti-gay activists in the West and, more recently, in Africa and other countries (Angelides, 2009). The accusation appeared in the United States in anti-gay campaigns

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<sup>2</sup> In this report I refer to the LGBT community when relevant and specifically to LGB and transgender people, separately, as relevant. For example, when most of the issues concern sexual orientation, or when most research stems from studies of LGB people—as in this section—I refer to LGB persons. This does not indicate that some statements here are not also relevant to transgender people. Also, as I note below, especially in writings from Uganda, *transgender* can sometimes overlap with sexual identity.

<sup>3</sup> Many sources discuss a history of discrimination, stigma, and prejudice against lesbian/gay persons including, among others, D’Emilio & Freedman (1988), Katz (1976,1995), Weeks (1989). *See also* “Brief of the Organization Of American Historians and the American Studies Association as Amici Curiae In Support of Respondents” submitted to the Supreme Court of the United States, *Hollingsworth v. Perry* (12-144) February 2013.

such as Anita Bryant's 1977 "Save Our Children" campaign that successfully repealed a Dade County, FL ordinance prohibiting anti-gay discrimination and, more recently, in a successful campaign by proponents of Proposition 8 in California in 2008 to bar same-sex couples from marriage. A review of the evidence, including a careful assessment of each purportedly scientific citation provided by advocates of the view that homosexuality is associated with pedophilia, led Herek (n.d) to conclude, "The empirical research does not show that gay or bisexual men are any more likely than heterosexual men to molest children. This is not to argue that homosexual and bisexual men never molest children. But there is no scientific basis for asserting that they are more likely than heterosexual men to do so."

Another central aspect of stigma about LGB people concerns family relations and intimacy (Meyer & Dean, 1998). LGB people have long been portrayed as incapable of—and even uninterested in—sustained intimate relationships. This maliciously and erroneously places LGB people and their sexual orientation outside the so-called normal universal human experience of intimacy and love.

#### **IV. Stigma and Prejudice Expose LGB People to Minority Stress**

##### **A. Minority Stress Uniquely Impacts LGB People**

Stress, such as a life event, is "any condition having the potential to arouse the adaptive machinery of the individual" (Pearlin, Horwitz, & Scheid, 1999, in Meyer 2003, p. 675). Using engineering analysis, stress can be described as the load relative to supportive surface (Wheaton, Horwitz, & Scheid, 1999, in Meyer 2003, p. 675). Like a surface that may break when load weight exceeds its capacity to withstand the load, so has psychological stress been described as having a potential to get to a breaking point beyond which an organism may reach "exhaustion"

and even death (Selye, 1993). In over 40 years of research, researchers have shown that stress causes mental and physical disorders (Thoits, 2010).

Stressors include major life events (e.g., loss of a loved one), chronic conditions (e.g., unemployment), and minor events and instances (e.g., rush hour traffic in a big city). Such stressors are ubiquitous—all individuals in modern societies are exposed to them. In my research, I have referred to these as *general* stressors (Meyer, Schwartz, & Frost, 2008). But added sources to such general stressors that affect all people are stigma, prejudice, and discrimination. People in disadvantaged social statuses are exposed to stressors related to their stigmatization in society. I have referred to this as *minority* (also *social*) stress (Meyer, 1995; Meyer, 2003; Meyer & Frost, 2013). Minority stress stems from social disadvantage related to structural stigma, prejudice, and discrimination. “*Minority stressors . . . strain individuals who are in a disadvantaged social position because they require adaptation to an inhospitable social environment*” (Frost & Meyer, 2009, p. 98).

By definition, minority stress is unique in that it relates to stigma and prejudice toward LGB people but not heterosexuals and thus requires special adaptation uniquely by LGB people. Therefore, minority stress confers on LGB people a unique risk for diseases that are caused by stress. Exposure to minority stress is chronic in that it is attached to persistent social structures, but it can impact LGB people as both acute (e.g., a life event, such as victimization by antigay violence or firing from a job due to one’s gay identity) and chronic stress (e.g., heightened vigilance required to prevent victimization by antigay violence).

Against such stress, LGB people, individually and as a community, mount coping efforts and build resources that may buffer the toll of stress. Personal coping includes, for example, a sense of mastery and family support. Community-level coping refers to the mobilization of

supportive services, including, for example, a sense of connectedness and affiliation with the gay community (Meyer, 2003; Kertzner, Meyer, Frost, & Striratt, 2009). The impact of stress on the etiology of illness results from the force of both stress and coping.

In my research I have described four pathways through which social stigma is manifested in the lives of people who are members of stigmatized groups. I referred to these as *minority stress processes* and described them as: (a) chronic and acute prejudice events and conditions, (b) expectation of such events and conditions and the vigilance required by such expectation, (c) concealing or hiding of one's lesbian or gay identity, and (d) internalization of social stigma (internalized homophobia).

## **B. Minority Stress in Transgender Individuals**

Research has also shown how minority stressors impact the health of transgender and gender non-conforming individuals (Testa, Habarth, Peta, Balsam, & Bockting, 2015; Hendricks & Testa, 2012; Bockting, Miner, Swinburne Romine, Hamilton, & Coleman, 2013). These writings suggest that similar minority stressors are applicable to gender minorities as has been described for sexual minorities. A unique source of stress concerns gender non-affirmation of transgender or gender non-conforming individuals in formal and informal social interactions (Sevelius, 2013; Testa, Habarth, Peta, Balsam, & Bockting, 2015). Gender affirmation refers to the experience that society and individuals in both formal and informal interactions respect and affirm one's gender identity regardless of perceived transgressions of gender roles and expectations. For example, a person who was assigned male at birth but identifies and presents as female may find hostility because of social expectations that she adhere to her male sex as assigned at birth. Such a person may experience stress from both informal sources—family, friends, and strangers in daily interactions—and in formal transactions—such as not having an

identity card or other identifying documents that display her gender as she identifies it and as she presents in hair and clothes, mannerism, etc.

### **C. Prejudice Events**

Among the minority stressors is what I have referred to as prejudice events—events stemming from homophobic prejudice, discrimination, and violence. Prejudice events include the *structural* exclusion of lesbian and gay individuals from resources and advantages available to heterosexuals.

Prejudice events also include *interpersonal* events, perpetrated by individuals either in violation of the law (e.g., perpetration of hate crimes) or within the law (e.g., lawful but discriminatory employment practices). There are numerous accounts of the excess exposure of LGB people to such prejudice events (Herek, 2009a, 2009b; Meyer 2003; Meyer, Schwartz, & Frost, 2008). My studies have also shown that unlike other minority groups, anti-gay events can occur at home and be perpetrated by family members, such as in the case of the 43-year-old Latino man who at age 13 was raped and brutally beaten to unconsciousness by a family member who, in the respondent's words, "raped me because I was gay and to teach me what a faggot goes through" (Gordon & Meyer, 2007, p. 62), or in the case of youth who were kicked out of their homes and became homeless because of their family's rejection of their homosexuality (Durso & Gates, 2012).

Hate crimes are a particularly painful type of prejudice event because they inflict not only the pain of the assault itself, but also the pain associated with the social disapproval of the victim's stigmatized social group. The added pain is associated with a symbolic message to the victim that they and their kind are devalued, debased, and dehumanized in society. Such victimization affects the victim's mental and physical health because it damages his or her sense

of justice and order (Frost, Lehavot, & Meyer, 2013; Herek, Gillis, & Cogan, 1999). That is, the impact is the result not only the pain of the assault but the pain reverberated through the act of the entire community's disapproval, derision, and disdain. Prejudice events may be perpetrated by one person, but it is the implied message of hate from a larger community that makes hate crimes especially painful.

The added symbolic value that makes a prejudice event more damaging than a similar event not motivated by prejudice exemplifies an important quality of minority stress: prejudice events can have a powerful impact "more because of the deep cultural meaning they activate than because of the ramifications of the events themselves . . . a seemingly minor event, such as a slur directed at a gay man, may evoke deep feelings of rejection and fears of violence [seemingly] disproportionate to the event that precipitated them" (Meyer, 1995, p. 41-42). Therefore, stress related to stigma and prejudice is not assessed solely by its intrinsic characteristics, such as its magnitude, but also by its symbolic meaning within the social context. Thus, even a minor event or instance can have symbolic meaning and thus create pain and indignity beyond its seemingly low magnitude.

Even seemingly minor "everyday discrimination" occurrences can have a great impact because of the symbolic message of social disapproval. In interviewing lesbian and gay respondents for my study, my researchers and I heard numerous reports of verbal assault and harassment (Gordon & Meyer, 2007). Such instances do not qualify as *major* life events because they are seemingly minor by any objective measure (in stress terms, these incidents bring about little objective change and, therefore, require little adaptation compared to major events such as needing to find a new job after losing one's job). Nonetheless, these and similar *everyday*

*discrimination* instances can be damaging even if they are not major events because of the symbolic message of rejection that they convey.

Indeed, even stressful *non-events* can be damaging (Meyer, Ouellette, Haile, & McFarlane, 2011). Stressful non-events are expected events or experiences that do not happen when expected. Examples of non-events include expected life course milestones that were frustrated, like a job promotion not received when expected. Family relation milestones, such as getting married, having children, and having grandchildren are among the most widely expected events and not achieving these can be a significant stressor (Neugarten, Moore, & Lowe, 1965). Lesbian and gay persons share these expectations for life course milestones, as do their families, friends, colleagues, and acquaintances. Family relations—including using labels such as “husband,” “wife,” “mother,” and “grandfather”—carry important roles through which people are identified and through which they identify themselves. Failing to achieve such milestones is personally stressful and socially stigmatizing. Of course, the stronger the social expectations (such as that one should marry a person of the opposite sex by a certain age) are in a society, the greater the experience of stress to individuals who cannot achieve these expectations.

#### **D. Expectations of Rejection and Discrimination**

Expectations of rejection and discrimination are stressful because of the almost-constant vigilance required by members of minority groups to defend and protect themselves against potential rejection, discrimination, and violence (Meyer, 2003). Unlike the concept of prejudice events, where a concrete event or situation—a major or minor life event or a chronic stressor—was present, expectations of rejection and discrimination are stressful even in the absence of a prejudice event. “Because of the chronic exposure to a stigmatizing social environment, ‘the consequences of stigma do not require that a stigmatizer in the situation holds negative

stereotypes or discriminates” (Crocker, 1999, in Meyer, 2003, p. 681). The vigilance required in such a state is similar to the classic example of stress experienced in the *flight or fight* stressor that brings about a biophysiological stress response—the primary stress process identified by Cannon in the early 20<sup>th</sup> century (Cannon, 1932).

### **E. Concealing Stigmatizing Identity**

Concealing their sexual minority identities is a way in which some LGB people must cope in hope of protecting themselves from the stigma and prejudice and consequent rejection and violence. Concealing a lesbian or gay identity offers some protections. For example, a person who successfully conceals his or her lesbian or gay identity is less likely to be a victim of anti-gay violence than if he or she did not do so (Rosario, Hunter, Maguen, Gwadz, & Smith, 2001). But, paradoxically, concealing one’s lesbian or gay identity is itself a significant stressor for at least three reasons.

First, people must devote significant psychological resources to successfully conceal their lesbian and gay identities. Concealing requires constant monitoring of one’s interactions and of what one reveals to others. Keeping track of what one has said and to whom is very demanding and stressful, and it leads to psychological distress. Among the effects of concealing are preoccupation, increased vigilance of stigma discovery, and suspiciousness (Pachankis, 2007). For example, researchers studying the cognitive efforts required to conceal stigmatizing conditions described the person who attempts to conceal his or her stigma as living in a “private hell” (Smart & Wegner, 2000, in Meyer, 2003, p. 681). The concealing effort, and the required cognitive efforts can lead to significant distress, shame, anxiety, depression, and low self-esteem (Fribley, Platt, & Hoey, 1998).

Second, concealing has harmful health effects by denying the person who conceals his or her lesbian or gay identity the psychological and health benefits that come from free and honest expression of emotions and sharing important aspects of one's life with others. Health psychology research has shown that expressing and sharing emotions and experiences can have a significant therapeutic effect by reducing anxiety and enhancing coping abilities (Meyer, 2003; Pachankis, 2007). In contrast, repression and inhibition can induce health problems. For example, Cole and colleagues found that HIV-related diseases advanced more rapidly in a group of gay men who concealed their sexual identity than in a group of gay men with similar HIV infections who did not conceal their sexual identity (Cole, Kemeny, Taylor, Visscher, & Fahey, 1996). In another study, the authors showed a similar pattern among HIV-negative men regarding health outcomes unrelated to HIV (Cole, Kemeny, Taylor, & Visscher, 1996).

Third, concealment prevents lesbian and gay individuals from connecting with and benefiting from social support networks and specialized services for them. Protective coping processes can counter the stressful experience of stigma (Meyer, 2003). Coping processes include the group's effort to counter negative societal structures by creating alternative norms and values and providing role models and social support. Access to and use of such community resources is beneficial to stigmatized minority group members whose experiences and concerns are not typically affirmed in the larger community. For example, lesbian and gay communities—whether open and more formal as available in some societies, or informal and even clandestine—provide role models of successful same-sex relationships, provide alternative values that support lesbian and gay families, and, in general, counter homophobic messages and values (Weston, 1991). LGB people who conceal their sexual identity in an effort to protect themselves, avoid such affiliations in an effort to protect themselves from homophobia but, paradoxically, are

deprived of significant resources that potentially ameliorate the negative health impact of minority stress.

#### **F. Internalized Homophobia**

Internalized homophobia (also described as *internalized stigma*, and *self-stigma*) refers to the internalization of negative societal attitudes among LGB people. Internalized homophobia is an insidious stressor because it is unleashed by the LGB person toward himself or herself due to socialization in a society that stigmatizes homosexuality (Meyer, 2003; Herek, 2009a).

Heterosexual, lesbian, gay, and bisexual individuals internalize the prejudice and stigma of homosexuality, but the effects of this internalization is quite severe for the LGB person as he or she internalizes stereotypes suggesting that being an LGB person is sinful, unnatural, and incompatible with intimacy and family life.

Psychologists have described a developmental process through which a gay person comes to recognize and acknowledge his or her sexual orientation, and sometimes, but not necessarily, acquires a gay identity (Eliason & Schope, 2007). This process, referred to as “coming out,” can be brief and unproblematic to the person, especially if supportive networks are available to him or her, or it can be difficult and fraught with confusion, doubt, and guilt. In the *coming out process*, the LGB person must unlearn such false stereotypes and prejudicial attitudes and adopt new, healthier attitudes and self-perceptions.

Lesbians, gay men, and heterosexuals, as members of society, internalize and, in turn, propagate stigma and stereotypes about LGB people. LGB people, who as children and youth are typically raised by heterosexual families in heterosexual communities, rely on such false stigmatized depictions to learn about the lives of LGB people. Thus, they are at risk of believing that these stigmatized depictions are correct and apply to themselves and may lead to self-

rejection and hate. Heterosexual people, including parents, friends, and children of LGB people, are similarly affected by false stigmatized notions of lesbians' and gay men's lives and often reinforce such stereotypes as they propagate them. For example, in a study of LGB people in California's Bay Area, one gay man was quoted saying, "My image of gay life was very lonely, very weird, no family." A lesbian in the same study remembered that, after coming out as lesbian to her mother, she was told, "You'll be a lesbian and you'll be alone the rest of your life. Even a dog shouldn't be alone" (Weston, 1991, p. 25).

An important aspect of one's self that is affected by internalized homophobia is the *possible self* (Markus & Nurius, 1986)—the view of the self not only as it is but as that which it can become in the future. Possible selves are an important aspect of one's aspiration and motivation. Possible selves determine not only future success but also current hope and well-being. But possible selves are formed from one's perception of current social norms, values, and expectations for the future. Among the important sources of possible selves are social conventions, social institutions, role models, and expectations and aspirations of others.

Upon realizing and accepting that one is or may be LGB, an LGB person must chart a new possible life course that is different from the possible life course of heterosexuals. Indeed, gay youth "recognize that they will not have the same course of life as their parents and heterosexual peers. They will not have a heterosexual marriage; they may not have children or grandchildren. . . . In a society such as ours, where much store is placed in competing and keeping up with one's friends and neighbors, such an identity crisis can unhinge not only sexuality but belief in all future life success" (Herdt & Boxer, 1996, p. 205).

Internalizing stigma has negative consequences for the health and well-being of LGB people. Because internalized homophobia disturbs the gay person's ability to overcome

stigmatized notions of the self and to envision a future life course, it is associated with mental health problems and impedes success in achieving intimate relationships (Meyer, 1995; Meyer & Dean, 1998; Frost & Meyer, 2009).

Empirical evidence has demonstrated that LGB people who have higher levels of internalized homophobia are less likely than LGB people with lower levels of or no internalized homophobia to sustain intimate relationships. Even if in a relationship, LGB people who have higher levels of internalized homophobia have a poorer quality of relationships (e.g., Meyer, 1995; Meyer & Dean, 1998; Frost & Meyer, 2009; Balsam & Szymanski, 2005; Otis, Rotosky, Riggle, & Hamrin, 2006).

### **G. Coping and Social Support**

Against these minority stress processes, LGB people engage in various coping and social support efforts. Coping refers to the kind of efforts an individual may engage in to alleviate the experience and impact of stress. Psychologists have described many types of coping that can be generally divided into problem- and emotion-focused coping. Problem-focused coping involves doing something, including seeking more information, to change the stressor or problem. For example, a person who was fired or laid off from a job may seek information about available resources to help her or him and actually attempt to garner such resources (e.g., get new skills training). Emotion-focused coping involves addressing the emotional impact of the stressor. For example, a person whose spouse has died may engage in various activities (e.g., create a memorial book) that makes her or him feel closer to the deceased spouse, get help from a therapist or doctor, etc.

Social support is another form of coping; it can be seen as coping done with the help of others. Social support is defined as the presence of emotional, practical, financial, and social

guidance from a network of friends, family, co-workers, and others. For example, it can involve support that is problem-focused, emotion-focused, and informational. Support can come from formal organizations or a group of friends and can, thus, involve intimate relationships and friends, more distant acquaintances, or even strangers.

The role of social support in health has been shown in many studies that look at different aspects of support (or potential for support) such as the social network's size, the quality of support, the frequency of support, etc. One of the earliest studies showed that individuals with more social contacts live longer than their peers who do not have as many social contacts (Berkman & Syme, 1979 study of Alameda County, CA). An extensive body of research led Beals, Peplau, & Gable (2009) to conclude, "The association between greater perceived social support and better physical and mental health outcomes is one of the most robust findings in health psychology" (p. 868).

Stress research shows that people's health outcomes differ based on levels of coping, resilience, and social support that they can mount in response to stress. For example, a person who has lost a job can have better outcomes if he or she is provided support than a similar person who is not provided support.

Research suggests that support from LGB friends that directly addresses stress related to sexual identity (minority stress) is more effective—for example, in relieving emotional distress—than support from family members and heterosexual friends (Doty, Willoughby, Lindahl, & Malik, 2010). This is consistent with theory that emphasizes the importance of similar others within one's social network as a source of solidarity in confronting stigma and improving mood and self-esteem (Doty, Willoughby, Lindahl, & Malik, 2010; Frable, Platt, & Hoey, 1998).

Social support provides opportunities to receive informational, instrumental, and emotional support when coping with both general and minority stressors. Affiliation with other LGBT persons can provide a source of information relevant to the LGBT person's life. Such information tends to not be highlighted by mainstream institutions and organizations, which, typically, cater to the needs of the larger general population. LGBT-specific support can provide information and education about means to achieve important life goals. Such information can include informal stories about others in the community who manage to live a happy life as LGBT persons, about how to achieve intimate relationships, and about areas where LGBT people may find more welcoming opportunities for employment and economic development. Information is also necessary for specialized health needs of LGBT people. Relevant health information can also include information about healthcare providers who provide unbiased health services and are welcoming to LGBT people. Information may also be provided about preventive resources that cater to the LGBT community, such as the Trevor Project, a U.S. national helpline that provides support to LGBT people at risk for suicide. Affiliation can also provide opportunities to learn about and participate in political activities that support the rights of LGBT people, information about political parties and candidates, and information about proposed legislation and special ballots or initiatives of interest to LGBT people. LGBT people who are isolated from others in their communities may be deprived of access to such information and resources, or may have greater difficulty to find information compared with LGBT people who have access to supportive services.

Community resources and social support can ameliorate the negative impact of the stressors outlined above. In addition, LGBT people who need supportive services, such as competent mental health services, may receive better care from sources that are LGBT-

affirmative (e.g., a specialized gay clinic; Potter, Goldhammer, & Makadon, 2008). But individuals who conceal their lesbian and gay identities are likely to fear that their sexual identity would be exposed if they approached such resources. More generally, concealing can lead to social isolation as the person who conceals his or her sexual identity may avoid contact with other lesbian and gay persons, while also feeling blocked from having meaningful honest social relations with heterosexual individuals.

#### **V. Minority Stress Adversely Affects the Health and Well-being of the LGBT Population**

Minority stress causes serious injury in the form of psychological distress, mental health problems, suicide, and lowered psychological and social well-being. Studies have concluded that minority stress processes are related to an array of mental health problems, including depressive symptoms, substance use, and suicide ideation (Bockting, Miner, Swinburne Romine, Hamilton, & Coleman, 2013; Cochran & Mays, 2007; Herek & Garnets, 2007; King et al., 2008; Meyer, 2003; Cochran & Mays, 2013).

Also, although less often studied, lesbian, gay, and bisexual individuals have lower levels of psychological and social well-being than heterosexual people because of exposure to minority stress, such as stigma and discrimination experiences (Frale, Wortman, & Joseph, 1997; Kertzner, Meyer, & Dolezal, 2003; Riggle, Rostosky, & Danner, 2009). This is not surprising because well-being, especially *social well-being*, reflects the person's relationship with his or her social environment: "the fit between the individuals and their social worlds" (Kertzner, Meyer, Frost, & Stirratt, 2009, p. 500). Other studies have shown, for example, that stigma leads lesbian, gay, and bisexual persons to experience alienation, lack of integration with the community, and problems with self-acceptance (Frale, Wortman, & Joseph, 1997).

Minority stress is also associated with a higher incidence of reported suicide attempts among non-heterosexuals as compared with heterosexual individuals (e.g., Cochran & Mays, 2000; Gilman et al., 2001; Herrell et al., 1999; Marshal et al., 2011; Meyer, Dietrich, & Schwartz, 2008; Safren & Heimberg, 1999). Higher rates of suicide attempts among members of sexual minorities are related to minority stress encountered by youth due to coming out conflicts with family and community (Ryan, Huebner, Diaz, & Sanchez, 2009). Youth is a time that can be particularly stressful, a time when young people realize they are lesbian, gay, or bisexual, and often disclose their sexual minority identities to parents, siblings, and others (Flowers & Buston, 2001).

Minority stressors stemming from social structural discrimination have serious negative consequences on mental health. For example, lesbian, gay, and bisexual men and women who live in U.S. states without laws that extend protections to sexual minorities (e.g., job discrimination, hate crimes, relationship recognition) demonstrate higher levels of mental health problems compared to those living in U.S. states with laws that provide equal protection (Hatzenbuehler, Keyes, & Hasin, 2009).

A number of studies have also demonstrated links between minority stress factors and physical health. For example, one study (Frost, Lehavot, & Meyer, 2013) found that lesbian, gay, and bisexual people who had experienced a prejudice-related stressful life event (e.g., assault provoked by known or assumed sexual orientation, being fired from a job because one's sexual minority identity) were about three times more likely than those who did not experience a prejudice-related life event to have suffered a serious physical health problem over a 1-year period. This effect remained statistically significant even after controlling for the experience of other stressful events that did not involve prejudice, as well as other factors known to affect

physical health, such as age, gender, socioeconomic status, employment, and lifetime health history. Thus, prejudice-related stressful life events were more damaging to the physical health of lesbian, gay, and bisexual people than general stressful life events that did not involve prejudice (Frost, Lehavot, & Meyer, 2013).

Studies also found that concealment of gay identity among HIV positive gay men was associated with lower CD4 counts, which measure the progression of HIV disease (Strachan, Bennett, Russo, & Roy-Byrne, 2007; Ullrich, Lutgendorf, & Stapleton, 2003). Another study of HIV-negative gay men showed that those who concealed their gay identity experienced a higher incidence of disease—including infectious diseases and cancer—than men who did not conceal their gay identity (Cole, Kemeny, Taylor, & Visscher, 1996). Other studies found that exposure to discrimination was related to outcomes such as number of sick days and number of physician visits (Huebner & Davis, 2007).

## **VI. Uganda's LGBT Population**

### **A. Homosexuality in Uganda**

Despite recent claims by some African, including Ugandan, leaders, religious figures, members of the press, and other citizens that homosexuality is foreign to Africa and is a Western import or influence, research on African sexualities has described multiple forms of homosexuality and transgender experiences throughout the studied history (the study of African sexuality begun primarily at the beginning of the 20<sup>th</sup> century) (Murray & Roscoe, 1998). Like many in present day Africa, anthropologists studying African sexualities too often denied the existence of homosexuality even as they described it. For example, in 1938 Herskovits described homosexuality as “situational and opportunistic” when describing that “a boy may take the other

‘as a woman’ this being called *gaglgo*,” even as he asserted that “sometimes an affair of this sort persist during the entire life of the pair” (Murray & Roscoe, 1998, p. xiii).

Addressing the question whether homosexuality was foreign to Africa, a review of the Academy of Sciences of South Africa in collaboration with the Uganda National Academy of Sciences concluded that “there is . . . no basis for the view that homosexuality is ‘un-African’ either in the sense of being a ‘colonial import’, or on the basis that prevalence of people with same-sex or bisexual orientations is any different in African countries, compared to countries on any other continent” (Academy of Science of South Africa, 2015, p. 37).

Still, indigenous traditions of homosexuality and transgender experiences are important for understanding public and political attitudes in Uganda and elsewhere in Africa. One feature of these traditions seems to be a greater overlap between homosexual (LGB) and transgender identities when compared with the way they are treated in current American culture. For example, taking on women’s social roles and appearances (such as garb), which are features of gender identity as I described above, are often a feature of male homosexuality in traditional African societies (academic studies of female homosexualities in the history of Africa are scarce but show similar features). Also, in African, like some other societies, social and sexual roles, such as so-called male “passive” versus “active” roles in same-sex sexual activities, often take precedent over Western-style sexual orientation identities, which do not typically consider sexual practices in delineating identities (Amory, 1998).

In this context, it should be noted that even if particular LGBT identities were a new phenomenon, that could not be a justification to stigmatize, demonize, and marginalize people in Africa who adopt a modern nomenclature. Today, globalization allows for cultural and social

influences and cross-fertilization on the articulation of identities that were not possible in earlier periods (Altman, 2001; Sutton, 2007).

Because even today there seems to be overlap between sexual orientation and gender identity and expression, in this report I do not make distinctions in general statements about LGBT people and only distinguish LGB people and transgender people when the evidence I refer to clearly and differentially pertains to LGB versus transgender individuals.

### **B. How many LGBT people are in Uganda?**

To date, there is no good estimate of the prevalence of homosexuality in Africa in general, or in Uganda specifically (van Griensven, 2007; Cáceres, Konda, Pecheny, Chatterjee & Lyerla, 2006). Several studies that focus on assessing HIV/AIDS in Uganda have documented both the presence of gay/bisexual men and the high prevalence of same-sex sexual activity. For example, a study of sexual risk behaviors among young commercial motorcycle taxi drivers in Uganda's capital, Kampala, found that many men had both casual and regular partners (68%) and commercial sex (33%). Arriving at population estimates using Respondent-Driven Sampling method, the authors found that almost 9% of the men had sex with other men (Lindan et al., 2014). In both this and other studies of gay and bisexual men (Kajubi et al., 2008; Hladik et al., 2012; Raymond et al., 2009), the overwhelming majority (more than 90%) of the gay and bisexual men were Ugandan nationals, refuting the suggestion that it is foreigners (i.e., non-Ugandan nationals) who are LGB in Uganda.

The Crane group, a collaborative between Makerere University School of Public Health, U.S. Centers for Disease Control and Prevention, and the Ugandan Ministry of Health, conducted several studies in Kampala related to the HIV/AIDS epidemic. In one study of youth, using a sampling approach designed to represent the population of secondary school students

aged 15 and older in Kampala, researchers assessed sexual orientation by inquiring about attraction. (Because youth may not have much sexual experience, this is a preferred method of assessing sexual orientation in youth). The researchers found that among male students about 3% stated being attracted only to males, 6% said they were attracted mostly to males, and 13% said they were equally attracted to males and females—that is, a total of 22% had same-sex attraction. Of the female students, 6% said they were attracted to females only, 6% mostly to females, and 19% said they were equally attracted to males and females—that is, a total of 31% had same-sex attraction. Of the youth who had had sex, 1.5% of the males and 8% of females had some same-sex sexual experience.

These numbers are certainly not lower than U.S. studies that find about 7% of youth to be non-heterosexual (Kann et al., 2011), again demonstrating that homosexuality is not more uncommon in Uganda than in the U.S. Although these studies are insufficient to assess the size of the Ugandan LGBT population, they clearly show that same-sex behavior is present in both youth and adults.

Using a very conservative estimate of 3% lesbian and bisexual women and the same for gay and bisexual men in Uganda—U.S. estimates are 3.6% and 3.4%, respectively, based on sexual identity measures only—and then applying this only at the Ugandan population of men and women over age 18 (Uganda Bureau of Statistics, 2014), I have calculated the number of LGB in Uganda to be about 450,000 men and women.

Of course, this assumes that the comparison to U.S. estimates is reasonable, but the evidence from African studies and the consensus among researchers who attempted this estimate is that this is reasonable (e.g., Bariyo, 2014; van Griensven, 2007). It is important to remember that this estimate is very conservative as it does not include youth under age 18. Also, Epprecht

described that because of cultural pressures to marry and have children, there is an African culture of “secretive *de facto* bisexuality,” which he described as “enjoying same-sex relations while still fulfilling social obligations of heterosexual marriage and the appearance of virility/fertility” (Epprecht, 2012, p. 226). My estimate does not include the many more people who have same-sex behavior at some time over their lifetime and are not identified as LGB but nevertheless cannot be classified as completely heterosexual.

### **C. Uganda’s Anti-Homosexuality Law**

Criminalization of same-sex acts became incorporated into Ugandan law with the application of British law when Uganda became a British Protectorate in 1894. An “Order-in-Council provided that jurisdiction should so far as circumstances permitted be exercised upon the principles of and in conformity with the substance of the law for the time being in force in England. This introduced British law and Victorian morality in Uganda” (CSCHRCL, 2013, p. 28). The situation in Uganda is similar to other African nations, where laws against same-sex behavior were incorporated into post-colonial law from colonial law. As Kaoma (2013, p. 77) noted, “Postcolonial Africa is highly critical of colonial laws and values, but one colonial legacy is the English law that reads the same across Anglophone Africa. ‘Carnal knowledge against the order of nature’ is illegal in many African countries today, just as it was in colonial times. Compounded by the religious teachings of Christianity and Islam, this law has been assimilated into all aspects of African society and is defended with pride.”

Uganda’s Anti-Homosexuality Bill (AHB), first introduced in 2009 and later enacted as the *Anti-Homosexuality Act (AHA, 2014)*, originally proposed the death penalty for a second conviction of consensual sex between adults of the same gender, and in other cases with aggravating factors, imprisonment for failure to report on others suspected of being homosexual,

and for “promotion of homosexuality” (AHB, 2009). Later the bill was revised to remove the death penalty by substituting it with life in prison. The reporting requirement was also removed but “aiding and abetting” homosexuality remained. The bill was signed into law by President Museveni on February 24, 2014 and later annulled by the Uganda Constitutional Court on August 1, 2014 when the Court found that the bill was passed without the requisite quorum (*Oloka-Onyango & 9 Ors v Attorney General*).

***Uganda’s Anti-Homosexual Bill propagated stigma against LGBT people***

The Anti-Homosexuality Bill was introduced and widely discussed in Uganda since 2009. The Bill’s impact goes far beyond what one would expect in implementation of the now-annulled law. Because of the wide public awareness of the Bill, and, indeed, the public and religious incitement against LGBT people in Uganda that it has elicited, the AHB is an example of how laws (in this case, even if annulled) enhance and enshrine stigma against LGBT people.

It is important to note that since the 19<sup>th</sup> century, Uganda law has criminalized sexual behavior between people of the same sex even without the Anti-Homosexuality Act. Even if one believes that homosexual acts ought to be criminalized, which goes counter to basic guarantees of human rights (United Nations, 2015), the purpose of the Anti-Homosexuality Act was suspect. Thus, the Anti-Homosexuality Act reveals an attempt to further stigmatize LGBT people as people, not only for their alleged objectionable sexual behavior.

Indeed, the Anti-Homosexual Bill was unique in that it cast a wide net and sought not only to criminalize same-sex sexual conduct but *identity* in the sense that it criminalizes many facets of life, the including officiating same-sex marriages, “promoting” homosexuality, failing to report or “aiding and abetting” others suspected of being in violation of the law, which was not limited to sexual conduct (AHB, 2009). The preamble to the original legislation was replete

with justifications such as the “need to protect children and youths of Uganda” and “emerging internal and external threats to the traditional heterosexual family” (AHB, 2009; see also Proceedings of the Parliament of Uganda, 4/1, 4/15, 4/29, 2009 and 12/20,13). This unique feature of the law—that it targets the person not the acts—is especially indicative of the relationship of the law and stigma. Sociologist Irwin Goffman (1963), in the classic text on stigma, referred to the stigmatized individuals as having a “spoiled identity” due to the social designation of stigma to them. In the Anti-Homosexual Bill, stigma and criminality are attached not to specific acts but to the person as a whole. Thus, the bill, later modified and enacted as the AHA, appears to purposefully stigmatize and dehumanize LGBT persons.

Analysis by the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL, 2013) of Makerere University in Kampala is consistent with this view, suggesting that “further criminalisation of homosexuality would simply drive more LGBTI persons underground, increase discrimination based on sexual orientation and gender identity, and further condone violations of the constitutional rights of LGBTI persons by third parties” (CSCHRCL p. 21).

The following description by CSCHRCL (p. 22) about the debates that ensued after the introduction of the Anti-Homosexuality Bill demonstrates the significant role that laws can play in enhancing stigma and advancing prejudice, discrimination, and violence against a persecuted minority:

The Bill attracted a lot of debate and attention among the Ugandan populace and the international community respectively. At the height of this, the Rolling Stone tabloid published pictures and addresses of suspected gay people and called for their hanging. Consequently, many of those named faced various threats and some were forced to leave the country. . . . [Later], media coverage of the burial ceremony of David Kato, [a gay rights

activist who was killed at his home], outed many of the members of the LGBTI community and put them at further risk.

## **VII. Uganda's Anti Homosexual Act Exposed LGBT People to Minority Stress**

### **A. Increased Exposure to Minority Stressors**

Above, I described internalized homophobia, expectations of rejection, hiding (concealing) one's sexual identity, and various stress events and conditions as processes that define minority stress. All of these are evident in reports from Uganda.

Although internalized homophobia is less often studied, one study suggested that the general social rejection and, specifically the Anti-Homosexuality Bill, may lead to higher experiences of internalized homophobia that have an adverse effects on safe sex practices (Ross, Kajubi, Mandel, McFarland, & Raymond, 2013).

Uganda's social environment, with its overt and explicit homophobia and hostility and violence toward LGBT people, would cause LGBT people to expect harm, which induces chronic stress as defined by minority stress. This onslaught of institutional assault and condemnation "has created an environment where LBT/kuchu people are beaten in public social places, chased out of restaurants and bars, and many lost their jobs and others lost their families" (FARUG/ IGLHRC, 2010, p. 16). That State and governmental agencies, including the police, are complicit in effecting anti-LGBT acts would reasonably make LGBT people feel unprotected by the State and require them to maintain high levels of vigilance to secure the safety of themselves, their intimate partners, and their children.

In terms of exposure to an array of stressful events and conditions, evidence suggests that the introduction of the Anti-Homosexual Bill in 2009 inflamed an already homophobic social environment, leading to aggressive and violent persecution of LGB people (FARUG/ IGLHRC, 2010). Because homophobia is seen as sponsored by the authorities of the Church and State, acts

of rejection and violence were perpetrated with impunity and often with the blessing of the law and religious leaders. A report by Freedom and Roam Uganda (FARUG) and the International Gay and Lesbian Human Rights Commission (IGLHRC) recorded government officials supporting the Anti-Homosexuality Bill and inciting action against LGB people. For example, Minister of Ethics, James Nsaba Buturo reportedly said: "...Ugandans should strengthen their mobilisation against the gay movement because the government is also committed to support them ... We hear that some students in our schools have been lured into homosexuality. I appeal to the investigative arms of the government to quickly compile reports of such students and their schools so that touch action is taken against them" (FARUG/IGLHRC, 2010, p. 15).

Media has actively participated in the persecution of LGBT people by publishing articles that incite violence and include photos, work place, and home addresses of alleged LGBT people. For example, a 2006 *Red Paper* article wrote: "To rid our motherland of the deadly vice [of lesbianism], we are committed to exposing all the lesbos in the city (...) Send more names [with] the name and occupation of the lesbin [sic] in your neighborhood and we shall shame her" (FARUG/ IGLHRC, 2010, p. 15). "...on October 2, 2010, the tabloid *Rolling Stone* printed a story with the title, "100 Pictures of Uganda's Top Homos Leak." The cover of the paper calls to, "Hang Them" and includes photos of a number of Ugandan LGBT activists and human rights defenders" (FARUG/IGLHRC, 2010, p. 16).

Multiple sources describe severe stressful events and conditions that constitute minority stress. The FARUG/IGLHRC report describes numerous incidents of rejection, discrimination, harassment, and violence as recounted by victims in Uganda. This, and other reports by LGBT people in Uganda that I was able to locate, echo in more severe, public, and violent forms, the type of prejudice events I have researched and written about in the context of the United States.

(An example of accounts by LGBT people writing about their experience in Uganda is the self-published *Bombastic* magazine).

Incidents included in witness accounts recounted in the FARUG/ IGLHRC report include harassment and violent attacks including rape in both public places and home; harassment at work and termination of employment for the stated reason that someone is suspected of being LGBT; and harassment and discrimination at schools, clinical facilities, and housing.

There are many accounts of police and other governmental institutions participating in the rejection, discrimination, and harassment of LGB people. For example, a lesbian was denied a passport renewal when the government clerk told her that she “was not Ugandan and that am just impersonating” (FARUG/ IGLHRC, 2010, p. 18). Indeed, there are reports that police officers openly and with impunity harass LGBT people and expect bribes. In many cases, there are no formal arrest records. As described by one witness: “If you’re arrested, there’s no report that you’re arrested. They put you in, to intimidate you and maybe extort money out of you. They know they’ve done something wrong by taking money from you, so there’s no report” (FARUG/ IGLHRC, 2010, p. 12-13).

Some reports (e.g., Joint report from the Danish Immigration Service’s and the Danish Refugee Council, 2014) suggest that there has been a concentrated effort by the Inspector General of Police (IGP) of the Uganda Police Force to curb police harassment (for example, by way of arrest and demand for bribe) and even to protect LGBT people in Uganda when they are threatened (for example, by mob attack). It is notable, however, that the reach of the IGP may be limited as various sources reported many incidents of harassment, such as arrests, that continue seemingly despite the IGP’s effort. Also, the same Danish government report describes a country and police force afflicted by bribery that is difficult to control, with Uganda ranking

among the most corrupt countries in the world. All this suggests that even honest efforts by the IGP to protect LGBT people may be hindered in an environment characterized by homophobia and corruption.

An independent source of confirmation for the picture painted by the reports in newspapers and by non-governmental, governmental, and international bodies (some cited above), comes from research, primarily in the context of HIV/AIDS and published in peer-reviewed journals, with gay/bisexual men and men who have sex with men (or *MSM*, referring to men engaged in same-sex sexual activity regardless of whether they also identify as gay or bisexual. By design, such research focuses on men only as they are perceived to be at greater risk for HIV/AIDS than lesbian and bisexual women. For example, a study of MSM (the majority of whom identified as gay or bisexual) reported that 39% of MSM have suffered homophobic abuse, including what the authors referred to as moral (including isolation, exclusion, 18%) verbal (threats, insults, 33%), physical (15.5%) and sexual violence (22.0%). The authors further noted that “abuse most frequently originated from family members (25.4%), sex partners (24.2%), and friends and acquaintances (24.1%)” (Hladik et al., 2012, p. 7). Another study of gay/bisexual men in Kampala similarly found that 27% of the men reported “being subject to some form of violence or abuse as a result of being gay or bisexual: of these, 32.8% indicated it was physical, 83.6% verbal, 42.6% moral (discrimination or humiliation based on being gay or bisexual) and 31.2% sexual: 62.3% indicated that they had been subjected to two or more forms of violence” (Ross, Kajubi, Mandel, McFarland, & Raymond, 2013, p. 412).

With nowhere to turn for protection, an atmosphere of persecution has created a stressful state of fear among LGBT people. In addition, LGBT people have to use their own resources, if

they have any, to afford any sense of security, as this witnesses described: “With the community now you have to keep shifting from this place and the other place because of the discrimination and the homophobia. ... Then you know, you become... you can't move freely. I can't even use public means of transport because I fear ... I'm living a forced life, an expensive life, I'm not supposed to go to public places, open places for shopping.” And another witness stated: “We have most of our LGBTI people who are... known, cannot just walk on the street. You have to look for a really secure place. And for you to find a very secure place where you can live where maybe it's fewer people, maybe like in a space like inside here, where you feel you're safe to go out and do whatever and come back in, it's very difficult. And it's very expensive. So you live like in fear, every day, like, what will happen to me?” (FARUG/ IGLHRC, 2010, p. 31).

From various other reports, I was able to identify numerous instances demonstrating the ill treatment of LGBT people in Uganda, including, among many others, those listed below:

1. In June 2012, police raided a human rights workshop attended by lesbian, gay, bisexual and transgender (LGBT) activists in Kampala (Amnesty International, 2012).
2. On January 27, 2014, police arrested a man on suspicion that he was gay and forcibly subjected the suspect to an anal exam and an HIV exam. Man was also paraded in the media, including in Red Pepper (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
3. On January 27, 2014, a transwoman was arrested and detained at Old Kampala Police Station. Because the police perceived her to be a man, she was detained with male inmates who insulted her verbally while in detention (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
4. On January 27, 2014, a woman was attacked by neighbors around her home. The neighbor had always insulted her that she was homosexual. They beat her up and threatened to rape her if she did not change her “behavior.” She later had to relocate (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
5. On January 28, 2014, the police at Ntinda arrested a Kenyan and a Belgian national on suspicion of practicing homosexuality (Consortium of Monitoring Violations Based on

Sex Determination, Gender Identity and Sexual Orientation, 2015).

6. In January 2014, two LGBTI defendants were arrested after one was thrown out of his house and beaten by local officials and neighbors on the basis of allegations that he was a homosexual. The pair was subjected to HIV examinations without their consent and an anal examination (Stewart, 76 Crimes, October 22, 2014).
7. In January 2014, when a man reported to the Police about an eviction, he was instead arrested on charges of having carnal knowledge against the order of nature and remanded to prison for three months (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
8. On February 9, 2014, a transman was detained at Kiira Road Police Station. The victim was detained in female detention cells. They alleged that he was a woman pretending to be a man with the aim of defrauding people. This exposed him to abuses and trauma (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
9. In February 2014, Red Pepper published a cover story on “200 top homos” in Uganda (McGrath, Global Post, February 25, 2014).
10. In February 2014 (reported), LGBTI activist was served with a 14-day eviction notice for his “gay work and sexuality” (Hogan, The Daily Beast, February 24, 2014).
11. On March 2, 2014, the police at Namirembe police post arrested a gay man and detained him after a tip off from someone that he was homosexual. He was later released without a charge (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
12. On March 6, 2014, a man was called by his friend to join him at his home. On arrival, he found two guards waiting; they dragged him to a friend’s home where he was detained for 11 hours. He was beaten and accused of wanting to recruit the friend into homosexuality (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
13. On March 17, 2014, the police arrested and investigated a man suspected of assaulting and stealing from a gay man and a transwoman. The two were locked in a house and beaten with sticks and wires by three men while they were being asked why they were homosexuals (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
14. On March 18, 2014, two men were detained on allegations of sodomy and released on police bond on April 17, 2014. The two men spent a total of 28 days in detention at the police station (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).

15. In March 2014, a Ugandan lesbian was served with an eviction notice. The landlord cited the anti-gay law as the reason (Brydum, Advocate, March 5, 2014).
16. In March 2014, a transgender person was rejected by his family and thrown out and his belongings set on fire. His relatives vowed to kill him rather than having a homosexual in the family (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
17. On April 3, 2014, Makerere University Walter Reed Project, an organization that was engaged in research on HIV, was raided by the police and a staff member arrested on allegations of promoting homosexuality in Uganda (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
18. On April 25, 2014, a gay man was arrested after he received a phone call to go to Kabalagala Police Station. On reaching there, he was taken to Katwe Police Station where he was told he had sodomized a person who had reported him to the police (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
19. On April 30, 2014, a man was arrested and detained at Kabalagala Police Station and produced in court after 12 days on May 12, 2014 (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
20. In April 2014, Uganda teenager committed suicide allegedly over the homophobic law (Morgan, Gay Star News, April 7, 2014). Gay rights activists have said they have heard of at least 17 LGBTI people who have attempted to kill themselves over the law. It is unknown how many succeeded in their attempt.
21. In April 2014 (reported), Ugandan teen was thrown out of his home, arrested, and tortured (Watson, Huffington Post, April 19, 2014). After his parents learned about his lovers, his parents demanded he leave their home immediately. He recalls, “they took me into the jail for two months and they tortured me to a severe extent. They asked me to reveal other groups of gays and give them names. But I didn’t tell, and they continued the torture every day. They tortured me every after my first day there and they took one to two days without giving me food. They beat me and beat me to every part on my body, in fingers, on the ankles, while asking me the other gay groups. The next month they took me to the court because they were expected my uncle to come and give out the proof that I was gay.” He was ultimately released and went to the streets.
22. In April 2014, a transman was refused treatment for malaria by health workers. He had sought treatment from a clinic nearby. A nurse questioned whether he was a man or woman and ultimately made him leave the clinic with no treatment (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).

23. On May 12, 2014, a gay man who was employed by a family member was fired from his job and not paid four month's salary he was owed after it was revealed that he was gay (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
24. On May 14, 2014, the police rescued a bisexual man from a mob, which had locked him in a house and assaulted him (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
25. On May 28, 2014, a transwoman was attacked by six strangers (five men and a woman). The six assailants accosted the victim and taunted her about her appearance (her pierced ears and the manner of wearing trousers). The assailants beat up the victim saying that she and her neighbors who usually moved with her were gay (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
26. On June 5, 2014, a landlord evicted a transwoman from her rented room because of her gender identity. This was after the landlord had made accusations on several occasions that she was gay. She was given two weeks' notice (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
27. On July 9, 2014 (reported), police in Pader district arrested five people suspected to be promoting the act of homosexuality in the district (Owot, Daily Monitor, July 9, 2014).
28. On September 7, 2014, the business community in Mbarara evicted a gay man from his market stall for being gay. This left him with no work to earn a living (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
29. On September 27, 2014, a gay man was arrested at his home in Salaama after neighbors complained to the police that he was homosexual (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
30. On September 30, 2014, a gay man was dismissed and denied 4 months' salary from his work place after being accused of being gay. (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
31. On August 17, 2014, four men were evicted at Kasubi after one of their friends they were living with was listed as a homosexual in the Red Pepper tabloid (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
32. On November 11, 2014, a customer slapped a transwoman working at a bar and promised to mobilize other people to beat her up. Later that day, youths started throwing stones at the bar. (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).

33. On November 28, 2014, the police failed to investigate claims where unknown perpetrators assaulted a gay man and left him unconscious and bleeding (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
34. In November 2014, a transman was evicted from his home and expelled from a village due to his gender identity. The landlord gave him only two days to vacate his home (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
35. On December 18, 2014, police arrested a gay man after leaving a gym in Nabweru. Upon his arrest, he was forced into a police car and not given any reason for his arrest. He was later charged with being “rogue and vagabond” and taken to Matugga Court where he was remanded to Buwambo Prison (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
36. In December 2014, a transman was thrown out of his residence in Gayaza after a neighbor had reported him to the religious leaders at a nearby mosque. His parents also dismissed him from home on the same allegations. The parents beat him heavily and tried to bring police to arrest him and put him in jail. (Consortium of Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015).
37. In January 2015, nine young gay men were attacked by a homophobic mob. The victims were later arrested by police and subjected to ill-treatment while in jail (Morgan, 2015).
38. May 29, 2015, the Ugandan tabloid *Hello* published a front-page article listing alleged lesbians in Uganda, including LGBTI activists (Stewart, 76 Crimes, June 1, 2015).
39. In May 2015, Ugandan tabloid published photos of Ugandans in the UK who attended Pride in Birmingham, England, referring to them as “bum drillers” and to Pride as a “mega sex fest.” Photos included some of the *Out and Proud Diamond African LGBTI Group* (OPDG). (McCormick, Pink News, May 29, 2015).
40. In June 2015, a Ugandan lesbian was granted asylum in UK (McCormick, Pink News, June, 9, 2015). She was forced to undergo “a torturous exorcism” ritual in Uganda and still bears the scars of sharp lacerations on her joints and the trauma of human degradation.

## **B. Impact on Affiliation and Social Support**

As I described above, hiding one’s sexual identity is a social stressor for many reasons, including the psychological damage from not being able to express oneself genuinely, the

cognitive burden on the person having to lie and conceal his or her identity, and the tangible limitations on affiliation and support.

According to a report by Amnesty International (2014), the situation of LGBT people has become worse after the passage of the Anti-Homosexuality Act. LGBT people found that they had to modify their dress and behavior in order to feel safe. The escalation of conditions, and the targeting by the Anti-Homosexual Act of people who are suspected of “homosexuality” regardless of any sexual behavior, has led to fear that can chill any resources that were available to LGBT people before. As Martin, a gay man, said to Amnesty International, “We are intimidated ...we can't fit into society because of [the AHA] ... there is nowhere safe to go” (Amnesty International, 2014, p.51). “We used to be able to go to safe spaces—bars, beaches—but these are now not safe” (p. 52).

In a study of gay and bisexual men in Kampala published in a peer-reviewed journal, researchers found that 45% of the men had not disclosed their sexual orientation to others. As one of the study participants told investigators, “it is my secret life and Uganda is not a free country” (King et al., 2013, p. 4). Another participant described the need to protect family by hiding his gay identity ‘Yeah I want to look acceptable in my mum’s face but indeed I know who I am, I am gay. Yeah, at least I love being me; I don’t want to let the whole public know that I am an MSM. Okay people may see me with guys only and they suspect [...] but won’t be able to exactly know what is going on” (p. 5). As described above, although such hiding of one’s gay or bisexual identity is done to protect against exposure to stigma, it is also a stressor on its own as it prevents association and affiliation with others who may be able to provide the LGBT person with support and affirmation.

It is a particularly injurious aspect of Uganda's social and political environment that not only are LGBT individuals targeted, but also their association and ability to access support is disturbed (and was explicitly criminalized by the Anti-Homosexuality Bill). For example, as reported by Amnesty International, "In February 2012, [prior to the enactment of the AHA] Fr. Lokodo, Minister for Ethics and Integrity, raided a workshop organized by LGBTI activists. The workshop included activities designed to encourage participants to have self-esteem and confidence"(Amnesty International, 2014, p. 66). Activists filed a case against the Minister, "claiming that the raid infringed on their constitutional rights" but the court ruled in favor of the government "citing section 145 of the Penal Code" arguing "the applicants' promotion of prohibited homosexual acts in the impugned workshop would thus amount to incitement to commit homosexual acts and conspiracy to effect and unlawful purpose". The court also found "that the Minister and police acted lawfully in order to "protect public morals", because same-sex sexual activity is illegal under Ugandan law" (p. 66-67).

This can have a devastating effects on the community as a whole as resources that are aimed at providing support become themselves associated with danger of exposure and violence. Public raids, arrests of advocates, and closures of LGBT-friendly service organizations thus hinder access to support and increase the stress experienced by the community by instilling fear and uncertainty and contributing to a sense that there is nowhere to turn for support.

As related in Amnesty International's report on the effect of the Anti-Homosexuality Act, many people told Amnesty International about the effect that the lack of social spaces has had on their lives. Martin said, "When we go to bars, we are able to live free. Not being able to go out – it's like being locked in a cocoon." Another Uganda respondent agreed saying, "We feel bad – we feel like we are held captive." Alice told Amnesty International that this meant that LGBTI

people “no longer see our friends, no longer communicate.” The report stated, “this lack of space has an effect on relationships with friends and partners” (p. 52).

As I described above, coping and social support are key means through which LGBT people can reduce the ill effects of minority stress. In addition to government actions like raiding peaceful meetings, provisions in the law like “aiding and abetting homosexuality” codify and enforce social isolation and add stressors through exposing family, friends or others to criminal penalty. With coping and social support resources severely curtailed both because of the general fear of discovery and the barriers to finding opportunities for affiliation, the harmful impact on health of minority stress increases.

### **C. Impact on health and well-being**

Research has described the high prevalence of HIV infection among MSM in Kampala: with almost 14% prevalence of HIV, much higher than the 4.5% prevalence estimated for all men in the general population (Hladik et al., 2012). Researchers noted in particular that the “illegality of homosexual behavior, human rights abuses, and severe stigma add to the specifics of [Africa’s] HIV epidemic among MSM” (Hladik et al., p. 1). In a study designed to assess the role of the Same-Sex Marriage Prohibition Act in Nigeria, which has similar impact on stigma of LGBT people as did the Ugandan AHA, researchers found negative health effects of anti-homosexuality legislation. In that study of a sample of MSM in Abuja, Nigeria who were interviewed either before or after the passage of the law, the researchers documented increase in a variety of measures, including fear of seeking health care, a sense that there were no safe place to socialize with other MSM, avoidance of seeking care altogether, verbal harassment and blackmail (Schwartz, Nowak, Orazulike, Keshinro, Ake, Kennedy, Njoku, et al, TRUST Study Group, 2015). This research also demonstrates the devastating effects that stigma can have by

discouraging open discussion of one's sexuality with health care providers. HIV-positive men who had disclosed to a health care provider that they were gay or bisexual were significantly more likely to be on recommended effective HIV treatment and significantly more likely to have undetectable viral load (a desired clinical outcome of the treatment) than their peers who have not disclosed to a health care providers that they were gay or bisexual.

Stigma and discrimination against LGB people in Uganda have a detrimental impact on health care utilization and, particularly, HIV treatment and prevention. As the law could prohibit, discourage, or curtail medical treatment and education about HIV and other health issues relevant to the life of LGBT people, it can have severe adverse consequences to the health of Uganda's LGBT population.

The Anti-Homosexuality Act, in particular, with its criminalization of "homosexuality"—that is, one's identity rather than behavior—has escalated the situation for LGBT people in Uganda who, according to one AIDS advocate there, "have gone underground" (Lavers, Washington Blade, February 28, 2014).

One 24-year-old HIV-positive research participant in a study of gay and bisexual men in Kampala expressed this to the researchers (King et al., 2013):

I always go to hospitals and they easily tell that I am gay. I ask for condoms but usually a health worker will tell you to sit down and wait. Then he calls his co-workers, they peep through a window and laugh/ mock you. This makes me feel very bad. So, I find it easier to use my friends to pick up condoms for me. Sometimes, I just go straight and buy them instead of getting them for free from hospitals (p. 5).

Another respondent in the same study (King et al., 2013), a 25-year-old HIV-negative man, said:

Even if I fall sick or get fever, I just stay home without treatment because you can't go to the main referral hospital in Kampala. There, every health worker will object to giving you treatment saying that "he is a homosexual don't work on him" and say many other things. I was told that very many times, about six or eight times. Like when I was assaulted, don't you see here at the ear, there is

(Embunda; scar/ wounds) [...] they neglected and chased me away and I was bleeding and swollen. I came back home and slept and got healed by God's mercy (p. 5).

Both the fear of rejection and internalized homophobia, also a minority stressor, impact the men in this study and lead to avoiding health care services (King et al., 2013), as described by another study participant:

When you go to visit the hospital, they will not attend to you. In fact I hate going to such hospitals. I do self-treatment from home and I usually use tablets. You know I feel ashamed. I will visit the hospital and everybody will despise me. It is the way female health workers treat me, they make me feel angry and resentful to seek treatment. That makes me feel ashamed. Everybody looks at you. You feel you are not part of the society (p. 5-6).

Not only are LGBT people afraid to seek services, the AHA directly leads to the denial of services to LGBT people, the withdrawal of services, and the threat of to inform the police, as is believed to be required by the law. "Provisions in the bill defining and criminalising 'aiding and abetting homosexuality' would punish landlords, healthcare providers, lawyers, and even friends or family, for failure to disclose alleged homosexuality" (Semugoma, Beyrer, & Baral, 2012, p. 174).

Of course, this is in direct conflict with the Hippocratic Oath and professional ethics obligations as applied to health care settings when sexual identity is disclosed (Semugoma, Beyrer, & Baral, 2012). Indeed, since the AHA was enacted, LGBT persons have been denied access to health services and even threatened with arrest when they are suspected of being LGBT. Jay, a 28-year-old transgender activist in Kampala went to see a doctor for a fever. "When the doctor arrived, he also asked, 'Are you a woman or a man?' I told him that I'm a trans man. He said, 'What's a trans man? You know we don't offer services to gay people here. You people are not even supposed to be in our community. I can even call the police and report you'" (Amnesty International, 2014, p. 62).

This has the effect of demolishing health education and services to LGBT populations in Uganda. Such developments are contrary to any standard of population health, which calls for the inclusion of LGBT-specific health interventions, education, and reduction of stigma related to homosexuality as hallmarks of proper public health efforts.

A 2014 report by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) identifying homophobia is one of the causes of the HIV epidemic among men who have sex with men, explaining “homophobia fuels the epidemic, isolating individuals and making them less likely to seek help and support,” whereas “education can help promote positive attitudes towards sexual diversity and the need for changes geared to addressing intolerance and tackling homophobic and transphobic bullying” (p. 22).

The World Health Organization (WHO) recommended that “MSM and transgender people are entitled to full protection of their human rights as stated in the Yogyakarta Principles,” including “the rights to the highest attainable standard of health, non-discrimination and privacy” (published in *Prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people*; WHO, 2011, p. 29). Furthermore, “punitive laws and law enforcement practices, stigma and discrimination undermine the effectiveness of HIV and sexual health programmes” (p. 29). The WHO concluded, “Long-standing evidence indicates that MSM and transgender people experience significant barriers to quality health care due to widespread stigma against homosexuality and ignorance about gender variance in mainstream society and within health systems,” (p. 29) and that “[s]tigma against homosexuality is a significant cause of barriers to quality health care of MSM” (p. 10).

For example, a cornerstone of HIV treatment and prevention is early detection of HIV in the population through HIV testing. But this too is devastated by the AHA as it places great risks on individuals who are LGB (or MSM), as they might be reported to the police and subject to punishment under the AHA (Semugoma, Beyrer & Baral, 2012).

Specifically, the WHO noted, “legal and policy barriers,” such as criminalization of homosexuality, “play a key role in the vulnerability of MSM” to HIV (p. 10). The WHO report identified such legal conditions as, on one hand, preventing or inhibiting access of MSM to medical and other health service providers, and, on the other hand, “[giving] the police the authority to harass organizations that provide services to these populations” (p. 10). As is evidenced by reports from Uganda, the WHO predicted that MSM may “delay or avoid seeking health, STI or HIV-related information, care and services as a result of perceived homophobia” and “be less inclined to disclose their sexual orientation and other health-related behaviors in health settings that may otherwise encourage discussions between the provider and patient to inform subsequent clinical decision-making” (p. 11).

The developments reported from Uganda are precisely the opposite of what is needed, as the WHO report noted: “The promotion of a legal and social environment that protects human rights and ensures access to prevention, treatment, care and support without discrimination or criminalization is essential for achieving an effective response to the HIV epidemic and promoting public health” (p. 29).

This analysis leads the WHO to recommend that “Legislators and other government authorities should establish and enforce antidiscrimination and protective laws, derived from international human rights standards, in order to eliminate stigma, discrimination and violence

faced by MSM and transgender people, and reduce their vulnerability to infection with HIV and the impacts of HIV and AIDS” (p. 30). Again, these are the all contradicted by the AHA.

### **VIII. Conclusions**

Stigma and prejudice create for LGBT people a social environment that is inhospitable, and an environment that sends a clear message that the LGBT person is unwelcome. With the backdrop of an environment that was already characterized by homophobia in Uganda and where same-sex acts were illegal, the Anti-Homosexuality Bill and later the AHA sent a clear message of rejection that dehumanized LGBT people by making their very identity as LGBT a “spoiled identity.”

The social environment, in particular within the context of discussions about the Anti-Homosexuality Bill, and public rhetoric that assailed LGBT people, for example by erroneously portraying them as dangerous and child molesters who recruit innocent children, precipitated a hostile environment. The Ugandan social environment is an environment that demands of its LGBT citizens vigilance as they seek to protect themselves from potential discrimination and violence. It is an environment where, in an attempt to protect themselves from the stress of this stigma, LGBT people are moved to conceal their sexual identity. It is an environment where stigma and stereotypes, promoted by civil and religious leaders, are internalized by heterosexual and LGBT people alike, leading to further prejudice, discrimination, and violence.

Numerous accounts have shown how this social environment has brought about a host of stressors on LGBT people that in my and other researchers’ work has been described as *minority stress*. Hundreds of research articles have shown that, in addition to the indignities described by numerous LGBT Ugandans, minority stress causes a host of mental and physical health problems, a reduced sense of well-being, an increase in suicides, and an increase in unhealthy

behaviors (such as unsafe sex practices). In addition, the structural stressors brought about by the AHB, whether they are sanctioned by law or incorrectly interpreted by the public and health care providers, have led to the erection of barriers to healthcare for LGBT people.

I declare under penalty of perjury that the foregoing is true and correct.

Los Angeles, CA  
November 2, 2015

A handwritten signature in blue ink that reads "Ilan Meyer". The signature is written in a cursive style with a large initial "I" and a stylized "M".

Signature: \_\_\_\_\_  
Ilan H. Meyer

# **EXHIBIT 208**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

SEXUAL MINORITIES UGANDA	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	
	)	
SCOTT LIVELY, individually and as	)	Civil Action
President of Abiding Truth Ministries,	)	
<i>Defendant.</i>	)	3:12-CV-30051
	)	
	)	
	)	

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**EXPERT REPORT OF GROVER JOSEPH REES**

This report is prepared and submitted by Ambassador (retired) Grover Joseph Rees.

**Professional Qualifications and Experience**

In October 2006, Secretary of State Condoleezza Rice appointed Ambassador Grover Joseph Rees as Special Representative for Social Issues. As Special Representative, Ambassador Rees was responsible for promoting the United States agenda on human dignity, including issues affecting vulnerable persons and the family, within the United Nations system. From March to August 2008 Ambassador Rees also served as Acting Deputy Assistant Secretary in the Bureau of International Organizations Affairs, where he supervised the offices responsible for implementing United States policy on multilateral human rights, social and humanitarian issues, United Nations budget and reform, and multilateral public diplomacy. Ambassador Rees became Deputy Assistant Secretary on August 19, 2008. During the fall 2007 session of the United

Nations General Assembly, Ambassador Rees represented the United States on social, economic, and human rights issues in the UN as Acting U.S. Representative to the United Nations Economic and Social Council. He was responsible for directing the participation of the United States in the Second and Third Committees of the United General Assembly. The Third Committee deals with human rights and other social issues.

Ambassador Rees served as the first U.S. Ambassador to East Timor from 2002 to 2006. Prior to his appointment as Ambassador, from 1995 until 2002, he was a senior staff member on the Foreign Affairs Committee in the United States House of Representatives, where he had principal responsibility for human rights and refugee protection and played a major role in the drafting and enactment of important human rights legislation including the Trafficking Victims Protection Act, the International Religious Freedom Act, and the Torture Victims Relief Act. From 1991 to 1993 he served as General Counsel of the U.S. Immigration and Naturalization Service. Ambassador Rees also served as Chief Justice of the High Court of American Samoa from 1986 until 1988 and then as Associate Justice from 1988 until 1991.

Prior to his government service Ambassador Rees served for seven years as a law professor at the University of Texas. Among the subjects he taught were United States constitutional law, international law, and jurisprudence. He has written and spoken widely on international law, human rights, refugees, and related issues.

Ambassador Rees obtained his undergraduate degree from Yale University and his law degree from Louisiana State University Law School, where he was elected to the academic honor society Order of the Coif and served as Editor-in-Chief of the Louisiana Law Review.

## **Summary of Analysis and Conclusions**

This report addresses only the question whether any rule of international law prohibits the criminalization of certain sexual conduct, including sexual acts between persons of the same sex. It does not address philosophical or policy questions about whether it is advisable for legislatures to enact, modify, or repeal such laws. (The author of this report personally has long supported decriminalization of non-commercial sexual acts between consenting adults, including between adults of the same sex.) This report also does not address the question whether, if defendant Lively had advocated the enactment of a law that did violate internationally recognized human rights, his advocacy would also have constituted a violation of international law. Nor does the report address the related, but not identical, question whether such advocacy of a law that would, if enacted, violate international law would nevertheless be protected by the First Amendment to the United States Constitution.

It should also be made clear at the outset that the author of this report agrees wholeheartedly with the position that human rights are universal and “apply equally to every human being regardless of sexual orientation and gender identity.”<sup>1</sup> While this principle establishes that a person may not be subjected to human rights violations on account of his or her orientation or identity, it does not address the scope or content of the human rights that may not be violated. In particular, to say that human rights apply to everyone is not particularly helpful in addressing whether a national law prohibiting certain conduct violates any particular treaty provision or rule of customary international law.

Section I of this report sets forth the standards to be applied in order to determine whether a national law, policy, or practice contravenes international law. Section II is a brief survey of laws around the world relating to the criminalization of sexual acts between members of the

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<sup>1</sup> Joint Statement from the Permanent Representatives of Argentina, Brazil, Croatia, France, Gabon, Japan, the Netherlands and Norway to the United Nations addressed to the President of the General Assembly, 63rd Session, A/63/635, 18 December 2008. See the discussion of this Joint Statement in Section IV of this report.

same sex. Section III summarizes assertions that have been made in recent years that laws prohibiting such acts violate international law. Section IV explains why, in light of the standards set forth in Section I and the state practice described in Section II, the assertions discussed in Section III are incorrect and laws prohibiting sexual acts do not violate international law.

**I. Standards for determining whether the statute contravenes international law**

There are only two ways that a nation can incur an obligation under international law to repeal or otherwise invalidate one or more of provisions of its national legislation: by entering into a specific agreement that requires it not to have such laws, or by words and/or actions manifesting its acquiescence in a new norm of customary international law.

### a) Treaties

Uganda has not entered into any agreement that explicitly prohibits the criminalization of sexual relations between members of the same sex. Indeed, no United Nations human rights convention or other multilateral agreement explicitly refers to such acts or to laws prohibiting them. The question, therefore, is whether Uganda has acceded to an agreement that implicitly prohibits it from criminalizing these acts.<sup>2</sup> In determining whether a given treaty should be interpreted to contain such a prohibition, the decisive question is whether the States Parties that negotiated and ratified the convention, including Uganda, intended it to do so.

Although courts and commentators have differed on methods for determining what the States Parties intended when they agreed to a particular treaty provision, there has never been any dispute that treaty interpretation should be genuinely calculated to detect, and not to supplant or embellish, the intentions of the parties. As with statutes and constitutions, the best evidence of what the parties meant is what they said. Thus the “ordinary meaning” of the treaty’s text, at the time of its negotiation and ratification and in the context of the issues the States Parties were

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<sup>2</sup> The international treaty that is most arguably relevant to this case and that is binding on Uganda is the International Covenant on Civil and Political Rights (ICCPR). Although advocates and United Nations entities have also sometimes linked the issue of criminalization of sodomy to nondiscrimination provisions in other treaties, including the Convention for the Elimination of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC), and even the Convention Against Torture (CAT), these provisions are quite similar to those in Article 2 and/or Article 26 of the ICCPR and the arguments relating to these other treaty provisions appear to have been derived from the arguments about the nondiscrimination provisions of the ICCPR. These arguments are discussed in Section III of this report.

Many provisions in human rights treaties are derived from similar provisions in the Universal Declaration of Human Rights (UDHR) and are intended to implement the rights recognized by these provisions. While the UDHR is not a binding treaty – it purported only to recognize pre-existing rights, not to create them -- some of its provisions are widely accepted as stating rules of customary international law. Both the ICCPR and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) are closely based on the UDHR. Uganda is a State Party to the ICCPR and the ICESCR. A full list of international human rights treaties to which Uganda is a State Party is available at <http://www1.umn.edu/humanrts/research/ratification-uganda.html>.

The rights recognized in the UDHR that are arguably relevant to the issue of criminal laws on sexual relations between members of the same sex all have corresponding provisions in the binding ICCPR. These include the right to equal treatment (UDHR Articles 1 and 3; ICCPR Article 3), the right to non-discrimination (UDHR Article 2; ICCPR Articles 2 and 26), the right to human dignity and to be free of cruel, inhuman, or degrading treatment (UDHR Articles 1 and 5; ICCPR Article 7), and the right to privacy (UDHR Article 12; ICCPR Article 17).

evidently trying to address, is the primary evidence of its meaning. The Vienna Convention on the Law of Treaties (VCLT) restates this traditional rule in article 31 (1):

A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object or purpose.

Article 32 of the VCLT provides that where the meaning of the text is clear, the *travaux preparatoires* and other sources of the treaty's history are to be used only to confirm that reading. This article further provides that preparatory work for the treaty and "the circumstances of its conclusion" shall be determinative of the meaning of the text only when the "ordinary meaning" of the text is ambiguous or unclear or would lead to "a result which is manifestly absurd or unreasonable."

Importantly, the non-textual supplemental sources of interpretation set forth in Article 31 of the VCLT – such as subsequent agreements between the parties about the interpretation of the treaty, and subsequent state practice that manifests an agreement about the interpretation – are also calculated to determine what the States Parties intended.

It is also important to notice that neither the VCLT nor any other authoritative source of international law suggests that interpretations by United Nations treaty bodies – the committees charged with monitoring and reporting on compliance with particular human rights conventions – should be regarded as authoritative. While the authorities given to these bodies vary according to the terms of the treaties that created them, these instruments speak of the treaty bodies' roles in terms of monitoring and of making recommendations, not decisions. For instance, Article 21 of the Convention on the Elimination of All Forms of Discrimination Against Women

(CEDAW) provides that the CEDAW Committee “may make suggestions and general recommendations based on the examination of reports and information received from the States Parties”. Similarly, Article 45 of the Convention on the Rights of the Child provides that the Committee on the Rights of the Child “may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention”, and Article 40(3) of the International Convention on Civil and Political Rights (ICCPR) provides that the Committee on Human Rights “shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties.” No United Nations treaty authorizes a treaty body to issue interpretations of the treaty that are binding on States Parties. Although subsequent Optional Protocols to some treaties allow treaty bodies to consider cases arising from individual complaints, these proceedings can take place only with respect to states that have ratified the Optional Protocol in question and are binding, if at all, only on the parties to the particular dispute. See the discussion of this question in Section IV of this report.

Although it is generally agreed that the collective understanding of the States Parties about the meaning of treaty provisions is more important than the understanding of any one party,<sup>3</sup> it is difficult to imagine a set of circumstances in which such a collective understanding genuinely existed with respect to a particular text and yet one or more States Parties had an equally genuine and yet radically different understanding of the same text. In other words, Uganda could not have entered into an agreement prohibiting it from enacting a certain kind of law unless it either knew or should have known that it was agreeing to incur such an obligation.

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<sup>3</sup> See Ian Johnstone, *Treaty Interpretation: The Authority of Interpretive Communities*, 12MICH. J. INT'L L. 371, 380-403 (1991). Johnstone notes that when states enter a treaty, “the interpretive task is to ascertain what the text means to the parties collectively rather than to each individually.” *Id.* at 380-1.

**b) Customary International Law**

Perhaps the most widely accepted definition of customary international law is set forth in Article 38 of the Statute of the International Court of Justice, a Court established in the United Nations Charter, which states that the Court shall apply “international custom, as evidence of a general practice accepted as law”. A rule of customary international law “results from a general and consistent practice of states followed by them from a sense of legal obligation.” Restatement of the Foreign Relations Law of the United States (Third) (1987) § 102(2).

In order to become a binding norm of customary international law, a practice must be observed generally (although not necessarily universally) among states, and especially among those to whose circumstances the practice is most relevant; and it must be established that the practice is regarded by states as a legal obligation, not just a usage or convention.

Although there is no precise formula for determining either generality of practice or the existence of a sense of legal obligation, it is clear that a practice may be observed by most states, or even by an overwhelming majority of them, and yet not give rise to a binding norm of international law. In the *North Sea Continental Shelf Cases (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands) (Merits)* ([1969] ICJ Rep 3), the International Court of Justice held that a practice must be “extensive and virtually uniform” and “should have occurred in such a way as to show a general recognition that a rule of law was involved.” In that case the Court rejected the assertion of a rule of customary international law even despite numerous examples of the observance of the practice in question. And in the *Lotus* case the Permanent Court rejected France’s assertion of the existence of a rule of international law against prosecution by states arising from collisions in international waters, although there was evidence that no state had ever before brought such a prosecution, because there was no

notice that this pattern of abstention was due to a “conscious[ness] of a duty to abstain.” *France v. Turkey*, Judgement, 7 September 1927, PCIJ Ser. A, No. 10, pp. 23, 26 and 28–29. Rather, the states could have abstained from prosecuting such cases for any number of reasons, such as that they had no strong interest in the cases or that they believed another state’s courts to be a more convenient forum.

Among the factors that can prevent the development of such a norm are persistent objection to the practice, frequent observance of a contrary practice, and/or clear reservation of a right to observe a contrary practice, by some of the states to whose circumstances the practice is relevant. Indeed, even a persistent objection by one state to the formation of a rule of customary international law, although it may not prevent the establishment of such a rule, is generally acknowledged to exempt that state from obligations under the new rule.

## **II. State Practice on Prohibition of Sexual Acts**

A review of state practice with respect to prohibition of sexual acts between members of the same sex is essential to three distinct aspects of the analysis of whether such prohibitions violate international law. First, such practice at the time of the negotiation and ratification of international human rights treaties is part of the context of these treaties; as provided in Articles 31 and 32 of the Vienna Convention, in the absence of language that clearly and unambiguously addresses laws on homosexual acts the context of each treaty may help to support or negate an inference that the States Parties nevertheless meant to address such laws. Second, if the state practice subsequent to negotiation and ratification showed a clear pattern – if, for instance, in the years just after the treaty entered into force many of the States Parties had repealed such laws and few or no States Parties had enacted or reaffirmed them – then this pattern might show an

agreement of the States Parties that the treaty should be interpreted to prohibit such laws. Finally, if the state practice was “virtually uniform” (*Continental Shelf*), and if the evidence established that states were acting from a sense of legal obligation rather than simply because their legislatures no longer agreed with such laws on the merits, then the practice could support the existence of a rule of customary international law.

The actual state practice over the last fifty years – that is, before, during, and after the period during which the major international human rights conventions were negotiated and ratified – shows wide variation among states. According to a May 2012 Report by the International Lesbian and Gay Alliance (ILGA), sexual acts between members of the same sex were then legal in 113 countries and illegal in 78 countries.<sup>4</sup> This diversity is strong evidence that there is today no general international consensus on this issue.

That many states had laws criminalizing homosexual acts at the time they negotiated and ratified the ICCPR or another treaty does not in and of itself establish that these states did not intend for the treaty to require the repeal of such laws and/or prohibit their future enactment. If, for instance, a provision of the treaty stated expressly that “every human being has the right to sexual autonomy in accordance with his or her sexual preference and gender identity” and/or that “no State shall impose criminal penalties for sexual activity among persons of the same sex who are over the age of consent”, then it would be logical to conclude that the States Parties were agreeing to repeal such laws, and that subsequent failure to do so constituted a breach of the convention. If, on the other hand, there was no such clear and unambiguous language, but if a substantial majority of the States Parties to the convention that had laws criminalizing

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<sup>4</sup> ILGA describes itself as “a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual, trans and intersex (LGBTI) people everywhere”. ILGA’s May 2012 report is a “world survey of laws criminalizing same-sex sexual acts between consenting adults”. It is available at [http://old.ilga.org/Statehomophobia/ILGA\\_State\\_Sponsored\\_Homophobia\\_2012.pdf](http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2012.pdf)

homosexual acts repealed these laws shortly after the treaty's entry into force, with the legislative history of at least some of these repeals showing that the legislators believed the new treaty created an obligation to repeal the law, then the existence of these laws at the time of negotiation and ratification would not be dispositive.

Neither of these factors, however, is present in this case. As will be discussed in sections III and IV of this report, no international human rights convention clearly addresses whether states can criminalize sexual acts between consenting adults of the same sex. Nor is there any pattern of repeals and non-enactments that would tend to establish an agreement of the States Parties to any of these treaties with respect to this issue. Moreover, far from showing a pattern of many repeals and few enactments or reaffirmations, the ILGA list shows that many of the 78 nations that have laws criminalizing same-sex sexual acts have enacted or re-enacted these laws, or have amended them in ways that leave the criminal penalties intact, in the years since they acceded to the ICCPR and other human rights conventions. These countries include Botswana (1998), Burundi (2009), Ethiopia (2004), Gambia (2005), Ghana (2003), Guinea (1998), Kenya (2003), Malawi (2011), Tanzania (1998), Zimbabwe (2006), Bhutan (2004), Brunei (2001), Malaysia (1998), Qatar (2004), Singapore (2007), Turkmenistan (1998), Antigua and Barbuda (1995), Dominica (1998), Saint Lucia (2005), Trinidad and Tobago (2000), Papua New Guinea (2002), and Samoa (2008).

Even in countries where homosexual acts are not prohibited, there is no discernible pattern of legalization in the period immediately before and after the ICCPR and other human rights conventions were negotiated and came into force, or just before and after the state in question acceded to one or more of these treaties, such as might suggest that legalization proceeded from a belief that one or more human rights conventions required such legalization.

Even in Europe, the only region in which all recognized states have legalized same-sex sexual acts, the pattern of legalizations is as follows: thirteen states legalized between 1791 and 1959 (Belgium, Denmark, France, Greece, Iceland, Italy, Luxembourg, Monaco, Netherlands, Poland, San Marino, Sweden, Switzerland); only eleven states legalized between 1960 and 1989, the period during which the ICCPR and other human rights conventions were negotiated, went into force, and were signed and/or ratified by most of the States Parties thereto (Austria, Bulgaria, Croatia, Czech Republic, Finland, Germany, Hungary, Liechtenstein, Malta, Montenegro, United Kingdom); and nineteen states legalized between 1990 and 2012 (Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Ireland, Kosovo, Latvia, Lithuania, Macedonia, Moldova, Romania, Russia, Serbia, Ukraine). The pattern for other regions is even less suggestive of a connection between legalization and accession to human rights conventions. For instance, in Latin America and the Caribbean ILGA indicates that twelve countries legalized homosexual acts between 1800 and 1900, and an additional country (Uruguay) in 1934. Only three countries legalized between 1960 and 1990, and five countries have legalized since then. In Asia, Africa, and Latin America almost all the countries that have legalized did so either before 1960 or after 1990.

It is even more clear that the pattern of repeals, enactments, and reaffirmations of laws criminalizing same-sex sexual acts does not indicate an “extensive and virtually uniform” state practice with evidence of a “sense of legal obligation”, the criteria for a rule of customary international law. In the first place, there is nothing even vaguely resembling a general or consistent practice: about 40 per cent of the countries in the world (78) still criminalized such acts as of the date of the 2012 report. Even among the approximately 60 per cent (113) that have decriminalized these acts, there is no evidence that decriminalization was motivated by a sense

of international legal obligation. In countries where decriminalization was the result of legislative action, there is no reason to believe that it was not influenced by the factors that influence all decisions in democratic systems: the legislators' views on the merits and their desire to please their constituents, their party leaders, and other participants in the legislative process.

### **III. Opinions by United Nations officials and entities that criminalization of same-sex sexual acts violate international law**

Despite the strong evidence that states do not generally regard themselves as bound by a rule of international law with respect to criminalization of sexual acts between members of the same sex, in recent years there has been an impressive array of assertions by advocates, by non-governmental organizations, and especially by United Nations officials and entities, that such laws do violate international law.

In 1994 the Human Rights Committee, the body charged with monitoring compliance with the ICCPR, issued a "communication" in a complaint by Nicholas Toonen against the government of Australia under the ICCPR's Optional Protocol 1. The Committee announced that "adult consensual sexual activity in private is covered by the concept of 'privacy'" in Article 17 of the ICCPR (which provides in pertinent part that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." (This crucial point had been conceded by the representatives of Australia who responded to the complaint. The federal government of Australia did not vigorously defend the state law of Tasmania, which was then the only one of Australia's several states that outlawed homosexual acts. Instead, the government ceded this and most of the other important points in the case. It is perhaps unfortunate that this groundbreaking

case, which has been widely cited as an important precedent by the Human Rights Committee and by other UN bodies, was resolved without benefit of anyone arguing for the validity of the state law. Notwithstanding the stipulation by both parties in *Toonen*, it is doubtful that the States Parties who negotiated Article 17 and acceded to the Treaty were thinking that “interference with . . . privacy, family, home, or correspondence” included a right to sexual autonomy that would require the invalidation of numerous laws that most states had on their books at the time of the treaty’s negotiation and entry into force.) The Committee then briefly examined and summarily rejected Australia’s suggestion that the statute in question might be justified as a regulation of public morals, concluding that prohibition of homosexual acts between consenting adults was “unreasonable” and therefore an “arbitrary interference with . . . privacy” within the meaning of Article 17 of the ICCPR. Finally, the Committee expressed the opinion that the prohibition of discrimination on the basis of “sex” in articles 2 and 26 of the ICCPR “is to be taken as including sexual orientation.” *Communication No. 488/1992: Australia, CCPRIC/50/D/488/1992, Nicholas Toonen v. Australia, 4 April 1994*. Since issuing its communication in *Toonen*, the Committee has routinely admonished States that they “should decriminalize sexual acts between adults of the same sex”.

Other United Nations treaty bodies subsequently expressed the opinion that various forms of discrimination against homosexuals either violate and/or lead to violations of the treaties they are charged with monitoring. In some cases these observations amount essentially to admonitions that human rights violations must be prevented no matter what the motives of their perpetrators, whether the “sexual orientation” or “gender identity” of the victim or some other motive. See, for instance, General Comment No. 2 of the Committee Against Torture (“The protection of certain minority or marginalized individuals or populations especially at risk of

torture is a part of the obligation to prevent torture or ill-treatment.”) In other cases treaty bodies have expressed the opinion that nondiscrimination provisions prohibit discrimination on the basis of “sexual orientation.” See, for instance, General Comment 4 (2003) of the Committee on the Rights of the Child, CRC/GC/2003/4. Similar opinions have also been expressed by numerous United Nations Special Rapporteurs and other “Special Procedures” and by the UN Working Group on Arbitrary Detention.

A watershed event in the ongoing effort to fashion binding rules of international law with respect to sexual orientation and gender identity was a conference held in Yogyakarta, Indonesia, in 2006 whose participants soon thereafter produced a document called “the Yogyakarta Principles.” This document asserts that a wide range of treaty provisions and rules of customary international law, including not only the rights to privacy and nondiscrimination but also, *inter alia*, the rights to life, to security of the person, to a fair trial, to freedom from torture, to education, and to health are violated by current laws and practices in many States that either prohibit same-sex sexual acts, discriminate on the basis of sexual orientation or gender identity, or fail to take effective action against such discrimination. See

<http://www.yogyakartaprinciples.org> . The signatories to the Principles were “a distinguished group of human rights experts, from diverse regions and backgrounds, including judges, academics, a former UN High Commissioner for Human Rights [Mary Robinson], UN Special Procedures, members of treaty bodies, NGOs, and others.”

[http://www.yogyakartaprinciples.org/principles\\_en.htm](http://www.yogyakartaprinciples.org/principles_en.htm) .

Most recently, a report submitted to the United Nations Human Rights Council by UN High Commissioner for Human Rights Navanethem Pillay in November 2011 both summarized and amplified previous statements by UN treaty bodies and others in this area. While much of

the report appropriately calls for action to eliminate human rights violations such as extrajudicial killing, torture, and rape when they are committed on account of their victims' sexual orientation, the report also concluded that "States are obligated to protect individuals from discrimination on the basis of their sexual orientation." The authorities cited by the report for this proposition are the Human Rights Committee's communication in the *Toonen* case and similar observations by other UN treaty bodies. The report relies on these same authorities for its assertion that "[t]he criminalization of private consensual homosexual acts violates an individual's rights to privacy and to non-discrimination and constitutes a breach of international human rights law." *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. Report of the United Nations High Commissioner for Human Rights, A/HRC/19/41.*

According to the Pillay report, even laws that prohibit and/or punish certain sexual acts regardless of whether the persons performing them are of the same sex or of different sexes are nevertheless in violation of international law, since they can be "use[d] to harass or prosecute individuals because of their actual or perceived sexuality or gender identity." The report does not consider the possibility that the legislatures that have enacted such laws genuinely object to the acts in question, assuming instead that criminalization of such conduct is merely a means to the end of persecuting people because of their status.

#### **IV. Analysis: States Parties versus treaty bodies**

With respect, these assertions by United Nations treaty bodies and other UN personnel, including the 2011 report of the UN High Commissioner for Human Rights, are not only non-authoritative, they are also unpersuasive. Their central argument, that the right against arbitrary

or unlawful interference with “privacy, family, home or correspondence” in the ICCPR and other conventions includes a right to sexual autonomy, is inconsistent not only with the contemporary and subsequent practice of States Parties but also with the general understanding of what “interference with privacy” meant at the time the Conventions were being drafted and negotiated.

Until quite recently, the “right to privacy” was generally regarded as addressing a right to be free from unreasonable searches and seizures and perhaps also against other invasions of privacy, such as the publication of private details of a person’s life. The term was frequently associated with an 1890 article in the Harvard Law Review by Samuel Warren and Louis Brandeis (later Justice Brandeis of the United States Supreme Court), *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890), which addressed whether there should be a common law action for certain invasions of privacy. By 1948, when the term was used in Article 12 of the Universal Declaration of Human Rights, it had been used in a number of national constitutions in its traditional sense – as a right to be free from unreasonable searches and seizures and/or as a right that might impose a limit on the rights of others to divulge personal details of another person’s life. See, for instance, Article 7 of the 1917 Constitution of Mexico (“[T]he freedom of printing . . . shall be limited only by the respect due to the right of privacy, morals, and public peace.”); Article 128 of the 1936 Constitution of the Union of Soviet Socialist Republics (“The inviolability of the homes of citizens and privacy of correspondence are protected by law.”). The *travaux préparatoires* of Article 12 of the UDHR and of the virtually identical Article 17 of the ICCPR suggest that the States Parties were addressing searches, seizures, and other invasions of traditional privacy. In 1953, for instance, the United Nations Commission on Human Rights reported a discussion of whether a right to be protected from interference with privacy could lead to censorship. Commission on Human Rights, 9<sup>th</sup> Session (1953), Chapter VI, section 99. The

Commission also reported that “[i]t was pointed out that privacy, the sanctity of the home, the secrecy of correspondence, and the honor and reputation of persons were protected under the constitutions or laws of most, if not all countries.” Commission on Human Rights, 9<sup>th</sup> Session (1953), Chapter VI, section 99. The States Parties’ decision to place the protection against arbitrary or unlawful interference with privacy, family, home, and correspondence in the same sentence with the right against unlawful attacks on “honour and reputation” is further evidence that Article 17 addressed the right to privacy in its traditional sense. There was no discussion of the idea that the article might also create a new right to sexual autonomy. Similarly, it does not appear that during any of the discussions that took place over the twenty years during which the nondiscrimination and equal protection provisions of the UDHR (Article 2) and the ICCPR (Articles 2 and 26) were being drafted, discussed, and adopted, anyone considered the possibility that these provisions could require the repeal or invalidation of laws prohibiting sexual conduct.

At the time of the adoption of the UDHR in 1948 and during the drafting and negotiation of the ICCPR during the 1950s and early 1960s the overwhelming majority of the world’s nations had laws against sodomy and other sexual practices that were deemed deviant and/or contrary to public morals, and the modern movement to repeal these laws had not yet begun. See the discussion in Section II of this report. If the States Parties had intended to address this issue in a way that would have rendered their own laws in violation of a new rule of international law, it is inconceivable that no one would have mentioned it.

The first important use of the term “privacy” to denote sexual autonomy was in the United States Supreme Court’s 1965 decision in *Griswold v. Connecticut*, striking down as unconstitutional a Connecticut law prohibiting many forms of contraception. Although the United States Constitution does not mention a right to privacy, Justice Douglas’s opinion for the

Court held that this right and others “emanate” from the “penumbras” of the Constitution. *Griswold v. Connecticut*, 381 U.S. 479 (1965). Eight years later the Court struck down all fifty state laws prohibiting or regulating abortion on the ground that such laws violated the right to privacy. *Roe v. Wade*, 410 U.S. 113 (1973). Both decisions were widely criticized, even by scholars and jurists who favored the results in the cases, in part because the United States Constitution contains no right to privacy and in part because sexual autonomy seemed importantly different than the interests the right to privacy had always been thought to protect. *See, e.g., Ely, The Wages of Crying Wolf: A Comment on Roe v. Wade*, 82 Yale L.J. 920 (1975).

Perhaps because of the widespread criticism of *Griswold* and *Roe*, the new meaning these cases gave to the “right of privacy” did not become popular outside the United States, even among advocates of abortion and other sex-related rights, until some years later. In international human rights discourse throughout the 1970s the terms “privacy” and “right to privacy” seem to have retained their traditional meanings. *See, for instance, UN General Assembly Resolution 3384, Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind* (1975), section 6: “All States shall take measures to extend the benefits of science and technology to all strata of the population and to protect . . . [against] misuses to infringe upon the rights of the individual or the group, particularly with regard to respect for privacy and the protection of the human personality . . . .” *See also Charter 77*, the 1977 document in which Vaclav Havel and his colleagues in the democratic opposition in what was then Czechoslovakia accused the government of “willful interference with private life, the family, home and correspondence” in Article 17 of the [ICCPR], . . . such as telephone tapping and the surveillance of private homes, watching mail, shadowing individuals, searching apartments, and recruiting a network of informers . . . .”

The first non-U.S. case in which a concept similar to “privacy” was held to include sexual autonomy appears to have been *Dudgeon v. United Kingdom*, European Court of Human Rights, Series A, No. 45, 23 September 1981, in which the Court held that Northern Ireland’s “buggery” law violated the provision of the European Convention securing a right against interference with “private and family life”. The Human Rights Committee’s communication in *Toonen v. Australia*, discussed in Section III of this report, cites *Dudgeon*, and all later UN authorities cite *Toonen*.

The repeated expressions of opinion by treaty bodies and other United Nations personnel on the issue of laws criminalizing same-sex sexual acts do not appear to rest on different factual assessments than those contained in this report about the state practice or about the negotiating history of the UDHR and the ICCPR. Rather, these statements are examples of a dramatic departure from traditional principles of international law – akin to, and almost certainly inspired by, similar developments in United States constitutional law – by which political movements dominated by elites, having failed to persuade democratic institutions of their correctness of their political opinions, proceed to restate these opinions in terms of a resulting set of asserted rules of law. Words are wrenched from their context and made to mean things that would surely have surprised and disappointed those whose words they were. These new meanings are then reiterated until they become canonical, with successive iterations relying for authority mostly on one another.

This approach should be rejected not only because it usurps the authority of democratic institutions to make decisions until and unless they consciously surrender this authority, but also because it threatens the whole enterprise that is human rights law. Governments that wish to continue violating genuine norms of international human rights law – to continue torturing

people, imprisoning them for their political and religious opinions, conducting extrajudicial executions – have long maintained that human rights law is no more than “interference in internal affairs,” a form of neo-colonialism fashioned by Western (or “Northern”) elites who are making it up as they go along. Some such governments have even begun to make up their own human rights – rights to “solidarity” and “national unity” and rights against “defamation of religions” or against the destruction of statues of Stalin by the people of formerly captive nations – that are often mirror images of those recognized in the Universal Declaration of Human Rights and secured by the international human rights conventions. Although these governments and their apologists have very different objectives than the UN and NGO representatives who assert new human rights such as the putative international right to sexual autonomy that is at the heart of this case, they have in common the idea that texts are infinitely malleable in the service of a worthy cause.

It is also important to notice that both principles asserted as bases for invalidating laws that criminalize same-sex sexual acts – the rights to sexual privacy and to non-discrimination on the basis of sexual orientation and gender identity – have far broader implications. For instance, the Yogyakarta Principles argue that nondiscrimination on the basis of sexual orientation and gender identity impose a wide range of obligations on states, including providing identity documents listing the gender with which the person identifies rather than his or her biological gender; undertaking “targeted programmes to provide social support for all persons experiencing gender transitioning or reassignment”; and ensuring that “education methods, curricula and resources serve to enhance understanding of and respect for, *inter alia*, diverse sexual orientations and gender identities.” The 2011 report of UN High Commissioner for Human Rights Pillay, discussed in Section III of this report, suggests that the unavailability in some

countries of public funding for “gender reassignment” procedures is a form of “discrimination in health care.” It has also been argued that laws against prostitution, bigamy, polygamy, bestiality, and adult incest, and even statutory rape laws that criminalize consensual sex between an adult and an adolescent, are inconsistent with the sexual autonomy component of the rights to privacy and nondiscrimination – at least if, as the Human Rights Committee opined in *Toonen*, states may not invoke “morality” as a justification for limiting the scope of these rights.<sup>5</sup>

Finally, the same arguments that have been used to assert an international human right to same-sex sexual acts have been the centerpiece of a campaign to assert an international human right that would require all nations to legalize abortion. See, for instance, a 2009 document by the Center for Reproductive Rights: “Women’s right to comprehensive reproductive health services, including abortion, is rooted in international human rights standards guaranteeing the rights to life, health, privacy, and non-discrimination. These rights are violated when governments make abortion services inaccessible to the women who need them. Under international law, governments can be held accountable for highly restrictive abortion laws and for failure to ensure access to abortion when it is legal.” Center for Reproductive Rights report, “Bringing Rights to Bear: Abortion and Human Rights,” January 14, 2009, p.1.

<http://reproductiverights.org/en/document/bringing-rights-to-bear-abortion-and-human-rights> .

For all these reasons, it is important to test each new assertion against the polestar principle that states can only be bound by rules to which they genuinely agreed. It is ultimately for the States Parties collectively to determine the interpretation of what the rights in a treaty

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<sup>5</sup> See, e.g., Open Society Foundations, *Ten Reasons to Decriminalize Sex Work*, available at <http://www.soros.org/publications/ten-reasons-decriminalize-sex-work> ; Symposium: The Sexualization of Children, 1 Ave Maria Intl. L.J. 199 (2012), and sources cited therein, available at [http://legacy.avemarialaw.edu/ILJ/assets/articles/2012v1i2\\_ilj.pdf](http://legacy.avemarialaw.edu/ILJ/assets/articles/2012v1i2_ilj.pdf) ; Fellmeth, *State Regulation of Sexuality in International Human Rights Law and Theory*, 50 Wm. & Mary L. Rev. 797 (2008), and especially the sources cited therein at footnote 581. Cf. *Lawrence v. Texas*, 539 U.S. 558 (2003) (Scalia, J., dissenting): “State laws against bigamy, same-sex marriage, adult incest, prostitution, masturbation, adultery, fornication, bestiality, and obscenity are likewise sustainable only in light of . . . validation of laws based on moral choices.”

mean, and how they are to be reconciled in the rare case when there is an apparent conflict between them.<sup>6</sup>

As noted in Section I of this report, and despite the tendency of some advocates and UN personnel to use quasi-judicial language in describing the recommendations of such bodies – for instance, the High Commissioner’s 2011 report repeatedly states that the Human Rights Committee has “held” certain things in its communications – it has never been seriously questioned that treaty bodies do not have power to make authoritative or binding interpretations of the treaties they are charged with monitoring.<sup>7</sup>

States Parties have made numerous statements making clear that they do not regard comments by treaty bodies as legally binding and that such comments were not contemplated to be legally binding when the treaties were negotiated. *See e.g., Report of the Human Rights Committee, 50th Sess., Supp. No. 40, Annex VI, Observations of States Parties Under Article 40, Paragraph 5, of the Covenant, at 135, U.N. Doc. A/50/40 (Oct. 5, 1995)* (“The United Kingdom is of course aware that the General Comments adopted by the [Human Rights] Committee are not legally binding.”). *See also* the United States statements that the ICCPR “does not impose on States Parties an obligation to give effect to the [Human Rights] Committee’s interpretations or confer on the Committee the power to render definitive or binding interpretations” of the ICCPR. *Id.* at 131. The “Committee lacks the authority to render binding interpretations or judgments,” and the “drafters of the Covenant could have given the Committee this role but deliberately chose not to do so.” *Id.* None of the statements made by States Parties concerning this issue

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<sup>6</sup> *Cf.* Christopher C. Joyner, *International Law in the 21<sup>st</sup> Century*, Rowman & Littlefield, 2005, pg. 114: “In interpreting a treaty text, the task becomes to ascertain what the text means to the parties collectively...”

<sup>7</sup> *See* Torkel Opsahl, *The Human Rights Committee, in THE UNITED NATIONS AND HUMAN RIGHTS: A CRITICAL APPRAISAL* 369,407-8 (Philip Alston ed., Clarendon Press, Oxford 1992) (arguing that many HRC members understood their role as cooperating with States Parties, and they “strongly oppose[d] the idea that the [HRC] should criticise individual States Parties or determine that they do not fulfill their obligations to implement the [International Covenant on Civil and Political Rights].”).

have claimed that the general comments are binding. Indeed, many prominent contemporary proponents for broad treaty body power – including Michael O’Flaherty, the Rapporteur and a primary author of the Yogyakarta Principles -- have conceded repeatedly that the decisions, observations, or recommendations of treaty bodies lack any binding authority.<sup>8</sup>

Although the practices of States Parties discussed in Section II of this report and the opinions of treaty bodies and other United Nations personnel discussed in Section III often seem to operate in different worlds, there was one occasion on which over 100 States Parties did explicitly address decriminalization of homosexual acts and related concepts. In 2008 the European Union and several other states circulated a “Joint Statement” for signature by United Nations member states. Much of its language was quite similar to the language that has been used by treaty bodies to address the subject, as well as to the language of the Yogyakarta Principles. It reaffirmed the principle of the universality of human rights; asserted that “the principle of non-discrimination” requires that “human rights apply equally to every human being

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<sup>8</sup> See, e.g., Manfred Nowak, *The Need for a World Court of Human Rights*, HUMAN RIGHTS LAW REVIEW 7:1, 252 (2007) (noting that treaty bodies issue “non-binding decisions on individual complaints as well as...concluding observations and recommendations relating to the State reporting and inquiry procedures.”); Michael O’Flaherty and John Fisher, *Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles*, HUMAN RIGHTS LAW REVIEW 8:2, 215 (2008) (“Concluding Observations have a non-binding and flexible nature.”); Christina Zampas & Jaime M. Gher, *Abortion as a Human Right—International and Regional Standards*, HUMAN RIGHTS LAW REVIEW 8:2, 253 (2008) (noting that treaty bodies “are not judicial bodies and their Concluding Observations are not legally binding”).

This rule was confirmed by several experts during the first session of the Committee on the Rights of the Child. According to Yuri Kolosov, a professor of international law and a member of the initial Committee, (who has also served on other treaty monitoring committees), “the rule [is] that only States parties [are] entitled to give a formal interpretation of the Convention.” During this same session, another member of the Committee noted that “the Committee was not empowered to interpret the provisions of the Convention.” In this context, both members of the committee meant that while a treaty compliance committee has been given some right to interpret the text of a treaty in order to conduct a dialogue with States, only States Parties have the authority to make an official interpretation that is *binding* on the States Parties.

An argument is sometimes advanced that treaty bodies may take on a form of quasi-judicial authority with regard to powers granted them in various optional protocols. A prime example cited in this area is Optional Protocol 1 of the ICCPR. A careful reading of Articles 1 and 5 of this optional protocol, which delineate the authority granted to the Human Rights Committee that monitors the ICCPR, shows that it is not granted any judicial or binding authority. The optional protocol allows individuals to bring complaints alleging violations of the ICCPR directly to the Human Rights Committee. The committee’s authority is limited strictly to receiving and considering communications alleging violations, after which “the Committee shall forward its views to the State Party concerned and to the individual.” This is the extent of the Committee’s power. Indeed, there is no provision explicitly instructing a State Party that it is obliged comply with the views of the committee.

regardless of sexual orientation and gender identity”; condemned human rights violations committed because of the victim’s sexual orientation or gender identity, including but not limited to extrajudicial executions and torture; and “urge[d] States . . . to ensure that sexual orientation or gender identity may under no circumstances be the basis for criminal penalties . . . .”<sup>9</sup>

Importantly, and unlike the communications of UN treaty bodies to whose language the Joint Statement is otherwise similar, the statement did not assert that such penalties constituted human rights violations. Other paragraphs of the Joint Statement explicitly labeled certain actions as human rights violations and deplored or condemned them, but the paragraph on criminal penalties merely urged states not to impose such penalties. Moreover, the Joint Statement did not even explicitly urge the repeal of statutes prohibiting sexual acts; rather, on its face it appeared to address only cases in which status – sexual orientation or gender identity – and not conduct was the “basis” for such penalties.

Despite this carefully softened statement of the issue, the sponsors did not choose to introduce the Joint Statement as a resolution for a vote by all member states in the United Nations General Assembly, presumably because there was a serious risk that it would be defeated. Rather, they focused on getting as many member states as possible to sign the statement. By the time of its presentation at the conclusion of the 2008 General Assembly session it had been signed by 67 member states, about a third of those in the United Nations. A competing statement circulated by Egypt and other member states, affirming the right of states to regulate homosexual acts, was signed by about 60 member states. About 65 member states declined to sign either statement. These competing declarations, like the continuing pattern of diversity in national legislation, show that there is no consensus among states, much less a

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<sup>9</sup> Joint Statement from the Permanent Representatives of Argentina, Brazil, Croatia, France, Gabon, Japan, the Netherlands and Norway to the United Nations addressed to the President of the General Assembly, 63rd Session, A/63/635, 18 December 2008

binding rule of international human rights law, about whether same-sex sexual acts should be prohibited.<sup>10</sup>

### **Conclusion**

To say that there is no binding rule of international law prohibiting states from enacting or enforcing laws that criminalize sexual acts between members of the same sex is not to deny the universality of human rights or that “human rights apply equally to everyone regardless of sexual orientation or gender identity.” Torture or execution (whether extrajudicial or pursuant to a law prescribing the death penalty for homosexual acts) would clearly constitute grave human rights violations. Detention that was truly imposed on account of a person’s identity or orientation rather than conduct might also violate rights guaranteed by the ICCPR and also arguably by customary international law. But neither the recognition that there can be human rights violations on account of such status, nor the determination to put an end to all such violations, requires the assertion that nondiscrimination provisions in treaties should be interpreted to treat sexual orientation or gender identity exactly as they treat race or sex. Nor, a fortiori, do such recognition and determination entail the invalidation of statutes that punish conduct rather than status.

Similarly, to deny that a certain provision of national legislation is in violation of international law is not to say that the law in question is a good one that every nation should adopt. There are powerful arguments for the proposition that private sexual conduct between consenting adults should be decriminalized, at least when such conduct is non-commercial and

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<sup>10</sup> In 2011 the UN Human Rights Council adopted a resolution calling for a report by the UN High Commissioner on Human Rights on “Human rights, sexual orientation, and gender identity”. The resolution was adopted by a vote of 23 in favor, 19 against, and 3 abstentions. United Nations General Assembly A/HRC/RES/17/19, 14 July 2011. The resulting report by then-High Commissioner Pillay is discussed in Section 3 of this report.

does not result in physical harm. But unless Uganda has agreed to surrender its right to make this decision within its own democratic processes and institutions – a right which, for the reasons set forth in this report, it has not surrendered – then these arguments should be addressed to the people of Uganda and to their elected representatives, not to courts and not to representatives of the United Nations.<sup>11</sup>

### **CERTIFICATION**

I, Grover Joseph Rees, attest and certify that I understand my duty to the Court as set forth in Federal Rule of Civil Procedure 26; that I have complied with that duty; that this report includes all matters within my knowledge and area of expertise relevant to the issues on which the report is given; and that I have given details in the report of all matters which to my knowledge might affect the validity of the report.

I further certify—

- (i) that this report contains a complete statement of all my opinions on this matter and the basis and reasons for them ;
- (ii) that this report also states all facts and cites all the data I have considered in forming these opinions;
- (iii) that I do not rely on any exhibits to summarize or support these opinions;
- (iv) that this report sets forth my qualifications, and that I have not written any relevant publications in the previous 10 years;

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<sup>11</sup> The Expert Opinion of Professor M. Cherif Bassiouni in the present case takes the assertion that laws criminalizing same-sex sexual acts are a human rights violation even further, declaring that such laws are also crimes against humanity. The methodology of Professor Bassiouni’s opinion is radically different than the one employed in this report. Rather than consider the background and negotiating history of specific human rights instruments and the contemporaneous actions of States Parties, he relies on broad general principles -- some forms of discrimination can constitute persecution, and some forms of persecution can be crimes against humanity – and then particularizes these principles to reach a result that, as discussed in this report, is inconsistent with the practices and apparent views of the States Parties that acceded to the relevant human rights conventions and has never commanded the near-universal consensus necessary for the formation of a rule of customary international law. For the reasons discussed in this report, laws criminalizing sexual acts between persons of the same sex do not contravene any rule of international law and therefore, a fortiori, their enactment cannot be considered a crime.

(v) that I have not testified as an expert at trial or by deposition in any case during the last four years, although I did submit a written report in 2012 in the case of *Orozco et al. v. Attorney General*, Claim Number 668 of 2010, before the Supreme Court of Belize; and  
(vi) that I have not received and do not expect to receive any compensation for study and testimony in this case.

I also certify that I have been given no instructions by any party, by any person representing a party, or by any other person with respect to this report, other than to give my honest opinion with respect to the subject matter of the report.

Respectfully Submitted,



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Grover Joseph Rees

March 14, 2016

# **EXHIBIT 209**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

\_\_\_\_\_  
SEXUAL MINORITIES UGANDA )

*Plaintiff,* )

v. )

SCOTT LIVELY, individually and as )

President of Abiding Truth Ministries, )

*Defendant.* )

Civil Action

3:12-CV-30051

)

)

\_\_\_\_\_)

EXPERT OPINION OF PROFESSOR M. CHERIF BASSIOUNI

**I. Introduction**

1. I have been asked by Plaintiff, Sexual Minorities Uganda, to provide an expert opinion addressing whether “Crimes Against Humanity” constitutes a category of crimes under international criminal law and is an international law norm binding upon all states, including the “persecution” of a civilian population carried out on a widespread or systematic basis. And, whether such persecution would include a civilian population on the basis of its sexual orientation and gender identity.

2. Plaintiff’s counsel made available to me the following documents, namely:

- a. “Memorandum of Law in Support of Defendant Scott Lively’s Motion to Dismiss Plaintiff’s First Amended Complaint”, and
- b. “Plaintiff’s Memorandum of Law in Opposition to Defendant’s Motion to Dismiss First Amended Complaint”
- c. “First Amended Complaint Pursuant to Fed. R. Civ. P. 15(a)(1)(B) for Crime Against Humanity of Persecution”
- d. “Memorandum and Order Regarding Defendant’s Motions to Dismiss”

3. I am providing this expert opinion and any testimony in this case on a *pro bono* basis. I will only be compensated by Plaintiff for actual expenses incurred.

4. I base my opinion about the legal status of “Crimes Against Humanity” on the basis of my knowledge, expertise and experience as a scholar studying, teaching, writing about and practicing international law for more than 50 years, and affirm, to the best of my knowledge and ability, that what follows is a true, accurate, and correct statement and interpretation of conventional and customary international law.<sup>1</sup>



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<sup>1</sup> “Conventional law” refers to the body of international norms contained in treaties.

**II. Qualifications of Expert**

5. My *Curriculum Vitae* is annexed hereto as Exhibit A.

6. I am currently Professor Emeritus of Law at DePaul University where I taught from 1964-2009. I am a founding member of the International Human Rights Law Institute at DePaul University, which was established in 1990. I am also one of the founders of the International Institute of Higher Studies in Criminal Sciences (ISISC) located in Siracusa, Italy, where I served as General-Secretary from 1972-74, Dean from 1974-88, and then as President to date. I also served as the Secretary General of the International Association of Penal Law from 1974-89 and as President for three five-year terms from 1989-2004, when I was elected Honorary President.

7. To date, I have authored 24 books and co-authored 4 more, edited 46 books, and authored 256 articles on International Criminal Law, Comparative Criminal Law, Human Rights, and U.S. Criminal Law that have been published in various law journals and books. More specifically in terms of expertise on the issue addressed in this report, I am the author of: *CRIMES AGAINST HUMANITY: HISTORICAL EVOLUTION and CONTEMPORARY APPLICATION* (Cambridge University Press 2011) and *CRIMES AGAINST HUMANITY IN INTERNATIONAL CRIMINAL LAW* (Martinus Nijhoff 2d ed. 1999) (1992).

8. I served as chair of the United Nations Diplomatic Conference on the Establishment of the International Criminal Court and was directly involved in the drafting of the statute's Article 7 on "Crimes Against Humanity". Previously, I was chair of the Security Council Commission to investigate war crimes in the former Yugoslavia, and in that capacity I contributed to the drafting of Article 5 of the Statute of the International Criminal Tribunal for the Former Yugoslavia on "Crimes Against Humanity".



9. Since 1975, I have been appointed to and served in 22 United Nations positions, including the following: Chair and then-member of the Commission of Inquiry for Libya (2011-12); Independent Expert on Human Rights for Afghanistan (2004-06); Independent Expert on the Rights to Restitution, Compensation, and Rehabilitation for Victims of Grave Violations of Human Rights and Fundamental Freedoms (1998-2000); Chair, Drafting Committee of the Diplomatic Conference on the Establishment of an International Criminal Court (1998); Vice-Chair of the General Assembly's Preparatory Committee on the Establishment of an International Criminal Court (1996-98); Vice-Chair of the General Assembly's *Ad Hoc* Committee on the Establishment of an International Criminal Court (1995); Chair of the Commission of Experts Established Pursuant to Security Council 780 to Investigate Violations of International Humanitarian Law in the Former Yugoslavia (1993-94) and the Commission's Special Rapporteur on Gathering and Analysis of the Facts (1992-93); Consultant to the Sixth and Seventh United Nations Congress on Crime Prevention (1983 and 1985); Consultant to the Committee on Southern African of the Commission on Human Rights (1980-81); Co-chair of the Independent Committee of Experts Drafting the Convention on the Prevention and Suppression of Torture (1978); and Honorary Vice-President at the Fifth United Nations Congress on Crime Prevention (1975).

10. My writings on International Criminal Law have been cited numerous times by the United States Supreme Court, U.S. Courts of Appeals, and Federal District courts, as well as in a number of the decisions of the world's highest courts as indicated in the attached C.V.

11. I have been qualified as an expert on questions of International Criminal Law, more particularly on extradition, in a number of U.S. District Courts as well as before foreign courts. I

A handwritten signature in black ink, appearing to read "M. CB", with a long horizontal line extending to the right from the end of the signature.

have not, however, been deposed or testified in connection with any case in a U.S. Court since 2010.

### III – Opinion

#### A. Crimes Against Humanity Are Prohibited Under Customary and Conventional International Law and Constitute a *Jus Cogens* Norm.

12. “Crimes Against Humanity” [hereinafter referred to as “CAH”] is an established category of international crimes. As recently stated by the International Law Commission’s Report on Crimes Against Humanity, dated 12 February 2015,

The crime [CAH] is an international crime; it matters not whether the national law of the territory in which the act was committed has criminalized the conduct. The crime is directed against a civilian population and hence has a certain scale or systematic nature that generally extends beyond isolated incidents of violence or crimes committed for purely private purposes. The crime can be committed within the territory of a single State or can be committed across borders. Finally, the crime concerns the most heinous acts of violence and persecution known to humankind. A wide range of scholarship has analyzed these various elements.<sup>2</sup>

13. As is the case with almost all international crimes, there is an evolutionary course that varies from crime to crime.<sup>3</sup> With respect to CAH, that evolution started in 1919 after the end of World War I until its universal recognition today.<sup>4</sup>

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<sup>2</sup> Special Rapporteur on Crimes Against Humanity, *First Rep. on Crimes Against Humanity*, Int’l Law Comm’n, 67th Sess., May 4-June 5, July 6-Aug 7, 2015, U.N. Doc. A/CN.4/680 ¶ 28 (by Sean D. Murphy), [hereinafter *Murphy Report*].

<sup>3</sup> See M. CHERIF BASSIOUNI, INTRODUCTION TO INTERNATIONAL CRIMINAL LAW: SECOND REVISED EDITION 137-45 (2d ed. 2013). (describing the evolution of 27 categories of international crimes).

<sup>4</sup> See M. CHERIF BASSIOUNI, CRIMES AGAINST HUMANITY: HISTORICAL EVOLUTION AND CONTEMPORARY APPLICATION 88-358 (2011).



14. The prohibition of CAH is evidenced in its inclusion in conventions and treaties and other instruments of international criminal law, judicial decisions rendered by international tribunals applying those instruments as well as by national courts applying domestic and international law.<sup>5</sup> CAH has also been included in the statutes of international criminal tribunals established by the Security Council as well as by agreement between the United Nations and a number of states, namely the mixed-model tribunals. The statutes of these tribunals that have included CAH have done so on the basis that this crime is recognized in customary international law. In addition, national legislation has also included CAH as a crime under domestic criminal law. The combination of conventional, customary and state practice as well as the writing of the “Most Distinguished Publicists” (Article 38, Statute of the International Court of Justice, attached to the U.N. Charter) evidences the principle that CAH has risen to the level of *jus cogens*. Consequently, its prohibition is a peremptory and non-derogable norm of international law.<sup>6</sup>

15. In conventional international law, CAH has been defined as an international crime in all the statutes that have established international criminal tribunals, namely: the International

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<sup>5</sup> Article 38 of the Statute of the International Court of Justice is the authoritative statement on the sources of international law and directs reference to: (a) international conventions, whether general or particular, establishing rules expressly recognized by contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognized by civilized nations; (d) judicial decisions and the teachings of the most highly qualified publicists of the various nations, as a subsidiary means for the determination of the rules of law. Statute of the International Court of Justice art. 38, ¶ 1, April 18, 1946. Similarly, the Restatement instructs that to determine “whether a rule has become international law, substantial weight” be accorded to:

- (a) judgments and opinions of international judicial and arbitral tribunals;
- (b) judgments and opinions of national judicial tribunals;
- (c) the writings of scholars;
- (d) pronouncements by states that undertake to state a rule of international law, when such pronouncements are not seriously challenged by other states.

RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 103(2).

<sup>6</sup> See BASSIOUNI, *supra* note 3, at 236. See also, RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 102, cmt. k; Vienna Convention on the Law of Treaties art. 53, with annex, May 23, 1969, 1155 U.N.T.S. 331.



Military Tribunal (IMT)(Nuremberg),<sup>7</sup> the International Military Tribunal in the Far East (IMTFE)(Tokyo),<sup>8</sup> the International Criminal Tribunal for the Former Yugoslavia (ICTY),<sup>9</sup> the International Criminal Tribunal for Rwanda (ICTR),<sup>10</sup> and the International Criminal Court (ICC);<sup>11</sup> and the mixed model tribunals of: The Kosovo War and Ethnic Crimes Court (KWECC),<sup>12</sup> the Special Court for Sierra Leone (SCSL),<sup>13</sup> the Special Panels of the Dili District Court (East Timor Tribunal),<sup>14</sup> the War Crimes Chamber in Bosnia and Herzegovina (WCC)<sup>15</sup> and the Extraordinary Chambers in the Courts of Cambodia (ECCC).<sup>16</sup>

16. Further evidence of this norm can be found in the number of States incorporating CAH into their domestic legislation or where national courts have applied the international law of CAH in domestic proceedings. As of October 18, 2015, there are 123 State Parties to the Rome Statute of the International Criminal Court.<sup>17</sup> The Rome Statute identifies CAH as an

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<sup>7</sup> Charter of the International Military Tribunal – Annex to the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis art. 6(c), Aug. 8, 1945 [hereinafter London Agreement], in *THE LAWS OF ARMED CONFLICTS* 915 (D. Schindler & J. Torman eds., 1988).

<sup>8</sup> Charter for the International Military Tribunal for the Far East art. 5(c), Apr. 26, 1946, T.I.A.S. No. 1589.

<sup>9</sup> Statute of the International Criminal Tribunal for the Former Yugoslavia art. 3, S.C. Res 827, U.N. Doc S/RES/827 (May 25, 1993).

<sup>10</sup> Statute of the International Tribunal for Rwanda art. 5, S.C. Res 955, U.N. Doc. S/RES/955 (Nov. 8, 1994).

<sup>11</sup> Rome Statute of the International Criminal Court, art. 7, July 17, 1998, 2187 U.N.T.S. 3.

<sup>12</sup> Provisional Criminal Code of Kosovo of 6 July 2003 art. 117(1)(8), U.N. Doc UNMIK/REG/2003/25.

<sup>13</sup> Statute for the Special Court of Sierra Leone art. 2, Jan 16, 2002, 2178 U.N.T.S. 137, 145.

<sup>14</sup> Regulation No. 1999/1 on the Authority of the Transitional Administration in East Timor § 2, U.N. Doc. UNTAET/REG/1999/1 (1999) (on the applicability and observance of internationally recognized standards).

<sup>15</sup> Constitution of the Federation of Bosnia and Herzegovina Art. II, §§ 2-4, which the War Crimes Chamber, as part of the Court of Bosnia and Herzegovina, is based upon (*see* Bogdan Ivanišević, *The War Crimes Chamber in Bosnia and Herzegovina: From Hybrid to Domestic Court*, INTERNATIONAL CENTER FOR TRANSNATIONAL JUSTICE 30 (2008)).

<sup>16</sup> G.A. Res. 57/228, Art. 9, U.N. Doc. A/RES/57/228 B (May 22, 2003).

<sup>17</sup> The International Criminal Court (“ICC”) was established in 2002 upon entry into force of the Rome Statute, its founding statute, which provides the court with jurisdiction over genocide, war crimes and crimes against humanity. Rome Statute, *supra* note 11. Ratification status can be found on the website of the ICC: *The States Parties to the Rome Statute*, INTERNATIONAL CRIMINAL COURT, [http://www.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx](http://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx) (last visited Nov. 1, 2015).

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international crime subject to its jurisdiction. These State Parties have undertaken the affirmative obligation to prosecute persons within their territory who have committed such crimes or to surrender them to the ICC for prosecution. This obligation exists irrespective of whether a given State Party has enacted specific national legislation to define CAH, which is defined in Article 7 of the ICC Statute. A State Party may therefore prosecute or extradite a person to the ICC to stand trial for CAH on the basis of Article 7 or on the basis of any specialized national legislation.<sup>18</sup>

17. Non-State Parties can rely on Art. 12(3) of the ICC statute to refer a “situation” to the ICC in reliance upon the definition of CAH contained in art. 7. Furthermore, non-State Parties to the ICC that have included CAH as part of their national legislation, as well as those which have not specifically included a crime in their national legislation under the rubric of “Crimes Against Humanity,” can also prosecute on the basis of provisions within their national criminal law that apply to the specifics of the conduct which falls within the meaning of CAH.<sup>19</sup>

18. A threshold element of CAH is that the acts be committed in the context or as part of a widespread or systematic attack against a civilian population. There is no requirement in international law that there be a nexus between the crimes and an armed conflict and, further, the “attack” against a civilian population, as referenced in the threshold of CAH, need not be a military or armed attack.<sup>20</sup> In addition, the threshold requirement of “widespread or systematic” is disjunctive; the crime occurs if an attack is either widespread or systematic.<sup>21</sup>

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<sup>18</sup> See WILLIAM SCHABAS, THE INTERNATIONAL CRIMINAL COURT: A COMMENTARY ON THE ROME STATUTE art. 7, 137-87 (2010); I M. CHERIF BASSIOUNI, THE LEGISLATIVE HISTORY OF THE INTERNATIONAL CRIMINAL COURT: INTRODUCTION, ANALYSIS AND INTEGRATED TEXT art. 7, 206-15 (2005).

<sup>19</sup> See *Regina v. Finta*, [1994] S.C.R. 701, 709-710 (Can.) (in which the Supreme Court of Canada found that “Crimes Against Humanity” existed in customary international law even before it was so defined in Article 6(c) of the Charter of the IMT).

<sup>20</sup> See *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Opinion and Judgment, ¶ 581 (Sept. 2, 1998) (“attack” may be “non-violent in nature, like imposing a system of apartheid . . . or exerting pressure on the population to act in a particular manner”).



19. Courts in the United States have recognized the prohibition of crimes against humanity as a clearly defined and widely accepted norm actionable under the Alien Tort Statute, 28 U.S.C. § 1350 (“ATS”). See e.g., *Sosa v. Alvarez-Machain*, 542 U.S. 692, 762 (2004) (Breyer, J., concurring) (crimes against humanity included in a subset of gross human rights offenses about which there is substantive and procedural agreement in international law); *In re Chiquita Brands Int’l, Inc.*, 792 F. Supp. 2d 1301, 1334 (S.D. Fla. 2011) (crimes against humanity actionable under the ATS); *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1154 (11th Cir. 2005) (crimes against humanity part of “United States and international law long before [defendant’s] alleged actions”); *Mehinovic v. Vuckovic*, 198 F. Supp. 2d 1322, 1344, 1352-54 (N.D. Ga. 2002) (crimes against humanity have been recognized as a violation of customary international law since the Nuremberg trials and are actionable under the ATS).

**B. Persecution Has Long Been Recognized as Crime Against Humanity.**

20. The definitions of CAH in these sources of conventional international law (i.e. treaty-based law) vary in some respects, but they all include “persecution” of a given group of persons from within the civilian population, based on a state policy reflected in a widespread or systematic conduct which is directed against members of that group, for purposes of infliction of harm upon them. The forms of persecution and the types of harm are not specified in these statutes, no more than they are in any national legislation which criminalizes the infliction of harmful conduct by one person against another. The reasons for the persecution, the motives of those engaged in it, or the means employed, are not defined in international criminal law nor in national criminal legislation, because the jurisprudence of courts is relied upon to recognize or identify the means employed that are designed to achieve the intended or anticipated harmful

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<sup>21</sup> *Murphy Report*, *supra* note 2 at 125, *et seq.*



results that ensue. Indeed, there is no legislation that describes all the means likely to be conjured by nefarious human imagination to produce harm to others.

21. It is conclusively established in CAH jurisprudence that persecution against a group of persons or a segment of the population so targeted, for whatever reason the perpetrator may have conjured up and acted upon, in a widespread or systematic manner, falls within the meaning of CAH.

22. The question arises, in this case, as to whether the targeting for criminal prosecution and other deprivations of fundamental rights of persons on the basis of sexual orientation or gender identity (those who do not strictly fall in a heterosexual or gender-conforming category) constitutes persecution of that group of persons. The answer is that sexual orientation and gender identity is considered a group status under the foregoing international law sources, such that members of this group are protected from persecution based on this status. The reasons are: First, this is a distinct group within a civilian population. Second, singling out this group and withdrawing legal rights and protections from them, subjecting them to criminal prosecution and imprisonment based on their status or identity constitutes physical and psychological harm brought upon them. Third, when such conduct is embodied in law it is carried out on both a widespread and systematic basis.

23. The persecutions in these types of cases are based on the status of the person, whether that status is inherent, perceived, genetically predisposed or otherwise. To criminalize a person or group of persons for being other than heterosexual is a form of status criminality, which is rejected in national legal systems. As an illustration, in the United States, this principle has been applied to laws targeting and discriminating against persons on this basis. *See Lawrence v. Texas*, 539 U.S. 558, 567, 574-75 (2003) (striking down law criminalizing same-sex sexual

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conduct that is “within the liberty of persons to choose without being punished as criminals”); *See also id.* at 583 (O’Connor, J., concurring) (conduct targeted by the law was “closely correlated with being a homosexual” and was thus “directed toward gay persons as a class”); *see also Romer v. Evans*, 517 U.S. 620 (1996) (holding as unconstitutional violation of the equal protection clause an ordinance which withdrew legal protections from persons based on their sexual orientation); *Obergefell v. Hodges*, 576 U.S. \_\_\_ (2015) (holding that states cannot deny same sex couples the fundamental right to marry).

24. The definitions of persecution in the jurisprudence of the international tribunals and conventional law vary, but they all contain essential elements requiring intentional discrimination that infringes upon the fundamental rights of a group or individuals because of their real or perceived membership in that group. One definition that has been consistently applied in the jurisprudence requires an act or omission that (1) discriminates in fact and which denies or infringes upon a fundamental right as provided in international customary or treaty law and (2) was carried out deliberately with the intention to discriminate. This definition was applied by the ICTY in *Prosecutor v. Krnojelac*, Case No. IT-97-25-T, Judgment, ¶ 431 (Mar. 15, 2002), and accepted by the Appeals Chamber at the ICTR in *Nahimana v. Prosecutor*, Case No. ICTR-99-52-A, Appeals Judgment, ¶ 985 (Nov. 28, 2007), though in both cases the tribunals were limited to prohibited grounds of persecution provided for in their respective statutes. The Rome Statute is essentially a more specific articulation of these basic elements.<sup>22</sup>

25. A number of other international conventions have specifically prohibited discrimination based on sex or other status.<sup>23</sup> International organizations and treaty bodies interpreting and

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<sup>22</sup> Art. 7(2) of the Rome Statute, *supra* note 11, defines persecution as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.”

<sup>23</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, arts. 2 & 7, U.N. Doc. A/RES/217(III) (Dec. 10, 1948); Organisation of African Unity, African (Banjul) Charter on Human and Peoples’ Rights, arts. 2 & 3, OAU



applying these conventions have addressed prohibition of discrimination in various contexts, involving various human endeavors such as employment, as well as other activities engaged by persons whose status may be used to prevent them from enjoying the same rights and privileges that the law offers others. The African Commission on Human and Peoples' Rights issued a resolution in 2014 condemning the "increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity," and noted the prohibition of discrimination and the right to equal protection of the law set out in the African (Banjul) Charter of Human and Peoples' Rights in doing so.<sup>24</sup> The Inter-American Court of Human Rights has held that art. 1(1) of the American Convention on Human Rights prohibits discrimination, including on the basis of "categories such as sexual orientation, which cannot be used as grounds for denying or restricting any of the rights established in the Convention".<sup>25</sup> The Human Rights Committee, the treaty body created by and to oversee implementation of the International Covenant on Civil and Political Rights, has observed that sexual orientation is a prohibited basis of discrimination as a form of sex discrimination under arts. 2(1) and 26.<sup>26</sup>

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Doc. CAB/LEG/67/3 rev. 5; Council of Europe, *European Convention on Human Rights and Fundamental Freedoms*, art. 14., ETS no. 177 (Nov. 4, 1950); International Covenant on Civil and Political Rights arts. 14 & 26, Dec. 19, 1966, 999 U.N.T.S. 171; American Convention on Human Rights arts. 1 & 24, Nov. 22, 1969, O.A.S.T.S. No. 36, 1144 U.N.T.S. 123.

<sup>24</sup> African Commission on Human and Peoples' Rights, *Res 275: Resolution on the Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*, May 12, 2014.

<sup>25</sup> *Atala Riffo & Daughters v. Chile*, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 12.502, ¶ 93 (Feb. 24, 2012). The General Assembly of the Organization of American States has also passed a number of resolutions condemning discrimination on the basis of sexual orientation and gender identity and has relied on the prohibition against discrimination set out in the Universal Declaration of Human Rights and the American Declaration on the Rights and Duties of Man in doing so. *See e.g.*, Human rights, sexual orientation and gender identity, AG/RES. 2435 (XXXVIII-O/08) (June 3, 2008).

<sup>26</sup> *Toonen v. Australia*, Communication No. 488/1992, ¶ 8.7, Human Rights Comm., U.N. Doc. CCPR/C/50/D/488/1992, (Apr. 4, 1992) (domestic law criminalizing same-sex sexual conduct amounted to a violation

26. To identify which fundamental rights deprivations are to be considered in evaluating the incidence of persecution, the tribunals have referred to the Universal Declaration of Human Rights (“UDHR”), the International Covenant on Civil and Political Rights (“ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (“ICESCR”). *See, e.g., Prosecutor v. Kupreskic*, Case No. IT-95-16-T, Judgment, ¶ 621 (Jan. 14, 2000). Collectively these three treaties are referred to by some as the “international bill of rights.” They enshrine the rights to equality and non-discrimination (UDHR, arts. 2, 7; ICCPR, art. 2; ICESCR, art. 2, ), the rights to freedom of expression (UDHR, art. 19; ICCPR, art. 19), peaceful assembly and association (UDHR, art. 20; ICCPR, arts. 21-22), privacy (UDHR, art. 12; ICCPR, art. 17) and to be free from arbitrary arrest and detention (UDHR, art. 9; ICCPR, art. 9) and cruel, inhuman and degrading treatment (UDHR, art. 5; ICCPR, art. 7), among others. These rights are widely accepted norms of customary international law.<sup>27</sup> While these rights are interdependent, the rights to expression, peaceful assembly and association, in particular, are essential to permit individuals to protect, vindicate, and advance other basic international human rights. *See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, arts. 5, 12, G.A. Res.53/144, annex, 53 U.N. GAOR Supp., U.N. Doc. U.N. Doc. A/RES/53/144 (1999). As such, deprivations of these fundamental rights from a targeted group can constitute persecution.

#### **IV - Conclusion**

Based on the above, I conclude the following:

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of the prohibition of arbitrary or unlawful interference with privacy, family, home or correspondence and unlawful attacks on honor and reputation, under art. 17 of the International Covenant on Civil and Political Rights as well as equal protection).

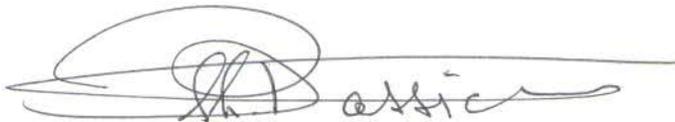
<sup>27</sup> *See also*, African (Banjul) Charter on Human and Peoples’ Rights, *supra* note 23, arts. 2-3, 5, 6, 9-11, 19, 1520; Inter-American Commission on Human Rights, American Declaration of the Rights and Duties of Man, arts. 2, 4, 5, 21-22, 25 (May 2, 1958); *European Convention for the Protection of Human Rights and Fundamental Freedoms*, *supra* note 22, arts. 3, 8, 10-11, 14.



27. “Crimes Against Humanity” is a category of international crimes prohibited under conventional and customary international law. It is binding upon all states in that it constitutes part of a peremptory norm of international law and is therefore *jus cogens*. Persecution is a long-recognized crime against humanity, and is thus equally recognized as an international law violation that is clearly defined and widely accepted.

28. The identification of human beings based upon their sexual orientation or gender identity for discriminatory purposes with consequences of criminal prosecution and incarceration or other deprivations of fundamental rights, falls within the meaning of “persecution” of that group, as their identification as such is a form of criminalizing the status of such persons.

Dated: November 2, 2015

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by the name 'Cherif Bassiouni' in a cursive script. The signature is written over a horizontal line.

M. Cherif Bassiouni

# **EXHIBIT 210**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

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SEXUAL MINORITIES UGANDA, :  
 :  
Plaintiff, :  
 :  
vs. : No. 3:12-CV-30051  
 :  
SCOTT LIVELY, individually and :  
as President of Abiding Truth :  
Ministries, :  
 :  
Defendant. :  
----- :

DEPOSITION OF  
MAHMOUD CHERIF BASSIOUNI  
April 12, 2016  
9:00 a.m.

Taken at:  
76 East Monroe Street  
7th Floor, Conference Room E  
Chicago, Illinois

Diana G. Polk, Certified Shorthand Reporter

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1 norm or fully realized that status of norm since 2009?  
2 MR. AZMY: Object. Is that clear? Isn't the  
3 norm itself crime against humanity?  
4 BY THE WITNESS:  
5 A I mean, the norm is the crime. So if you  
6 say within -- if you choose Article 7 of the ICC  
7 statute, is there anything in the jurisprudence of the  
8 various courts since 2009 which has varied the meaning  
9 of crimes against humanity in relationship to before  
10 2009, the only difference is some cases have gone into  
11 pushing this aspect of organizational as opposed to  
12 state policy. So there have been cases in which the  
13 decisions have been to push the organizational policy  
14 at the same level as state policy.  
15 BY MR. GANNAM:  
16 Q And these were specifically cases coming  
17 out of the International Criminal Court?  
18 A Correct. International Criminal Court you  
19 said.  
20 Q Right. If you're able to go back a little  
21 farther, have there been any similar developments, for  
22 example, coming out of the ICC for the time period, say  
23 the beginning of 2002 to 2009, just going back about  
24 another seven years prior to my previous question.  
25 MR. AZMY: Developments along the lines of

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1 judicial developments?  
2 BY MR. GANNAM:  
3 Q Right, specifically coming out of the ICC.  
4 A Well, the evolution of the jurisprudence  
5 of the ICC with respect to crimes against humanity has  
6 been rather consistent, and the only point that at  
7 least I have detected in which there is a little bit of  
8 controversy is the organizational aspect of it. As I  
9 mentioned to you, there was a bit of a controversy with  
10 respect to the Kenya case and the responsibility of  
11 both the president and the vice president, but then  
12 these cases were also criticized on the grounds of  
13 whether or not, since neither the president nor the  
14 vice president were in power at the time but were just  
15 leaders of the opposition, whether they could really be  
16 considered as being part of the state policy. So these  
17 are the essential differences that I can think of in  
18 response to your question.  
19 Q Is there any act that prior to 2009 was  
20 not considered an international crime or specifically a  
21 crime against humanity by the ICC under the Rome  
22 Statute that since 2009 has been declared or stated by  
23 the ICC to now be a crime against humanity?  
24 MR. AZMY: Do you understand the question?  
25 What do you mean by act? Do you mean like conduct?

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1 MR. GANNAM: Right.  
2 BY THE WITNESS:  
3 A I think it's important to distinguish  
4 between the fact that crimes against humanity is  
5 essentially a crime which is geared to the protection  
6 of a given social group, a civilian population. It is  
7 not really geared towards identifying the specific  
8 acts. If I can make the analogy, it would be like in  
9 domestic criminal legislation where you would say the  
10 killing of a person is a crime of homicide but it  
11 doesn't say, you know, by a knife, a revolver, a gun,  
12 or whatever. You're protecting a given social  
13 interest. So the crime itself is defined in a way that  
14 protects a social group of civilian population from a  
15 widespread and systematic policy that is aimed at the  
16 discrimination persecution of that group. The means by  
17 which it's done will vary obviously from fact-to-fact  
18 but the means are not an element of the crime.  
19 BY MR. GANNAM:  
20 Q I'm going to ask you, to kind of give an  
21 example of what I'm getting at, are you familiar with  
22 the United States Supreme Court case of Sosa v.  
23 Alvarez?  
24 A Yes.  
25 Q You're aware that one of your papers was

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1 cited in that case --  
2 A Yes.  
3 Q -- on the issue of arbitrary detention.  
4 And the claimant in the Sosa case cited your paper  
5 showing that there were 119 states that had recognized  
6 a norm against arbitrary arrest or detention. The  
7 issue in Sosa, or at least what the claimant was  
8 asserting, was there was a particular set of  
9 circumstances surrounding his arbitrary detention, or  
10 what he said was an arbitrary detention, where the US  
11 Supreme Court said, well, 119 countries have reached a  
12 consensus in some respect that there is a norm against  
13 arbitrary detention but that was at a high level of  
14 generality. That doesn't mean that there's a norm  
15 against the particular circumstances of Sosa's -- or  
16 the claimant's detention where it was, you know, less  
17 than 24 hours, he was immediately handed over to lawful  
18 authority and got, you know, due process and things  
19 like that. So I guess my question really has to do  
20 with have there been any extensions or expansions of  
21 what's considered a crime against humanity by the ICC  
22 in terms of applying that label of crime against  
23 humanity to a new factual scenario or a new category of  
24 persons or something like that.  
25 A Well, I think every case is different in

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1 would like to see that in writing.  
 2 BY MR. GANNAM:  
 3 Q Continuing in that same article at star  
 4 Page 590, the paragraph says (reading):  
 5 "In addition to extending CAH's  
 6 ratione personae" --  
 7 And I'll stop right there. Are you  
 8 referring to the need to extend CAH to cover non-state  
 9 actors?  
 10 A Well, ratione personae is the  
 11 responsibility of the individual.  
 12 Q So who can be responsible or held  
 13 responsible under CAH?  
 14 A Correct.  
 15 Q (Reading):  
 16 -- "there is a need to also extend  
 17 its ratione materiae."  
 18 A Correct.  
 19 Q Meaning the subject matter that can be  
 20 covered by the law?  
 21 A Correct.  
 22 Q As an example you say (reading):  
 23 "Presently, the historical  
 24 evolution of CAH's protected interests  
 25 has been limited to harm against the

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1 person, but only in the nature of  
 2 direct harm. It does not take into  
 3 account certain attacks upon other  
 4 protected interests that may have  
 5 effects or consequences on the life,  
 6 health, and welfare of persons."  
 7 And then you give examples of  
 8 environmental crimes and cyber crimes. That would be  
 9 examples of extending the ratione materiae, correct?  
 10 A Correct.  
 11 Q At the bottom of that paragraph the second  
 12 to the last sentence says, kind of wrapping up the  
 13 thought I guess (reading):  
 14 "These and other acts which are not  
 15 directly aimed at human beings, but  
 16 which ultimately have an impact upon  
 17 human beings, should be included in an  
 18 expanded ratione materiae of a more  
 19 progressive definition of CAH. There  
 20 are also other extensions of the  
 21 present listing of human protections,  
 22 such as persecution of persons with  
 23 disabilities and persecution based on  
 24 sexual orientation."  
 25 Does that last sentence mean basically

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1 what it says that there is a present listing as of the  
 2 time of this article of human protections under crimes  
 3 against humanity law but that there are extensions of  
 4 those present protections possible such as persecution  
 5 of persons with disabilities and persecution based on  
 6 sexual orientation?  
 7 A They're not specifically listed. If you  
 8 look at Article 7(c) or other definitions, you will see  
 9 a listing, and the question is what is this listing?  
 10 Some judge may come and interpret that and say, well,  
 11 this is an exhaustive listing. You know, I'm a  
 12 positivist and I'm saying if it's there, that's what it  
 13 is. If it's not there, anything is excluded. Others  
 14 will say, well, I can then apply the theory of analogy,  
 15 and by analogy I can say that if this is included that  
 16 is included. I, as somebody who is looking towards the  
 17 future, I'm saying we need to eliminate this ambiguity  
 18 and we need to have more certainty and more  
 19 specificity. So, yes, there are those who will apply  
 20 analogy and analogy is valid to be applied. I mean,  
 21 again, the argument of what is a dangerous weapon, you  
 22 know, is it a knife, dagger, stiletto, but what if I  
 23 take a pen and I sharpen it? Anybody who has gone into  
 24 any prison will know that so many objects can be used  
 25 as a dangerous weapon that nobody thought of and there

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1 is no way that a statute is going to define them and so  
 2 there is a need for clarity. But the fact that there's  
 3 a need for clarity doesn't mean that we've excluded  
 4 that. So that if somebody, for example, goes and  
 5 poisons the water in a particular environment, we're  
 6 not going to say that if people died as a result of  
 7 that that's not included because poisoning water isn't  
 8 specifically mentioned.  
 9 MR. GANNAM: Let's take a short break.  
 10 THE WITNESS: I just wanted you to know that I  
 11 have to really leave at 4:00 because I have a therapy  
 12 appointment at 4:15.  
 13 MR. GANNAM: Okay. So we have to end right at  
 14 4:00. Let's go ahead and take a short break, five  
 15 minutes.  
 16 (Brief recess taken)  
 17 (Exhibit 6F marked for  
 18 identification.)  
 19 BY MR. GANNAM:  
 20 Q At this point with the time we have left  
 21 today I'm going to show you a new exhibit I've marked  
 22 as Exhibit 6F. This is the expert report of Grover  
 23 Joseph Rees, which has been submitted in this case by  
 24 Scott Lively's rebuttal expert, Ambassador Grover  
 25 Joseph Rees. I believe you testified earlier you have

# **EXHIBIT 211**

SUPPLEMENT No. 13

25th September, 2009.

BILLS SUPPLEMENT

*to the Uganda Gazette No. 47 Volume CII dated 25th September, 2009.*

Printed by UPPC. Entebbe by Order of the Government.

Bill No. 18

*Anti Homosexuality Bill*

2009

THE ANTI HOMOSEXUALITY BILL, 2009. MEMORANDUM.

1.1. The principle

The object of this Bill is 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 non governmental organization inside or outside the country.

This Bill aims at strengthening the nation's capacity to deal with emerging internal and external threats to the traditional heterosexual family.

This legislation further recognizes the fact that same sex attraction is not an innate and immutable characteristic.

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.

There is also need to protect the children and youths of Uganda who are made vulnerable to sexual abuse and deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increasing attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.

2.1. Defects in existing law.

This proposed legislation is designed to fill the gaps in the provisions of other laws in Uganda e.g. the Penal Code Act Cap. 120.

The Penal Code Act (Cap 120) has no comprehensive provision catering for anti homosexuality. It focuses on unnatural offences under section 145 and lacks provisions for penalizing the procurement, promoting, disseminating literature and other pantographic materials concerning the offences of homosexuality hence the need for legislation to provide for charging, investigating, prosecuting, convicting and sentencing of offenders.

This legislation comes to complement and supplement the provisions of the Constitution of Uganda and the Penal Code Act Cap 120 by not only criminalizing same sex marriages but also same-sex sexual acts and other related acts.

3.0. The objectives of the Bill

The objectives of the Bill are to:

- (a) provide for marriage in Uganda as that contracted only between a man and a woman;
- (b) prohibit and penalize homosexual behavior and related practices in Uganda as they constitute a threat to the traditional family;
- (c) prohibit ratification of any international treaties, conventions, protocols, agreements and declarations which are contrary or inconsistent with the provisions of this Act;
- (d) prohibit the licensing of organizations which promote homosexuality.

- 3.1. Part I of the Bill incorporating clause 1 provides for preliminary matters relating to interpretation of the words and phrases used in the Bill.
- 3.2. Part II of the Bill incorporating clause 2 to 6 prohibits homosexuality and related practices by introducing the offences of engaging in homosexuality, and the penalties of imprisonment upon conviction. This part also provides for protection, assistance and support for victims of homosexuality.
- 3.3. Part III of the Bill incorporating clause 7 to clause 14 creates offences and penalties for acts that promote homosexuality, failure to report the offence and impose a duty on the community to report suspected cases of homosexuality.
- 3.4. Part IV<sup>7</sup> of the BUI incorporating clause 15 to clause 17 provides for the jurisdiction of Uganda Courts in case of Homosexuality, including extra territorial jurisdiction.
- 3.5. Part V of the Bill incorporating clauses 18 and 19 provides for miscellaneous provisions on International Treaties,

[APG]

Protocols, Declarations and conventions and the Minister to make regulations to give effect to the Act.

Schedule of the Bill gives the value of the currency point.

HON DAVID BAH ATI, *Member of Parliament, Ndorwa County West, Kabale.*

Bill No. 18 *Anti Homosexuality Bill* 2009

THE ANTI HOMOSEXUALITY BILL, 2009.

ARRANGEMENT OF CLAUSES. PART I—PRELIMINARY.

*Clause*

1. Interpretation.

PART II—PROHIBITION OF HOMOSEXUALITY.

2. The offence of homosexuality.
3. Aggravated homosexuality.
4. Attempt to commit homosexuality.
5. Protection, assistance and payment of compensation to victims of homosexuality.
6. Confidentiality.

PART III—RELATED OFFENCES AND PENALTIES.

7. Aiding and abating homosexuality.
8. Conspiracy to engage in homosexuality.
9. Procuring homosexuality by threats, etc.
10. Detention with intent to commit homosexuality.
11. Brothels.
12. Same sex marriage.
13. Promotion of homosexuality.
14. Failure to disclose the offence.

PART IV—JURISDICTION.

15. Jurisdiction.
16. Extra- territorial Jurisdiction.

[APG]

17. Extradition.

Bill No. 18

*Anti Homosexuality Bill*

2009

*Clause*

PART V—MISCELLANEOUS PROVISIONS.

18. International treaties.

19. Regulations.

Schedule

Currency point.

[APG]

A BILL FOR AN ACT ENTITLED  
THE ANTI HOMOSEXUALITY ACT, 2009.

An Act to prohibit any form of sexual relations between persons of the same sex; prohibit the promotion or recognition of such relations and to provide for other related matters.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Interpretation.

In this Act, unless the context otherwise requires—

"authority" means having power and control over other people because of your knowledge and official position; and shall include a person who exercises religious, political, economic or social authority;

"bisexual" means a person who is sexually attracted to both males and females;

"child" means a person below the age of 18 years:

"currency point" has the value assigned to it in the Schedule to this Act:

"disability" means a substantial limitation of daily life activities caused by physical, mental or sensory impairment and environment barriers resulting in limited participation;

"felony" means an offence which is declared by law to be a felony or if not declared to be a misdemeanor is punishable without proof of previous conviction, with death or with imprisonment for 3 years or more;

"gay" means a male person who engages in sexual intimacy with another person of the same sex;

"gender" means male or female;

"HIV" means the Human Immunodeficiency Virus;

"homosexual" means a person who engages or attempts to engage in same gender sexual activity;

"homosexuality" means same gender or same sex sexual acts;

"lesbian" means a female who engages in sexual intimacy with another female;

"Minister" means the Minister responsible for ethics and integrity;

"misdemeanor" means any offence which is not a felony;

"serial offender" means a person who has previous convictions of the offence of homosexuality or related offences;

"sexual act" includes—

- (a) physical sexual activity that does not necessarily culminate in intercourse and may include the touching of another's breast, vagina, penis or anus;
- (b) stimulation or penetration of a vagina or mouth or anus or any part of the body of any person, however slight by a sexual organ;

4

Kill No. 18

*Anti Homosexuality Bill*

2009

- (c) the unlawful use of any object or organ by a person on another person's sexual organ or anus or mouth;

"sexual organ" means a vagina, penis or any artificial sexual contraption;

"touching" includes touching—

- (a) with any part of the body;
- (b) with anything else;
- (c) through anything;

and in particular includes touching amounting to penetration of any sexual organ, anus or mouth.

"victim" includes a person who is involved in homosexual activities against his or her will.

#### PART II—HOMOSEXUALITY AND RELATED PRACTICES.

##### 2. The offence of homosexuality.

(1) A person commits the offence of homosexuality if—

- (a) he penetrates the anus or mouth of another person of the same sex with his penis or any other sexual contraption;
- (b) he or she uses any object or sexual contraption to penetrate or stimulate sexual organ of a person of the same sex;
- (c) he or she touches another person with the intention of committing the act of homosexuality.

(2) A person who commits an offence under this section shall be liable on conviction to imprisonment for life.

3. Aggravated homosexuality.

(1) A person commits the offence of aggravated homosexuality where the-

- (a) person against whom the offence is committed is below the age of 18 years;
- (b) offender is a person living with HIV;
- (c) offender is a parent or guardian of the person against whom the offence is committed;
- (d) offender is a person in authority over the person against whom the offence is committed;
- (e) victim of the offence is a person with disability;
- (f) offender is a serial offender; or
- (g) offender applies, administers or causes to be used by any man or woman any drug, matter or thing with intent to stupefy or overpower him or her so as to thereby enable any person to have unlawful carnal connection with any person of the same sex.

(2) A person who commits the offence of aggravated homosexuality shall be liable on conviction to suffer death.

(3) Where a person is charged with the offence under this section, that person shall undergo a medical examination to ascertain his or her HIV status.

4. Attempt to commit homosexuality.

(1) A person who attempts to commit the offence of homosexuality commits a felony and is liable on conviction to imprisonment for seven years.

(2) A person who attempts to commit the offence of aggravated homosexuality commits an offence and is liable on conviction to imprisonment for life.

5. Protection, assistance and payment of compensation to victims of homosexuality.

(1) A victim of homosexuality shall not be penalized for any crime committed as a direct result of his or her involvement in homosexuality.

(2) A victim of homosexuality shall be assisted to enable his or her views and concerns to be presented and considered at the appropriate stages of the criminal proceedings.

(3) Where a person is convicted of homosexuality or aggravated homosexuality under sections 2 and 3 of this Act, the court may, in addition to any sentence imposed on the offender, order that the victim of the offence be paid compensation by the offender for any physical, sexual or psychological harm caused to the victim by the offence.

(4) The amount of compensation shall be determined by the court and the court shall take into account the extent of harm suffered by the victim of the offence, the degree of

force used by the offender and medical and other expenses incurred by the victim as a result of the offence.

6. Confidentiality.

(1) At any stage of the investigation or trial of an offence under this Act, law enforcement officers, prosecutors, judicial officers and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the victim.

(2) For the purpose of subsection (1), in cases involving children and other cases where the court considers it appropriate, proceedings of the court shall be conducted in camera, outside the presence of the media.

(3) Any editor, publisher, reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer or director of a film in case of the movie industry, or any person utilizing trimedia facilities or information technology who publishes or causes the publicity of the names and personal circumstances or any other information tending to establish the victim's identity without authority of court, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points.

PART III—RELATED OFFENCES AND PENALTIES.

7. Aiding and abating homosexuality'.

A person who aids, abets, counsels or procures another to engage in acts of homosexuality commits an offence and is liable on conviction to imprisonment for seven years.

8. Conspiracy to engage in homosexuality'.

A person who conspires with another to induce another person of the same sex by any means of false pretence or other fraudulent means **to** permit any person of the same sex to have unlawful carnal knowledge of him or her commits an offence and is liable on conviction to imprisonment for seven years.

9. Procuring homosexuality by threats, etc.

(1) A person who—

- (a) by threats or intimidation procures or attempts to procure any woman or man to have any unlawful carnal knowledge with any person of the same sex, either in Uganda or elsewhere;
- (b) by false pretences or false representations procures any woman or man to have any unlawful carnal connection with any person of the same sex, either in Uganda or elsewhere; or

(2) A person shall not be convicted of an offence under this section upon the evidence of one witness only, unless that witness is corroborated in some material particular by evidence implicating the accused.

10. Detention with intent to commit homosexuality.

A person who detains another person with the intention to commit acts of homosexuality with him or herself or with any other person commits an offence and is liable on conviction to imprisonment for seven years.

11. Brothels.

(1) A person who keeps a house, room, set of rooms or place of any kind for purposes of homosexuality commits an offence and is liable on conviction to imprisonment for seven years.

8

(2) A person being the owner or occupier of premises or having or acting or assisting in the management or control of the premises, induces or knowingly suffers any man or woman to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man or woman of the same sex whether such carnal knowledge is intended to be with any particular man or woman generally, commits a felony and is liable on conviction to imprisonment for five years.

12. Same sex marriage.

A person who purports to contract a marriage with another person of the same sex commits the offence of homosexuality and shall be liable on conviction to imprisonment for life.

13. Promotion of homosexuality-

(1) A person who—

- (a) participates in production, procuring, marketing, broadcasting, disseminating, publishing pornographic materials for purposes of promoting homosexuality;
- (b) funds or sponsors homosexuality or other related activities;
- (c) offers premises and other related fixed or movable assets for purposes of homosexuality or promoting homosexuality;
- (d) uses electronic devices which include internet, films, mobile phones for purposes of homosexuality or promoting homosexuality and;
- (e) who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices;

commits an offence and is liable on conviction to a fine of five thousand currency points or imprisonment of a minimum of five years and a maximum of seven years or both fine and imprisonment.

(2) Where the offender is a corporate body or a business or an association or a non-governmental organization, on conviction its certificate of registration shall be cancelled and the director or proprietor or promoter shall be liable on conviction to imprisonment for seven years.

14. Failure to disclose the offence.

A person in authority, who being aware of the commission of any offence under this Act, omits to report the offence to the relevant authorities within twenty-four hours of having first had that knowledge, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty currency points or imprisonment not exceeding three years.

PART IV—JURISDICTION.

15. Jurisdiction.

Save for aggravated homosexuality that shall be tried by the High Court, the magistrates courts shall have jurisdiction to try the other offences under this Act.

16. Extra- Territorial Jurisdiction.

This Act shall apply to offences committed outside Uganda where—

- (a) a person who, while being a citizen of or permanently residing in Uganda, commits an act outside Uganda, which act would constitute an offence under this Act had it been committed in Uganda; or
- (b) the offence was committed partly outside and or partly in Uganda.

17. Extradition.



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
SPRINGFIELD DIVISION

SEXUAL MINORITIES UGANDA,  
Plaintiff

VERSUS

CIVIL ACTION NO:  
12-CV-30051-MAP

SCOTT LIVELY, INDIVIDUALLY  
AND AS PRESIDENT OF  
ABIDING TRUTH MINISTRIES,  
Defendant

**ORIGINAL**

\*\*\*\*\*

DEPOSITION OF  
AMBASSADOR GROVER JOSEPH REES

The deposition of AMBASSADOR GROVER  
JOSEPH REES was taken in the above  
entitled cause, pursuant to the following  
stipulation, before Ruth E. Foret,  
Certified Court Reporter and Notary  
Public, at the Hilton Garden Inn,  
2350 West Congress Street, Lafayette,  
Louisiana, on the 18th day of April,  
2016, beginning at 9:13 a.m.

1           unaware of any case that came up while I  
2           was General Counsel.  Certainly, it didn't  
3           come to my desk.  I am aware of a case  
4           just after that in '94 or -- I believe it  
5           was in '94, where a Chinese man showed  
6           that he was really going to get killed if  
7           we send him back to China because of his  
8           homosexuality, both because of government  
9           policies and because of social practices  
10          that were countenanced by the government.  
11          And, he was -- I actually know about it,  
12          because I was a consultant on that case to  
13          the lawyer who was making his case.  And,  
14          my recollection is that he was granted  
15          asylum and that later that became -- a few  
16          years later that became a fairly common  
17          practice.

18 BY MS. CHOMSKY:

19 Q       What became a fairly common --

20 A       Granting asylum based -- recognizing --  
21       technically recognizing sexual orientation  
22       as membership in a particular social group  
23       for purposes of the refugee and asylum  
24       law.  You still had to show persecution.  
25       It wasn't enough to -- you still had to

1 show well founded fear of persecution. It  
2 wasn't enough to show that you were  
3 homosexual or that there was laws against  
4 it. Uh, a big issue in refugee law is  
5 whether something is prosecution or  
6 persecution. And, if there is a law of  
7 general application, and there's no  
8 evidence as, for instance, there was in  
9 the Chinese family planning case that the  
10 government was singling out certain people  
11 who were violating this law as enemies of  
12 the state. Then just the fact that there  
13 was a law against the conduct in which you  
14 wanted to engage didn't make you a  
15 refugee. But, if you showed that the  
16 government, or some other act or that the  
17 government wasn't going to protect you  
18 against -- was going to persecute you --  
19 that is was going to single you out for  
20 death, or severe bodily injury, or similar  
21 harm -- a similar severe harm on account  
22 of that characteristic, then you would be  
23 eligible for refugee status.

24 (OFF THE RECORD)

25 MS. CHOMSKY:

1 Sure.

2 (OFF THE RECORD)

3 BY MS. CHOMSKY:

4 Q I'd like to go back to your report to  
5 page 3 of Exhibit #1.

6 A Yes, ma'am.

7 Q You write that human rights are universal  
8 and apply equally to every human being,  
9 regardless of sexual orientation and  
10 gender identity; is that correct?

11 A Yes, ma'am.

12 Q And, what is the basis for your assertion?

13 A Well, that's a quote from a joint  
14 statement, what they called a declaration  
15 in the general assembly in 2008, from a  
16 number of countries. And, this statement  
17 by me is in the preamble to my report, and  
18 I simply wanted to make clear what I  
19 wasn't arguing with. Uh, that I wasn't  
20 contesting this assertion which some  
21 people think that if you agree with that  
22 assertion, it means you must think that  
23 same sex acts are violations of  
24 international human rights law. And, as I  
25 say in the next sentence, just saying that

1 human rights apply equally to everyone,  
2 regardless of these and other  
3 characteristics, doesn't tell you much  
4 about what the content of those laws that  
5 apply equally to everyone should and  
6 shouldn't -- or, can and cannot be. I  
7 wasn't trying to make that statement as a  
8 priori assertion that I needed to justify.  
9 I was just saying that this is what people  
10 on the other side of this issue from me  
11 are saying, and I want to make clear that  
12 I don't disagree with it.

13 Q You also wrote on page 26, "That detention  
14 that was truly imposed on account of  
15 sexual orientation rather than conduct  
16 might also violate rights guaranteed by  
17 the ICCPR and also arguably by customary  
18 international law." Do you see that?

19 A I do.

20 Q And, what is the basis for your statement?

21 MR. GANNAM:

22 Object to form.

23 A Well, it would be the ICCPR provision  
24 against discrimination. There probably  
25 are others, but that's the most obvious

1 one. If you just said that somebody with  
2 a certain characteristic that they  
3 couldn't change, simply based on that  
4 characteristic, not based on conduct in  
5 which they engaged to which that  
6 characteristic might have predisposed  
7 them, but simply because of the  
8 characteristic, we're going to put those  
9 people in jail. That's what I argued in  
10 the Chinese asylum case for the person who  
11 showed a well-founded fear of being  
12 persecuted because of being homosexual.  
13 Uh, it -- when they were going to inflict  
14 serious harm on someone simply because of  
15 his status, that was the kind of  
16 discrimination that could rise to the  
17 level of persecution.

18 BY MS. CHOMSKY:

19 Q In your sentence you use the word,  
20 "might." Can you explain your use of the  
21 conditional?

22 MR. GANNAM:

23 Object to form.

24 A Uh, let me go back and read the sentence.  
25 Um, sometimes when you're writing these

1 things, you use a word like might because  
2 it's not the central point you're making.  
3 And, an assertion like will means there's  
4 no exceptions to it. And, you don't want  
5 to spend time, either your own or the  
6 readers, analyzing possible exceptions to  
7 a point that isn't central to your point -  
8 - uh, you know, to the argument that  
9 you're making. So, I might of used might  
10 for that reason. I think -- I guess the  
11 reason why I'm a little -- why I think  
12 this is traitorous ground is because very  
13 often advocates assert that laws and  
14 policies that are based on conduct are  
15 really based on status. And so, I think  
16 it's very important to make that  
17 distinction. And, the might part is  
18 probably involved in -- probably reflects  
19 my nervousness about what level of proof  
20 is going to be required that it's really  
21 on status, and it's not on conduct. But,  
22 I guess personally, if it was really on  
23 status -- if it was somebody who has never  
24 engaged in the conduct and it's just that  
25 he's said, you know, I have same sex

1 attraction and I don't think there's  
2 anything wrong with it, and the government  
3 said well fine, we're going to put you in  
4 jail for a significant period of time, I  
5 would be comfortable saying that that  
6 violates the right against discrimination.

7 BY MS. CHOMSKY:

8 Q What do you think the appropriate nature  
9 of the proof would be to determine whether  
10 something was based on status as oppose to  
11 criminal conduct?

12 MR. GANNAM:

13 Object to form.

14 A Well, I think the example that I gave  
15 would have to be -- it's very rarely going  
16 to come up. But, the example that I gave  
17 where somebody who was not shown to have  
18 engaged in any kind of conduct at all, but  
19 who was simply identified as having that  
20 characteristic, would -- and, the identity  
21 of having the characteristic would  
22 presumably come from the person's own  
23 statements or statements that he made to  
24 other people who then put them in  
25 evidence. In the case of same sex

1 attraction. I mean, there are other kinds  
2 of -- there are other kind of status that  
3 are more obvious that -- you know, I mean  
4 this is why race, religion, nationality  
5 are easy to determine, and political  
6 opinion and membership in a social group  
7 are harder to determine, because they more  
8 likely depend on people's own self  
9 characterization.

10 BY MS. CHOMSKY:

11 Q With regard to statutes that criminalize  
12 certain sexual behavior, would you look to  
13 what the proponents of that statute said  
14 in order to determine whether it was aimed  
15 at status as oppose to conduct?

16 MR. GANNAM:

17 Object to form.

18 A Well, Judge Patricia Wald, a former Chief  
19 Judge of the DC circuit used to say --  
20 said in a couple of law reviewed articles  
21 she wrote and on many occasions and  
22 speeches -- using legislative history in a  
23 judicial opinion is like looking out over  
24 a crowd and picking out your friends. Um,  
25 and the risk is that it could go the other

1 way. You could look out over a crowd and  
2 pick the very worst advocates and say,  
3 well because these people said this, this  
4 must be what the law is about. In the  
5 case of Harris v. McRay, which was the  
6 abortion funding case, the plaintiffs  
7 tried to get letters that had been written  
8 to congressmen who voted for that law.  
9 And, I think ultimately, they weren't able  
10 to get those. But, they wanted to show  
11 that if anybody favored a restriction on  
12 abortion funding because they wanted to  
13 ban abortion altogether, that this made it  
14 unconstitutional. And, the court, I  
15 think, rightly rejected that. So, no, I  
16 wouldn't look at just any statement by any  
17 person. I mean, if it really only  
18 regulated conduct, in my view it would be  
19 very difficult to show that it was really  
20 aimed at status. I can imagine exceptions  
21 to that if there were -- if there were 10  
22 laws on regulating sexual conduct. And,  
23 every one of those laws -- you know,  
24 there's a law against prostitution,  
25 there's a law against uh bestiality,

1           there's a law against certain sex acts  
2           between men and women and then there's one  
3           aimed at homosexuals. And, the one aimed  
4           at homosexuals has life imprisonment, and  
5           all the other ones only have five years,  
6           then you can argue that would be evidence.  
7           It might not be dispositive evidence, but  
8           it could be evidence that it was really  
9           aimed at status and not at the conduct.  
10          Um, but normally -- and, that came up in  
11          the Chinese family planning case. They  
12          punished these people so much more  
13          severely than they punished all kinds of  
14          other people who were committing what  
15          otherwise would seem like commensurate  
16          violations of law, that that combined with  
17          statements by Chinese government officials  
18          show that they regarded these people as  
19          enemies of that state. That they were not  
20          merely punishing the conduct. Uh, that  
21          they -- I remember the phrase marital  
22          anarchist came up. So, some combination  
23          of statements, plus disproportionate  
24          penalties, could convince you that  
25          something that was on its face aimed at

1           conduct was really aimed at status. I  
2           wouldn't think that would come up very  
3           often in the case of these same sex laws,  
4           because they've been on the books and many  
5           similar laws -- even if they modified one  
6           -- had been on the books in many countries  
7           for a long time and really do seem to be  
8           aimed at the conduct.

9           MS. CHOMSKY:

10                    I want to go off the record.

11                           (OFF THE RECORD)

12           MS. CHOMSKY:

13                    I have no further questions.

14 EXAMINATION BY MR. GANNAM:

15 Q           All right. Ambassador Rees, I'm going to  
16           ask a couple of questions regarding your  
17           earlier testimony. Earlier in your  
18           deposition, you spoke of a universal  
19           right, I believe, as reflected in the  
20           Universal Declaration of Human Rights for  
21           men and women to marry and form families;  
22           is that correct?

23 A           Yes.

24 Q           With regard to the part of that right of  
25           men and women marrying, were you