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UGANDA

# 'Smoking out the gays':<sup>1</sup> How legislating for hatred has distracted Ugandans and reversed hard-won gains in the fight against AIDS

### Introduction

This is a story about how Uganda went from being a darling of the AIDS world to a pariah. It is also the story of an AIDS movement that has failed to keep pace with an autocratic state more interested in maintaining power than the needs of the people it serves.

For activists around the world who are looking to regain lost ground in battles over human rights, this serves as a cautionary tale.

It teaches us that without deeply rooted social mobilisation, populist assaults against the most vulnerable populations will always succeed. The inverse is also true. With determination and resourcefulness, even the most serious violations of human rights can be brought to account.

In the late 1980s and throughout the 1990s, Uganda garnered accolades for its efforts in fighting AIDS. Community-based organisations, government officials, faith-based groups, youth associations; all rallied to fight the epidemic.

1. In January 2014 the homophobic Ugandan tabloid *Red Pepper* published an article entitled, *Smoked out! Uganda Cranes boss nabbed sodomising players*. See: [www.gaystarnews.com/article/uganda-national-football-manager-charged-gay-sex070114](http://www.gaystarnews.com/article/uganda-national-football-manager-charged-gay-sex070114)

President Museveni himself was crucial to the success of Uganda's AIDS response. He demonstrated critical leadership at a time when most African presidents were denying that AIDS was even a problem. That early fervour has now faded, and Museveni now represents the problem rather than the solution.

Today, 7.2% of Ugandans are living with HIV<sup>2</sup> and the country now has the fourth highest HIV incidence in Africa. This is especially worrying given the dramatic progress the country had registered until the mid-2000s. Although 90% of Ugandans understand that 'faithfulness' is crucial as a prevention method, 25% of married men admit to having multiple sexual partners.<sup>3</sup> Furthermore, 75% of Ugandans know about the importance of condoms in sexual health, but less than 8% of married men who are having sex outside of their marriages use condoms. There has also been a consistent decline in the percentage of people using condoms during the last sexual intercourse over the past decade. People aged 20–24 reporting condom use during last sexual intercourse fell from 56% in 2005 to 25.2% in 2011. Among those aged 15–29 the decline was less dramatic but still worrying – from 52.7% to 30.2%.

An additional concern is that among key populations such as men who have sex with men (MSM), sex workers, long-distance truck drivers, uniformed personnel and prisoners, little is being done to prevent HIV using evidence-based approaches. Instead, these groups (especially MSM) have been criminalised and taunted; subjected to humiliating public attacks both in the media and at community level.

Museveni and his ruling party, the National Patriotic Front (NPF), have turned on the country's gay population, using them as a political scapegoat. This assault comes at a time when the data show significantly higher rates of HIV infection in MSM than the general population, and, importantly, strong overlaps between MSM and women who have sex with men.

### How Uganda conquered AIDS then lost the plot

The early years of the fight against AIDS were self-funded and self-motivated. Ugandans were pushed to address AIDS because from the early 1980s onwards they had witnessed so many people dying. The movement to combat the virus did not need to be engineered and funded by donor agencies. A young and energetic new president, Yoweri Museveni, provided the public face of the fight against AIDS.

His leadership was invaluable. In December 1988 he gave a speech in which he declared AIDS a "national emergency". In doing so, he provided the intellectual underpinnings for how AIDS would be fought in the two decades that followed. The notion that AIDS was an emergency, and therefore warranted an urgent, well-funded response, has its roots in Museveni's embrace of the challenge that confronted his ailing nation. Thousands of Ugandan doctors, family members, teachers and community leaders heeded his call and followed his lead, mobilising to bring down the numbers dramatically.

Activists like Noerine Kaleeba, one of the founders of The Aids Support Organization (TASO) who has worked tirelessly to talk about stigma against people living with HIV and AIDS, played a crucial role in this turnaround. So too did doctors like Dr Elly Katabira, who provided critical care at Mulaago hospital and pioneered outpatient

2. UNAIDS (2012) Available at: Global Report 2012: AIDSinfo  
3. Uganda AIDS Indicator Survey (2011), Ministry of Health

services and home-based care that was focused on dispelling fear and ending stigma. Using community approaches, mass media and innovative research, the country worked in a coordinated fashion to address an epidemic that many had believed could never be defeated.

Soon external money began to pour in to take the fight to the next level. Many donors set up offices in the country, and new large-scale programmes began their operations. Yet somehow external funding did not accelerate the progress the country had already achieved. Instead, a widening gap developed between what people across Ugandan society know about AIDS and what they practice.

### The facts about gay-identified people in Uganda

The exact or reliably estimated numbers of LGBT in Uganda vary greatly - many live in the capital city of Kampala. The 2009 survey of sexuality and AIDS in Uganda<sup>4</sup> indicated that 78% of MSM in Kampala have ever had sex with a woman; 44% have lived with a female sex partner; 16% are currently living with a female sex partner; and almost a third (29%) have fathered children. The study authors note that “MSM in Kampala are at substantially higher risk for HIV than the general adult male population.” The estimated adult male HIV prevalence in Kampala at the time of the survey was 4.5%, and the findings confirmed that the HIV infection rate in MSM was close to 14%.

The experiences of MSM in Uganda are similar to those of MSM in other African contexts. In the previous decade, a number of studies sought to better understand HIV incidence and prevalence in MSM communities. The findings from these, ranging from Botswana to Kenya and Uganda to Cameroon, indicate that unprotected anal sex is widespread. Knowledge and access to appropriate risk prevention measures are inadequate, and MSM in some contexts engage in transactional sex. Additionally, as Smith et al.<sup>5</sup> point out, “stigma, violence, detention, and lack of safe social and health resources are widely reported” by MSM.

Faced with the reality of higher HIV infection rates and poorer access to services, including treatment, than the general population, it would be scientifically prudent for the Ugandan government to embark on a range of programmes designed to ensure that MSM can access the prevention, care and treatment support they need.

Instead, the government has chosen a different path. Since 2009, led by David Bahati and financed by a section of the United States evangelical movement led by Scott Lively, the Ugandan government has opted to turn away from science. Through legislation, as well as in increasingly violent anti-gay rhetoric, they have conducted a dangerous crusade aimed at victimising LGBTI and driving homosexuality underground.

4. Hladi W, Barker J, Ssenkusu J, Opio A, Tappero J, Hakim A, Serwadda D (May 2012) HIV Infection among Men Who Have Sex with Men in Kampala, Uganda—A Respondent Driven Sampling Survey. Crane Survey Group  
Available at: <http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0038143>

5. Smith A, Tapsoba P, Peshu N, Sanders E, Jaffe E (2009) Men who have sex with men and HIV/AIDS in sub-Saharan Africa The Lancet Available at: [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(09\)61118-1/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(09)61118-1/abstract)

## The Anti-Homosexuality Act (2014)

The legal elements of this crusade took shape in the Anti-Homosexuality Act, which President Museveni signed into law in February 2014<sup>6</sup>. The passage of the act was marked by much controversy. Indeed, by the time that the president had signed the bill, a global campaign to stop him was in full swing. Museveni defied and mocked his critics, making it possible through the new law for the state to imprison people for life if they are found engaging in homosexual acts.

In addition, the law makes the “promotion” and “recognition” of homosexual relations illegal. This specifically includes government entities or non-governmental organisations (NGOs) inside or outside of Uganda. Many activists are certain that this clause exists to ensure that gay-identified people do not access critical services like healthcare. While the version of the act that was ultimately passed did not include the death penalty clause (originally it was dubbed the ‘Kill the Gays’ bill because it threatened death to homosexuals), it remains an extremely dangerous law.

The Anti-Homosexuality Act fuels homophobic violence and puts the lives of gay-identified people at significant risk. Already there have been numerous reports of communities attacking LGBTI because they are emboldened by the law. In driving LGBTI people further underground, it makes it harder for them to safely access services, including for HIV prevention and treatment. The 2009 study found that men reporting a lifetime history of homophobic abuse are at increased risk of becoming HIV infected.

There are other concerns too. Uganda had taken significant strides towards becoming less conservative in terms of sexual attitudes. The president himself drove an agenda to talk openly about sex in order to address a problem that was killing so many. Yet the approach to the Anti-Homosexuality Act re-imposes rigid norms and uses the state to enforce them. Moralising promoted by the evangelical Christian movement has resulted in a reluctance to seek commodities and services for fear of judgment. Judgment is literally killing Ugandans across the social and economic spectrum, and turning this around is the key to their healthy future.

### An overall assault on democracy

Museveni’s political longevity, and his increasingly brutal methods of holding on to power, are crucial to understanding the current AIDS response in Uganda.

As most Ugandan human rights activists will tell you, the decision to jeopardise the nation’s health has everything to do with power and nothing to do with medical science.

Today, even the most basic rights – freedom of assembly, expression and association – are under threat in Uganda. Indeed, many people in Ugandan society are scared to speak up in defence of anybody, least of all those in the LGBTI community. The Public Order and Management Act, signed into law in 2013, has changed the landscape fundamentally for NGOs. According to the Act, public meetings are prohibited between 7pm and 7am, and no public meetings at all are allowed at and around democratic institutions, including parliament and the courts. Furthermore, the interior minister has broad powers to designate “gazetted” areas

6. This Insight was written earlier this year. On Friday 1<sup>st</sup> August, the Constitutional Court in Uganda declared the Anti-Homosexuality Bill null and void due to a technicality. The Bill may be tabled again and, sadly, the issues discussed by Frank Mugisha remain highly relevant.

where assemblies are prohibited. The new law also gives the police and other law enforcement agencies broad powers to use force to disperse meetings.<sup>7</sup>

This has significant implications for all civic groups and for those who promote human rights in Uganda. It means, first and foremost, that Uganda is virtually a police state. This is a point that democracy and governance monitors have made repeatedly in the past decade. The violent intimidation of opposition politicians (whose numbers are also limited by the extension of the presidential term) and the growing use of the state as an extensive patronage network have long worried many observers.

The ballooning size and multiplying powers of the state are just one illustration of how patronage networks extend across the country today. In 1990, Uganda had 33 districts covering its territory. Today, there are 112 districts. There are also 70 cabinet ministers and 114 ministerial and presidential advisers, 375 members of parliament (70% of them representative of the ruling NPF) and 134 commissions and quasi-state bodies. Each of these owes significant, if not primary, allegiance to the president of the country or the ruling party. This vast and influential group who are beholden to Museveni has played a major role in creating an environment in which human rights and democracy are severely curtailed in Uganda.

The criminalisation of gay-identified people themselves, as well as of their sexual behaviour, must be confronted on both human rights and public health grounds. Yet without an environment in which human rights defenders can operate, successful legal or social challenges are unlikely. In other contexts, angry citizens might march for change. In Uganda a permit is now required before this can happen. In other contexts, human rights groups might meet to strategise with LGBTI organisations about a fight-back strategy. In Uganda this is illegal because they are obliged to turn them in if they know their sexual orientation.

### The Christian right targets Uganda

Over the last decade the Christian evangelical movement has played an increasingly prominent role in Ugandan life. The growth in conservative congregations is now beginning to have an impact on the behaviour and attitudes of ordinary Ugandans. The size, infrastructure and capacity of the evangelical movement have yet to be quantified, but there is no doubt that it has a distinctly American flavour. Large camps are held annually in Kampala whose sole focus is on getting young people to commit to abstinence, and conferences are held with American churches in the southern states where evangelicalism is most strongly rooted. Additionally, increasing numbers of educational and health institutions are run by evangelical groups that promote their faith among those seeking services.

No foreigners have been more systematic and consistent in spreading the ideologies of conservative evangelical Christianity than Scott Lively (who is being sued on my behalf by the United States Center for Constitutional Rights for fermenting anti-gay discrimination).

Lively introduced the narrative of the 'international gay agenda' to Uganda. His central thesis is that male homosexual behaviour targets children, and he makes wild claims about a gay conspiracy to ruin families and nations. He has even gone so far as to intimate that gay people were behind the genocide in Rwanda.

7. Article 19 (2013), *Uganda: Public Order Management Act*. [Online] Available at: [www.article19.org/resources.php/resource/37331/en/uganda:-public-order-management-act#sthash.wilbdwQA.dpuf](http://www.article19.org/resources.php/resource/37331/en/uganda:-public-order-management-act#sthash.wilbdwQA.dpuf)

This latter assertion is in line with claims in his book, *The Pink Swastika*,<sup>8</sup> that homosexuality caused Nazism.

A prominent United States human rights organisation, the Southern Poverty Law Center, has put Lively and three organisations with whom he is affiliated on a watch list of organisations that promote hate speech.

Much of that hate speech is targeted at gay people both in the United States and Uganda. Lively has inspired a movement that has many Ugandan backers. There is no question that the brand of conservatism that he extolls has captured the imaginations of many senior officials in the country. The key drivers of the anti-homosexuality movement in Uganda include Stephen Langa and Martin Ssempe, both of whom have significant congregations.

Lively and the religious groups with whom he works in Kampala have unfettered access to parliament. His parliamentary addresses are never open to comment or official responses from the members of the LGBTI community whom he attacks (even if they were, the fear of arrest and harassment would be a disincentive for participation). He is also provided with unprecedented media access. For example, during one trip to Uganda in 2013, Lively's remarks were broadcast continually for five hours on state television.

With the Anti-Homosexuality Act serving as a lightning rod, it has become clear that some individuals in communities have zealously taken up the call to shame LGBTI people, turning in scores of homosexuals. The media has published lists and churches have banned people from attending services for being "suspected homosexuals". The Anti-Homosexuality Act has demonstrated that Ugandan society is deeply homophobic. Indeed, the most painful thing for many activists to accept was that the law was widely supported across society.

### The sins of the AIDS movement

While the evangelical movement has taken up much of the time and attention of key NGOs involved in the AIDS response, the AIDS movement itself has some serious questions to answer about its own conduct. As far back as 2008, Milly Katana, a prominent AIDS activist in Uganda, remarked that one of the largest and best-known NGOs in the AIDS response had "lost the crowd". She argued that it was "riding on the back of its history ... Of course it's the biggest – outsiders trust it, value it, they give them more money and they are expanding services, which is great. But to me that doesn't mean that they are leaders." Her comment could be applied to the sector as a whole. With resources on the table and success in hand, many organisations became complacent and began to take a more bureaucratic approach to the AIDS response.

There were two consequences of their complacency. First, it meant that as evidence began to emerge of new behaviours that could drive incidence back up again, the NGO sector was insufficiently organised and proactive to read the signs and push government to mobilise accordingly. Second, many AIDS organisations lost touch with the communities that had originally driven the AIDS response. While they may have continued to provide services to them, a more bureaucratic approach meant they were less likely to pick up on trends and the ways in which conservatism was being understood and lived.

8. Lively, S; Abrams, K (1995). *The Pink Swastika: Homosexuality in the Nazi Party*.

Unlike in other countries where the AIDS response had initially entailed confrontations with governments that had to be convinced through political and social pressure to tackle the epidemic, in Uganda there had been no major anti-government struggle.

Because government, and Museveni in particular, had always been on the same side as activists, there was no history within the AIDS movement of combative or confrontational activism.

## Corruption

One of the most discouraging but important issues that faces AIDS and human rights activists in Uganda today is the issue of corruption and the abuse of AIDS resources. Uganda has been rocked by a number of scandals implicating senior officials and NGO actors. In 2006, the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) cancelled a \$200 million grant because of abuse by high-ranking officials, and their relatives and friends. Employees of the newly established Project Management Unit disbursed monies to NGOs that only existed on paper, and Global Fund money ended up in coffers that were used to fund Museveni's (successful) campaign to end term limits so that he could continue in office for a third term.<sup>9</sup> Some of those involved in the scandal were jailed, but for the most senior and well connected there were no repercussions.

While corruption presents the sharp end of the stick, there have also been basic management problems at the Uganda AIDS Commission (UAC) for a number of years. Many of those who work in the AIDS sector in Uganda believe that corruption and cronyism are endemic not only in the UAC but also in the ministry of health. Yet few AIDS NGOs are prepared to take this on systematically. For example, many activists are concerned that counterfeit antiretrovirals are available on the market, and that drugs are siphoned off from the public sector to be sold on the black market. These issues are evidence of a broader institutional malaise that has crippled the Ugandan AIDS response for at least half a decade. Yet there has been little traction in addressing these issues in part because of weak capacity within the AIDS response.

### Lack of independence

Many of us believe that the UAC must become independent of the president if it is to carry out its mandate effectively. We also believe that it is not yet capable of monitoring and evaluating the work of AIDS service organisations. A strong call from grassroots organisations is that the UAC should build its capacity to conduct activities outside of Kampala. Many suggest that there is a crucial role it should be playing in the fight against corruption, and in the management and roll out of programmes on the ground. Without being independent and itself above reproach, and without having the technical and staff capacity to conduct visits or establish a physical presence in rural areas, it is unlikely that much will change.

### Insufficient strategy and tactics in advocacy

There are fierce and important battles to be fought against the Anti-Homosexuality Act and against the impulse to push the abstinence-only messages of the conservative Christian movement. Although these conflicts are crucial, if NGOs

9. Washington Times (2006), *Uganda shaken by fund scandal*. [Online] Available at: [www.washingtontimes.com/news/2006/jun/15/20060615-111737-2004r/#ixzz30XtuHfC](http://www.washingtontimes.com/news/2006/jun/15/20060615-111737-2004r/#ixzz30XtuHfC)

responding to AIDS do not actively mobilise, if they are not better prepared to take on these political entanglements, then they will be outwitted and outpaced by those who wish to evade evidence in favour of morality-based programming.

### Mapping the future: proactively taking on the conservative agenda

It is clear that for Ugandan activists and public health officials working to end AIDS, the real battle for the next five years will be against the forces within society that have promoted an especially virulent form of conservatism. Struggles to fight the growing homophobic violence in Uganda matter because gay rights are human rights. They also matter because they signal the beginning of a larger assault on the rights of other groups regarded by the Christian conservatives as entry points for their efforts to cement their particular brand of “family values”. Many women’s rights organisations are concerned about the rise of misogynistic language. They are also worried about the Anti-Pornography Act, passed earlier in 2014, which is already curtailing women’s rights.

A news report from a Ugandan daily<sup>10</sup> notes that “women have been forbidden from wearing clothes like miniskirts and cleavage-revealing blouses (‘tops’) that excite sexual cravings in public, unless for educational and medical purposes or during sports or cultural events.” It seems likely that the scapegoating, blaming, moral crusading and victimising will continue against an ever-widening group of people. The prospects do not look good for an AIDS response that is respectful of women’s rights; one that recognises women and girls as autonomous beings who have rights to condoms and family planning, and to choose when and under what conditions to have sex.

#### Taking Lively to court

The fight against conservatism is precisely why Sexual Minorities Uganda (SMUG) decided to pursue action against pastor Scott Lively. The case serves as an opportunity to proactively deconstruct the conservative religious ideology that has imprinted itself so strongly on the consciousness of Ugandans. The idea Lively promotes is that homosexuality is itself foreign to Uganda, and that it was brought to our shores through an international ‘gay agenda’.

Therefore by his logic, the only means of fighting the gay agenda is through a patriotic defence of the Ugandan family and its Christian values. SMUG’s view is that the role of Lively and others who are exogenous to Africa in fermenting hatred requires exposure. Ugandans must begin to ask more rigorous questions about the morality of the evangelical movement itself.

#### Returning to basics

In the years to come, civil society groups in Uganda will need to go back to basics.

The fierce competition for resources within the LGBTI, AIDS and human rights sectors has led to a fragmented response, when what is needed is a united voice. The strong preference for the services of professionalised NGOs by donors rather than community-based grassroots organisations is leaving many NGOs open to the criticism that they are doing the bidding of their donor ‘masters’ rather than what

10. New Vision [On-line] (Feb 2014) Available at: <http://www.newvision.co.ug/news/652677-uganda-bans-miniskirts-pornography.html>



is best for their constituencies. It also means that the AIDS response is much less connected to community issues and concerns than it was in the past.

Outside the development world that many NGOs have become accustomed to inhabiting, a priority for activists in the next five years will be to focus on changing the hearts and minds of ordinary Ugandans. This will only happen if those at the forefront of the fight are able to think creatively about expanding their grassroots base. In the current context it is hard to imagine this. Yet without a massive engagement with the churches, schools and community structures that currently support homophobia, it will be impossible to tackle.

The biggest lesson Uganda teaches us is that complacency and politics make a particularly virulent combination. HIV is on the rise once again in Uganda because success bred complacency among the general population, and it bred arrogance and corruption among NGO and government leaders. Now that sexual behaviour has become criminalised among the LGBTI population, and the time has come for activists to confront the state, they find that the tools that should be at their disposal have been destroyed. The freedoms that allow people to challenge power and win have been whittled away.

Those fighting for an AIDS response that meets the needs of all Ugandans will not find success until they join forces with those who are defending the rights of ordinary people to voice their concerns and participate in a fully functioning democracy. It is not too late for Ugandans to challenge the crusading, moralising forces of conservatism. AIDS activists have years of experience around the world in doing this. For Uganda's civil society groups, the task that lies ahead is to ensure that this fight is strategic, all encompassing and fought in a language and on a terrain that makes ordinary people allies of a human rights approach rather than its enemies.





BIOGRAPHY

## Frank Mugisha

Frank is one of the most prominent advocates for LGBTI rights in Uganda. Winner of numerous awards, he is recognised nationally and internationally for his activism for full legal and social equality in Uganda. He is founder of Icebreakers Uganda (IBU), an organisation created as a support network for LGBTI Ugandans who are out or in the process of coming out to family and friends; and is currently Executive Director of Sexual Minorities Uganda (SMUG).

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The views and opinions expressed are those of the author and do not necessarily reflect the official policy or position of their own organisation or the International HIV/AIDS Alliance.