Human Rights Pressure in the Case of Ugandan Anti-Homosexuality Bill
This thesis studies the Western countries' responses to Ugandan Anti-Homosexuality Bill. Member of Parliament David Bahati introduced the Bill to the Ugandan Parliament in October 2009, and it immediately caused an international outcry. Several high-level politicians from Western countries as well as international human rights organizations were quick to express their opposition and strong condemnation of the bill. The object of this thesis is to look into these statements and comments by the Western actors and scrutinize the reasons why they were so strongly against the bill. A further aim is to analyse the possible effects that these responses are causing in Uganda considering the social standing of sexual minorities.

The data is collected from online sources and consists of newspaper articles, blog writings, press releases and speeches that comment on the Ugandan Anti-Homosexuality Bill or the situation of sexual minorities in Uganda on a more general level. The data is analysed qualitatively by searching for recurring themes and ideas that arise from the comments. Several recurring themes are recognized, among them references to human rights, international and domestic laws and state relationships. The possible consequences of the responses are analysed by reflecting the arguments to the theory on socialization of international human rights norms into domestic practices by Risse and Sikkink. The theory is a representation of strong advocacy to the international human rights pressure. Further evaluation of the data is made also based on alternative theories and views.

The human rights theme comes up as the most essential theme in the data. The appeals by the international actors to reject the Anti-Homosexuality Bill are almost entirely based on human rights language and arguments. The main reason for the Western actors to oppose the bill is their commitment to the universal human rights regime, which this bill is seen to violate. Ideas of universalism win over ideas of cultural relativism. The Ugandan particularities, and the historical, social and political context of society is not paid much attention to. Risse and Sikkink do not see a great problem with this kind of approach as they highlight the importance of international pressure. In contrast, for example Epprecht, calls for more attention to context and more focus on local action in order to gain long-term results in the efforts to secure better rights for sexual minorities.

The main conclusion is that, the Anti-Homosexuality Bill is being condemned because it is seen as a serious violation of the human rights norms that the Western actors are committed to. Uganda is also considered to be obliged to follow these norms under international human rights agreements and treaties. However, the motives of the Western actors are not always solely based on a concern about the rights of the Ugandan minorities. Political aspects such as state’s commitment to certain type of foreign politics or its reputation in the international arenas are also at play. Furthermore, while international pressure may be an important factor in improving the status of sexual minorities in a given society, basing the arguments almost solely on human rights language is not necessarily the best way to go about trying to make an impact in different cultural contexts. In Uganda human rights are often strongly associated with the West and colonialism, and are therefore a foreign concept that many wish to reject. Cooperation between international and local actors and more careful consideration of the historical, political and social context of the target society may help in finding alternative, and perhaps more efficient ways to approach the issue.

Avainsanat – Nyckelord Keywords
Uganda, Anti-Homosexuality Bill, human rights pressure, sexual minorities
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1. Introduction

The issue of homosexuality and the rights of sexual minorities in Uganda has become a subject of debate both at national and international level during the past few years. The debate escalated after 2009 when an Anti-Homosexuality Bill was introduced in Ugandan Parliament as its intention to tighten and expand the punishments for homosexual conduct. The draft law caused immediate outcry among national and international human rights groups. The international media and many noted politicians also expressed their sentiments concerning the suggested bill.

The debate over the bill and the rights of sexual minorities shows some interesting features of the dichotomy between Western countries and the developing world. Although this kind of dichotomy may sometimes be overstated as there is much diversity inside each “side”, and certainly the boundaries between the two entities are not always clear, certain juxtaposition is noticeable. The controversy that the bill has caused among certain Western actors seems to emphasize an image of a liberal West versus traditional, backward Africa. The spectrum of historical, political, material, social and religious factors that are at play and that influence the situation – both from inside and outside – often are forgotten or given very little attention. The debate in that sense may operate as an enforcement of Western hegemony. It is worth studying what kind of ideologies and motives are at play, and what are the possible outcomes of the international debate in Uganda.

1.1. The Anti-Homosexuality Bill

Member of Parliament David Bahati from the ruling party, the National Resistance Movement, introduced the Anti-Homosexuality Bill to Ugandan Parliament on 14 October 2009 (see e.g. Strand 2011: 917). Homosexuality has been illegal in Uganda already long before Bahati tabled the bill. Under section 145 of the Penal Code Act 7 homosexuality is punishable with the maximum penalty of life imprisonment (Hollander 2009: 220). The bill, however, suggests even more severe punishments including death penalty for what is called “aggravated
homosexuality” (Bahati 2009: Clause 3). Later, the death penalty was dropped and amended to life sentence (BBC 2012).

The bill proposes conviction to imprisonment for life for anyone who commits “the offence of homosexuality” which also includes touching another person with the “intention of committing the act of homosexuality” (Bahati 2009: Clause 2). Acts such as sex with a minor or the offender being HIV positive or “a serial offender” are defined as “aggravated homosexuality” and death penalty was the initial punishment proposition for these acts (ibid.: Clause 3). Severe punishments of “attempt to commit homosexuality” are also included (ibid.: Clause 4). The bill also introduces the offence of “promotion of homosexuality” (ibid.: Clause 13), which would make it illegal in any way to defend the acts of homosexuality. Thus, if passed, the bill would make the work of for example the non-governmental sexual minority rights organizations extremely difficult. In addition, the bill demands that anyone aware of any offence presented in the Act must report it to the authorities within twenty-four hours of finding out that information or face fines and/or imprisonment (ibid.: Clause 14).

Clause 18 of the bill seeks to nullify Uganda’s international commitments that are “contradictory to the spirit and provisions enshrined in this Act”, and thus make Ugandan domestic law to have primacy over Uganda’s human rights obligations at the international level (Bahati 2009: Clause 18).

The Anti-Homosexuality Bill expresses as its objectives to “protect the traditional family”, to “deal with emerging internal and external threats to the heterosexual family”, and to “protect the cherished culture of the people of Uganda”. The legislation also “recognizes the fact that same sex attraction is not an innate and immutable characteristic”. (Bahati 2009: Memorandum 1.1.)

The bill was shelved for a long time after its introduction but has come up for discussion every now and then for example when Member of Parliament Rebecca Kadaga reported on 13 November 2012 that the Parliament would pass the law by the end of 2012 as a “Christmas gift” for Ugandans who support it (BBC 2012). At the moment of writing, months after Christmas, still no vote has taken place.
1.2. Acceptance of the bill in Uganda

Although the reactions to the bill in Uganda have been mixed (Mutua 2011: 457), it seems that the majority of the population sees homosexuality as a Western import, which is a threat to Ugandan society and values, and thus is in favour of the suggested new legislation (Vorhölter 2011:10). In the Pew Research Center’s (2007) Global Attitudes Project survey 96% of the surveyed Ugandans agreed with the statement: “Homosexuality should be rejected”.

However, Ugandan human rights organizations quickly expressed their concern over the possible effects of the bill and strived to influence public opinion through media to oppose the bill. Their ultimate goal was to influence the public to agree to reject the bill. (Strand 2011: 918.) Sexual Minorities Uganda (SMUG), a national umbrella organization of Ugandan sexual minority rights groups, was among the first local organizations to condemn the bill (Sexual Minorities Uganda 2009: unnumbered webpage). Soon after the introduction of the bill, the Civil Society Coalition on Human Rights and Constitutional Law, a coalition of more than 50 Ugandan organizations¹, was founded with its aim being to prevent the bill from being enacted. The Coalition released their first statement against the bill in October 2009. (Strand 2011: 920.)

Strand’s (2011) research indicates that the human rights advocates were not very successful in influencing the public opinion about the draft legislation through media, as the media coverage of the bill was almost entirely supportive of the bill. The research reveals the many hurdles for discussing sexual minority rights in Uganda, such as the “state sanctioned and media sponsored homophobia”, as well as the overwhelmingly homophobic public. (Strand 2011: 926.) These factors, Strand concludes, were the main hindrances for the human rights organizations to get their voice heard in the media (ibid.: 927).

¹ Initially the group consisted of less than 30 organizations but has grown to include 51 members by 2013. (Civil Society Coalition of Human Rights and Constitutional Law 2013).
1.3. Western reactions to the Anti-Homosexuality Bill

At the international level, the bill has been strongly condemned (see e.g. Mutua 2011: 457). Soon after its release, several international human rights organizations and political leaders expressed their criticism over the bill. These include the Prime Ministers of the UK, Gordon Brown, and Canada, Stephen Harper (Daily Monitor 2009, Strand 2011: 921), US President Barack Obama, and Secretary of State, Hillary Clinton (Reuters 2010), Finnish Minister of International Development, Heidi Hautala (Hautala 2010), Swedish Minister for Development Cooperation, Gunilla Carlsson (Sveriges Radio 2009), and the French foreign ministry (The Age 2009). Also, the European Parliament released a resolution condemning the bill (European Parliament 2009). Human rights organizations Amnesty International, Human Rights Watch and International Gay and Lesbian Human Rights Commission also expressed their deep concern over the proposed legislation (Amnesty International 2010; Human Rights Watch 2009; IGLHRC 2009). These people and organizations consider the Anti-Homosexuality Bill as a violation to human rights and have appealed to the Ugandan government to repeal it. Many international donors threatened to cut aid if the bill was passed. (Sadgrove et al. 2012: 104). Although Ugandan president Yoweri Museveni has spoken very bluntly against homosexuality, he was criticised by some domestic actors for giving in to Western donors in this matter as some see Uganda’s integrity as more important than donor money (ibid.: 115).

1.4. Research question

The purpose of this study is to scrutinize the responses of Western politicians, government representatives and non-governmental organizations to the Ugandan Anti-Homosexuality Bill and evaluate what are the possible outcomes of the international attention in Uganda. The main research question is:

Why has the Ugandan Anti-Homosexuality Bill been so strongly condemned by Western actors?

Other research questions are:

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2 All of the mentioned actors are also part of the research data.
What concepts and arguments are used in the non-Ugandan comments and criticism?

Are certain notions of what are specifically Ugandan and Western ideas constructed, how? Are these conflicting, how?

What are the possible long-term effects of the Western pressure in Uganda?

The actors studied include individual politicians, government representatives and human rights or sexual minority rights non-governmental organizations. The countries of their origin are Canada, Denmark, Finland, France, Sweden, United Kingdom, and United States of America. In addition, European Union, United Nations, and transnational non-governmental organizations are included. The aim of this study is to find out possible regularities in the reactions, analyse the underlying attitudes and political ideas behind them and the (supposedly) contradicting values of the Anti-Homosexuality Bill and the Western concepts represented by the reactions studied. The final objective is to analyse whether these commentaries and pleas are an effective means of influencing Ugandan politics, the Parliament’s decision on the Anti-Homosexuality Bill and the rights of sexual minorities in Uganda on a more general level or if they remain purely rhetorical device without any real influence on the issue they are trying to effect.

In the analysis about the possible effects, I will use a theory of human rights socialization by Risse and Sikkink (1999) as a theoretical framework.

My initial intention was to interview Ugandan LGBT and human rights activists, human rights, law or social science professionals, and other actors who hold some sort of expertise or good understanding of the situation of sexual minorities in Uganda and the international and domestic discussion around it. I wanted to ask their views on the international actors’ arguments and actions and the actual and possible outcomes of the international attention in Uganda. This would have given me another set of data to compare with the data collected from online sources. However, despite contacting several Ugandan actors regarding the subject, I did not receive responses and therefore was not able to collect this data. I did, however, make one interview with a Ugandan activist, who currently lives in Sweden. Some of his views are presented in the data analysis section.
2. Background

Historically very little has been written about African sexualities. However, during the past two decades the situations has changed and an increasing amount of research on the subject has been conducted. Significant reason why African sexuality was brought into the history agenda in 1980s was the HIV/AIDS epidemic, which however did not challenge the stereotypes of African sexuality. (Epprecht 2009b: 1258; Epprecht 2010a: 773.)

Some extensive volumes have been compiled about the history of African sexualities including volumes with the same-sex sexuality aspects in African societies as the focus point. (Tamale 2011a; Murray and Roscoe 1998 maybe being some of the most comprehensive ones). Recently a wide range of academic articles has also been published about Uganda’s situation and the history and present of homosexuality in other parts of Africa. (e.g. Epprecht 2009b; Gunkel 2010b; Sadgrove et al. 2012). The literature maintains the importance to note the impact of colonialism and Western ideas (including religion) to the perception of African sexualities and to the ideas that many Africans have about homosexuality for example. Even though Western countries nowadays often want to identify as promoters of gay rights in other parts of the world (as many reactions to the Anti-Homosexuality Bill show), historically the impact of the West has been quite the contrary.

2.1. What do we know about African (homo)sexualities?

The idea of a common African sexual culture distinct from the rest of the world has been prevailing in the writings about African sexuality. And the common view has been that African sexuality is a problem that needed to be fixed by “propaganda, legislation, and perhaps a global rescue mission”. (Epprecht 2010a: 768.) Epprecht argues that this stereotype has been damaging for the Africans themselves (ibid.: 769).

Much of the present-day “facts” about African sexuality are coming from very untrustworthy sources by authors, who have often built their images of African sexuality based on political, social or artistic reasons. This information thus should not be relied on for example in the planning of public health policy or justifying
repressive legislation. (Epprecht 2010a: 775.) This, however, sometimes happens today, as the Anti-Homosexuality Bill demonstrates.

Marc Epprecht has studied the history of African sexualities and points out that there has been a lack of serious research on the topic of African homosexuality until the 1970s and this has enabled many misbelieves toward it to arise (Epprecht 2009b: 1265). Tamale (2011d) notes that colonial explorers and missionaries compiled the first written records of African sexualities and these records construct an ethnocentric, racist and flawed presentation of African sexualities (Tamale 2011d: 14-16). Murray and Roscoe (1998) date the origins of the European misbeliefs back to the end of 18th century and Edward Gibbon’s writings (Murray and Roscoe 2008: xii). Gibbon ([1781] 1925) wrote about homosexuality: “I believe, and hope, that the negroes, in their own country, were exempt from this moral pestilence” (Gibbon [1781] 1925 ref. Murray and Roscoe 1998: xii) and according to Murray and Roscoe “belief and hope have been confounded in reports of African homosexuality ever since” (Murray and Roscoe 1998: xii).

In the early writings Africans were defined on the basis of their difference from the Westerners and were regarded as inferior compared to the white man (Eriksson Baaż 2001: 8). Such hierarchies make part of the idea of Africa as the “dark continent”, and its people as “other” compared to the white man (Arnfred 2005: 8). Colonialism thus “constituted race as a sexualized category and sexuality as a racialized category” (Gunkel 2010a: 11). The colonialists believed that Africans were less than human and uncivilized and that their sexuality was equated with animal primitivity, and therefore they could only be heterosexual as their sexual energy was only meant for biological reproduction (Lewis 2011: 207; Tamale 2011b: 609). Many early anthropologists did not seriously investigate same-sex patterns and tended to dismiss the presence of homosexuality, even when they observed it. When acknowledged, its cultural significance was minimized. (Murray and Roscoe 1998: xiii.) The ignoring of homosexual practice by anthropologists actually reflects the homophobic norms of Western European society (Gunkel 2010a: 50). The colonial ethnographical research tradition, thus, did not accurately describe what African sexuality really was, but rather expressed an opinion of
what it should be like (Epprecht 2008a: 35). The colonial view was nevertheless considered as “scientific truth” (Gunkel 2010a: 35).

African history of sexualities, other than those affected by the forces of colonialism, are difficult to access for most contemporary writers (Bennett 2011: 80). Due to the scarcity of reliable written sources, little is known about pre-colonial attitudes toward homosexuality (Dlamini 2006: 129). There is also a tendency in research and other information about the subject to homogenize African sexualities, not taking into account the diversity of sexualities in African contexts (Nyanzi 2011: 479). To conclude, “ideological interests were at work in the making of African history, as is true of all history” (Oyewúmí 2005d: 169). Hamilton (1986) argues that sexuality itself is only a historical construct, and its meanings cannot be understood without understanding the social and historical context (Hamilton 1986: 7). Weeks (1986) goes as far as to claim sexuality to be a “fictional unity” and “an invention of the human mind” (Weeks 1986: 15). The history of sexuality and the way it is told, thus tells as much about the present preoccupations and concerns as about the past (ibid.: 21).

2.1.1. Historical review of African same-sex sexualities

Although there remain many gaps in the history of African same-sex sexualities, recent research shows that there have been many forms of same-sex relationships in Africa in different contexts long before colonialism. It is widely documented in scholarly books, articles, archival documents, art literature and oral history throughout the continent (Epprecht 2008a: 7, 10). In Murray and Roscoe (1998) evidence of diverse same-sex behaviour in about fifty African societies within every region of the continent is presented.

Ward (2002) points out that homosexual relationships have always played a part in African societies but rather as a defined period in a person’s life than as an identity (Ward 2002: 87, 92). These relationships have been accepted as long as reproduction obligations have not been neglected (ibid., 93). In other words, individuals have not been required to suppress their same-sex desires if he or she also takes care of parental duties (Murray and Roscoe 1998: 273). This should be understood in the light of the fact that children were a crucial economic and
political asset in pre-colonial African societies (Epprecht 1998: 202). Many of the recorded same-sex relationships in the early colonial era have been temporary arrangements in specific situations where heterosexual encounters have not been possible, such as mining compounds, prisons or mission schools (Epprecht 1998: 197; Epprecht 2009b: 1266). In some occasions shameful sexual acts could take place as long as they remained a secret (Epprecht 2008b: 31). Epprecht also views the frequent appearance of homosexual “crimes” in the first years of operation of the colonial courts as one piece of evidence of the existence of pre-colonial African same-sex patterns. He concludes that the first colonialists were shocked by the practices they witnessed among the locals in many different urban contexts, not just mines or jails (Epprecht 1998: 203).

However, Africans’ homosexual relationships cannot be explained simply in functionalist or situational terms. Epprecht (1998) notes that homosexual practices were varied, and also reciprocal, loving, long-term relationships existed among African men and they seem to have been well tolerated in the society (Epprecht 1998: 208, 210, 220-221). There is also evidence of the existence of sexual identities in traditional African societies, for example in cases where individuals absorb “non-masculine” or “non-feminine” labels as lifelong identities to define and understand themselves (Murray and Roscoe 1998: 271-272).

Although female same-sex patterns are generally not well-documented (Murray and Roscoe 1998: xx) woman-woman marriages are found in dozens of different African societies throughout the continent. (Carrier and Murray 1998: 255). Ngaruiya and O’Brien (2005) remind that these marriages are heterogeneous and flexible and different meanings can be found in these relationships (Ngaruiya and O’Brien 2005: 157). To only emphasize the socio-economic factors, which are a common stereotype about African marriages, means to ignore the emotional ties these women experience (ibid.: 149). Ngaruiya and O’Brien also challenge the term “female husband” because it implies a “male” characterization on a situation where it does not necessarily exist (ibid.: 146, 158). They have studied the Gikuyu women in Kenya, and argue that for these women to marry other women also means to disrupt the male domination operating in their society (ibid.: 162). Only quite recent changes in the twentieth century have impacted the practices of woman-
woman marriages. Christianity for example has deemed the marriages immoral and consequently shaped public opinion. (ibid.: 161.)

Another example of female same-sex unions are the mummy-baby relationships between young girls often in boarding schools of South Africa and Lesotho. Gunkel (2010a) argues that although most of these relationships were very intimate, they were not necessarily considered sexual, and were definitely not linked to sexual identity such as lesbian (Gunkel 2010a: 119-122). This is an indication of the socially learned nature of sexual meaning; certain behaviour may be considered sexual in one context and not so in another (Caplan 1987: 2). Judith Gay studied mummy-baby relations in Lesotho in 1977 and found out that affection and sensual satisfaction was the most important aspect of the relationships. However, views on lovemaking divided the participants in these relationships, some strongly disapproving it, and others admitting its occurrence and seeing nothing wrong with it. (Gay 1986: 347.) In addition to the affective meaning of mummy-baby relationships, they served as a training opportunity for heterosexual relationships, and they never actually replaced them (ibid.: 351). The coexistence of the intimate female relations with heterosexual ones challenges the polarization of homosexual and heterosexual typical in Western cultures (ibid.: 342, 351).

2.1.2. The impact of colonialism on (beliefs about) African sexualities

On a general level, African identity and the meaning of “Africa” cannot be understood without taking into account the history of Western colonialism (Eriksson Baaz 2001: 6). Therefore it should be noted that the impact of colonialism on African sexualities too has been deep. The colonial research, theory and engagement in sexualities in Africa have left significant imprints on people’s sexual lives. Sexuality is currently understood as socially constructed in engagement with the biological, and therefore cultural, political, and economic forces have an important influence on it. (Tamale 2011c: 2.) Thus, sexuality is also a question of power (ibid.: 3). In the colonial era African sexualities were strictly controlled by the colonizers (Nyanzi 2011: 489). This control of sexuality was a symbol of the total subordination of Africa (ibid.: 477). The colonial courts passed fairly heavy sentences on the homosexual “crime” which reflects the “defence of patriarchal, heterosexual masculinity by the homophobic representatives of the

Also the idea of gender is socially constructed and in its origin bound to Western culture and thus it is also a historical and cultural phenomenon (Oyèwùmí 2005a: xiii; Oyèwùmí 2005b: 9, 11). For example in pre-colonial Yoruba society, the social categories “men” and “women” did not exist (Oyèwùmí 2005c: 99). Oyèwùmí, thus sees the global gender formation as an “imperialistic process enabled by Western material and intellectual dominance” (ibid.: 115). Colonial rule affected African men and women in many ways and caused tensions in gender relations. The response by the colonial rule to this tension was to tighten restrictive customary law, which led to changes in family structure and created new forms of patriarchal power. (Zeleza 2005: 223.) The repression of African women’s sexuality was particularly strong (Tamale 2005: 10). Ironically, the gender identities that were introduced and promoted by the missionaries and other colonialists in the first half of the twentieth century are often referred to as “traditional” in postcolonial discourse (Arnfred 2005: 14).

Therefore the impact of colonialism, including Christianity, cannot be underestimated (Bennett 2006: 72). Colonialism imported for example the “appropriate conduct of heterosexuality”, the formation of the family and the idea of the perversion of homosexual behaviour to Africa (ibid.: 72; Bennett 2011: 81). Colonial representations of sexuality became deeply embedded into the lives of the Africans and are the reason for many present-day taboos, attitudes and laws around sexuality in Africa (Bennett 2006: 72; Lewis 2011: 208). Colonial stereotypes about African sexuality still persist in many ways e.g. in media and imagining of identity (Lewis 2011: 210). And colonial history still shapes contemporary African identities because it is one of the histories, against which people position themselves (Eriksson Baaz 2001: 6).

In the colonial and Cold War eras African scholars from the middle of the 20th century onwards also promoted the view that there is no homosexuality in Africa.
This may have been due to the fact that in these contexts homophobia was “almost a civic duty” and the scholars feared that producing evidence on the topic might be taken “as a reproof of African dignity” by the patronizing whites. (Epprecht 2008a: 131.)

2.1.3. The political aspects of the discourse

In the Western world, the state’s interest in regulating sexuality has been particularly strong in the nineteenth and twentieth centuries and there have been strong political and intellectual struggles around sexuality (Vance 2005: 19). Vance argues that sexuality indeed is an “actively contested political and symbolic terrain” where different groups bring their ideologies and try to shape the sexual arrangement (ibid.: 19).

The discussion around (homo)sexualities in Africa reflects many of these points and shows the highly social and political aspects of sex acts (Ratele 2011: 409). The struggle around sexuality indeed is very much political (ibid., 416; Oinas and Arnfred 2009: 150). Sexuality is constantly reshaped by cultural, economic and political factors (Machera 2005: 167). Ratele argues that it is absurd to claim that certain types of sexualities are un-African. This would mean that Africans were fundamentally aberrant having an otherworldly identity compared to the rest of the world. (Ratele 2011: 407, 412.) Ratele further claims that sexual behaviour is as much social and political, as it is physiological and psychological (ibid.: 409).

Also, the studies around sexuality are often donor-driven and thus motivated by ideological, political and social agendas (Tamale 2011d: 14). Thus the struggle for sexual minority rights in Africa is very much intertwined with the wider political, social and economic struggles on the continent or globally (Nell and Shapiro 2013: 75). The political and social importance of sexuality has increased as a result of the society becoming more concerned with the lives – including sex lives – of its members in its endeavours to create moral uniformity, security, health and economic well-being (Weeks 1986: 35).

Tamale (2011d) sees a link between state-inspired homophobia and Africa’s dictatorial regimes. By promoting homophobia attention is diverted from more severe issues that ensure the suffering of the population. (Tamale 2011d: 27.)
African political and religious leaders thus often seem to promote homophobia for political reasons. Kaoma (2009), for example claims that the Ugandan president Yoweri Museveni has used homosexuality to distract people from the real issues facing the country when he suggests that it is homosexuals who cause moral decay in Uganda linking it with child molestation, corruption, opposition parties and other social ills, while at the same time keeping silent about human rights violations in the country (Kaoma 2009: 14-15). The judgement of homosexuals is also an easy trick for the political elites to strengthen their anti-imperialist efforts and win votes (Epprecht 2010b: 14). Thus, it can be quite easily concluded that the “struggle around sexuality is a political struggle” (Ratele 2011: 416).

2.2. Regulation of sexuality in the West

Perhaps the most famous theory about the politics and regulation of sexuality in modern societies is the one by Michel Foucault in History of Sexuality (Foucault 1976/1984). In the first part of the book The Will to Knowledge, Foucault argues that during the last three centuries the discourse and attention given to human sexuality has exploded in Western societies after a period of censorship. It has been the duty of Western people to tell everything about their sexuality, albeit in strictly defined contexts and terms. (ibid.: 19, 23.) Sexuality in this way becomes a matter of policing, and the aim is to guide sexuality by valuable and public discourses. These discourses dictate the way people should define and experience their sexuality and standing in the society. However, sexuality in modern societies is not repressed but vice versa it is being highlighted and sought in almost every corner of society (ibid.: 24, 32.) Sexual behavior, its objectives and effects are carefully analyzed. People are expected to control their own sexuality. Sexuality is thus exposed and forced into its discursive existence. (ibid.: 25, 30.) The meaning of the system, which was built around sexuality, was to produce the truth (ibid.: 45).

Foucault also highlights how sexuality is always in relation to power and linked to power-knowledge systems. The relationship between power and sexuality is always negative as power strives to abandon, prohibit and restrain sexuality. Power dictates its own law and order to sexuality, defining what is appropriate
and what is not, what is allowed and what is prohibited. However, power cannot actually "do" anything about sexuality other than to say "no". (Foucault 1976/1984: 63.) Thus, Foucault questions to some extent the repressive hypothesis that claims that people’s bodies, pleasures, desires and sexual activity are being controlled and repressed by power systems because in modern societies sexuality is constantly being highlighted, and by no means repressed. (ibid.: 105.)

At the end of the nineteenth century legal and medical control of “perversions” was developed in the name of the protection the society and the race. However, the repressive mechanisms were always most strict among the economically privileged and politically powerful and thus the populace long avoided the sexual control mechanisms. (Foucault 1976/1984: 89.) In the twentieth century repressive mechanisms loosened and for example the judgement of “perverts” diminished (ibid.: 84).

Why does sexuality get so much attention and why is the public sphere so keen on controlling it? According to Foucault, the political meaning of sexuality is connected to body discipline and population control. Sexuality is an entry point to the body and the species. It has been used as a touchstone for body control and basis for regulatory measures. It is also a political theme in economic interventions as orders to reproduce or restrict reproduction. Sexuality is also used in efforts to develop people’s morals and sense of responsibility. (Foucault 1976/1984: 104.) The continuation of the human race has been seen as the most important task of sexual contact. Sexual activity in itself is seen since the fourth century before the Common Era as dangerous and harmful, which is why it needs to be restricted only to the most necessary, i.e. reproduction in marriage. (ibid.: 276, 365.)

Although Foucault’s theory is concerned with the modern Western societies, it can be applied to analysing the situations in other contexts too. Many of the arguments hold true also in Uganda for example, where we can see how power is used to control and prohibit certain kind of sexuality. Through the discussions about laws concerning sexual behaviour, sexuality is also brought into the public discussion and this way highlighted. And these discussions define the way people should express their sexuality and their standing in the society.
In the current debate about sexual rights between the Western and African countries, the history of social control of sexuality in the West is easily disregarded. The control of and discrimination against “deviant” behaviour has been strong and it is false to presume that homosexual relations are entirely accepted in Western societies. Homophobia has been widespread and strong in the Western societies until quite recently and it still remains strong in many areas of the West as well. There continues to be a constant battle for and against it. (Epprecht 2008b: 217; Dunton and Palmgren 1996: 34.) In the Common Era the West has actually been unique in its resistance to homosexuality (Weeks 1989: 99.) In the 1950s Britain and USA, which are now one of the most active gay rights promoters in the international arenas, were both very hostile against homosexuals and during the Cold War homosexuals became the scapegoats for many troubles in these countries (ibid.: 240). Only in 1967, homosexuality was decriminalized in Britain, but even then some aspects remained illegal and prejudices continued to prevail (ibid.: 267, 274). As homosexuals became more visible in the society, homophobic attitudes also grew and during the 1980s and the AIDS epidemic, negative attention to homosexuals increased even more (ibid.: 286, 296). Many similarities to the situation in present day Uganda are noticeable.

2.3. Homophobia in Africa

Mutua (2011) argues that “homophobia is deeply embedded in the social fabric of Africa” (Mutua 2011: 452) and Machera (2005) notes that “the belief that heterosexuality is the only natural form of sexual expression is rooted in a cultural framework [of Africa]” (Machera 2005: 163). This certainly seems to be the case at least judging by the hate speech by many African political and religious leaders. Negative attitudes against homosexuals and open homophobia have been expressed for example by the presidents of Namibia, Zambia, Zimbabwe, Nigeria, Kenya and Uganda. Throughout the continent sexual minorities are most often denied cultural recognition and experience harassment, discrimination and violence. (Cock 2005: 200; Gunkel 2010a: 25.) President Mugabe of Zimbabwe has for example called homosexuality “an abomination, a rottenness of culture” (IOL News 2000). Epprecht (2001) argues that homophobia seems to spread faster than any “actual, public homosexual profile” because for example Uganda and Kenya
publicly denounced gays in 1999 before neither of the countries had any organized gay rights movements (Epprecht 2001: 1097-1098).

Tamale (2003) sees homosexuality as one of the “last bastions of legally-backed and state sanctioned oppression and intolerance on the African continent” (Tamale 2003: unnumbered). Politicized homophobia already played a role in the nationalist project of African states including in the politics of Idi Amin of Uganda. In this context homosexuality was seen as a threat to the survival of the African family and to the dignity of Africans facing colonial racism. (Epprecht 2013: 126-127.)

2.3.1. The causes of homophobia

Gunkel (2010a) points out that homophobia needs to be viewed in its cultural and historical context (Gunkel 2010a: 5). Epprecht (2009b) argues that while subcultures of homosexual behaviour are home-grown, homophobia is actually imported by colonialism and Christianity (Epprecht 2009b: 1269-70). Ward (2002: 87) also remarks that the homophobic speech by many African leaders is more a reflection of Western homophobia than of African tradition. Lewis (2011) agrees by pointing out that certain research indicates pre-colonial African societies having been much more tolerable to homosexual behaviour than the homophobic speech defending African tradition by some present day figures suggests (Lewis 2011: 209). Rudwick (2011) also sees homophobia as un-African and as an “expression of colonial oppression” brought by missionaries and other colonialists (Rudwick 2011: 95). So, it was actually Europeans who taught the homophobic ideologies, language, suspicions and abuse to Africans (Epprecht 2008b: 154). This colonial homophobia was also closely linked to white supremacy (Epprecht 2013: 126). It is also good to remember that the existing “sodomy laws” in Uganda (and elsewhere in Africa) that criminalize homosexuality are the inheritance of European colonial rule (Tamale 2009: unnumbered).

It is a common tendency to have fear for the unknown and the unawareness of the origins of homosexuality may cause some to associate it with evil forces (Dlamini 2006: 133). When African societies started to believe that homosexuality is alien and not historically part of their culture, it started to become stigmatized and
evidently a taboo. This taboo, however, is based on European, not African values and morality (Murray and Roscoe 1998: xvi.) Much of the expressions of homophobia may also be misplaced anger at economic marginalization among young men (Epprecht 2008a: 12).

Homosexuality is commonly also referred to as being “unnatural” (see e.g. Gunkel 2010a: 25), which Anele (2006) sees as actually meaning that either one’s religion condemns it, one finds it distasteful or one is not used to see people act that way. Societies work in a way that when particular behavioural patterns emerge often and long enough, over time they come to be seen as natural (Anele 2006: unnumbered). Englund (2012) argues that many Africans may not be as homophobic as is supposed, but they may rather be confused and embarrassed that a matter that is considered private in their culture is brought public (Englund 2012: unnumbered).

2.3.2."Homosexuality is un-African"

The most common argument from the opponents of gay rights is that homosexuality is not African, it does not belong to African tradition and it destroys African family and values. Joanna Sadgrove et al. (2012) have made a study of Ugandan newspaper New Vision’s\(^3\) view about homosexuality and discovered how the newspaper has described homosexuality as a threat to public morality and national sovereignty (Sadgrove et al. 2012: 103). Charles Muhami, the managing editor of Rolling Stone newspaper, which is famous for “outing” Ugandan gay people, argues that “homosexuality is very dangerous” and the newspaper is “serving the interest of the public” by exposing homosexual persons (BBC 2011). The stereotypes of promiscuity and decadence that are often associated with the “gay lifestyle” are considered an offence to the traditional African values (Epprecht 2010b: 12).

Homosexuality is also presented as being connected to Western imperialism that erodes African tradition and is a sign of westernization (Sadgrove et al. 2012: 107; Gunkel 2010a: 26). African leaders most often refer to the un-African-ness of

\(^3\)New Vision is a state-owned daily newspaper that is seen as representing the government’s views (Sadgrove et al. 2012: 111).
homosexuality when fighting against it (e.g. Cock 2005: 200). Uganda’s top political leaders, including the president, members of Parliament and the clergy criticize homosexuality because they consider it a Western import (Nagadya and Morgan 2005: 65). This view seems to be common among the younger generation populace as well. Ugandan high school students interviewed by Scott Mills for example state that: “We don’t support gayness in Africa...we want to promote the African culture” and “they [Ugandan homosexuals] get the idea to be gay from the Western culture...they copy it”. The students admit that they get their views from pastors, ministers, teachers and parents who teach them that homosexuality is wrong. (BBC 2011.) In a radio programme discussion about homosexuality, a participant claims that ”homosexuality in Africa is like an alien would come”, while the others agree. The only participant with opposing views, Frank Mugisha, director of SMUG, is accused of “breaking what Africa is”. (BBC 2011; see also Machera 2005: 163.)

Many Africans view homosexuality as a “postcolonial plot” and the promotion of LGBTI rights as a Western agenda, and thus their homophobia is rather an expression of resistance to the West than a statement about human sexuality (Kaoma 2009: 4, 8). Hence, according to Kaoma, the claim that homosexuality is un-African is an indication of the politics of postcolonial African identity that rejects anything “Western” (ibid.: 8). African leaders’ homophobic outcries can also be viewed as responses to the racist images of African sexualities in the West. Thus the claim that homosexuality is not African has to be understood in the light of the dominant Western images of African sexuality, with their roots in colonialism. (Gunkel 2010a: 43.) The first people to state that homosexuality is not African were indeed the Europeans in the colonial era (Epprecht 2008b: 12). By defending “African tradition”, the African leaders and other actors in the debate are actually reproducing a view of sexuality, which is relatively recent and “definitely European”. This view sees sexuality as “an innate or acquired set of private desires that is critical in the constitution of sexuality”. (Hoad 2007: 16.)

Attacks on sexual minorities by referring to traditional African values are often also attacks on for example feminism, and religious and civil freedoms in general (Epprecht 2013: 6). Furthermore denial, repression and heterosexist definitions of “traditional values” often fuel rather than eliminate the problems (ibid.: 51).
Eriksson Baaz (2001) also notes that it is problematic to refer to some “real” African culture because in the contact with the West, there has always been cultural and social hybridisation (Eriksson Baaz 2001: 14). Moreover traditions and cultures are in a constant flux, shaped as people move around and as political and material conditions of a society change (Epprecht 2013: 66). Thus there are no lucid borders between what is “African” and what is “Western”. Furthermore, the claims that homosexuality is not African have real social consequences for those Africans who engage in homosexual behaviour or who struggle with gay identities because they stigmatize and marginalize them (Murray and Roscoe 1998: xxii).

2.3.3. “Homosexuality is not Christian/Muslim”

Religion plays an important role in the debate about sexual minority rights in Uganda as elsewhere in Africa. It is often argued by many active gay rights opponents as well as ordinary Ugandans that Christianity and the Bible does not approve of homosexual behaviour. It has also been a widely accepted view among many Christian leaders that homosexuality is not compatible with Christianity and the issue is simply non-negotiable. Homosexuality is seen as unnatural and pervert and is often called sodomy (Ward 2002: 81–82.) Mainstream Islam also forbids homosexuality (Izugbara 2011: 551). Mutua (2011) argues that religious interpretations of Christianity, Islam and Judaism are the first and most enduring reason for the hatred of homosexuals (Mutua 2011: 459). Religion seems to be of great importance to most Ugandans (Gatsiounis 2010) of whom 84 per cent are Christian and 12 per cent Muslim (CIA 2013). Claims to protect religious belief are a common feature in recent moves to condemn “defamation of religion”, and in attacks on LGBT, which is considered “offensive to public morality” (ICHRP 2009: 38).

In the 1998 Lambeth Conference, which is a recurring world conference of Anglican bishops, a resolution was passed that homosexuality is not compatible with Scripture (Hoad 2007: 51). The African bishops had a great influence on this resolution (ibid.: 53). After the conference some African bishops have hardened

4 In the BBC documentary “The World’s Worst Place to Be Gay?”, David Bahati states in an interview that “[homosexuality] is a sin as stated in the Bible and in the Koran”. Also a high school student comments that “you shouldn't go against what the Bible says” referring to homosexuality being forbidden in it. (BBC 2011.)
their opinions. One Ugandan church for example broke ties with one of its American partner churches because they had a homosexual bishop. (ibid.: 55.)

One should point out the irony that exists in many of these arguments. It definitely seems contradictory to abandon homosexuality on the basis that it is not African while at the same time embrace the two religions Christianity or Islam, both of which were also originally import goods (see e.g. Mutua 2011: 452). It is also apparent that contemporary American Evangelical Christians have had an important role in the anti-gay agenda in Uganda (as elsewhere in Africa).5

It is common to see Ugandan religious leaders to preach against homosexuality, and often in a hostile manner. Pastor Martin Ssempa, who apparently has close connections to American religious right as well as some government ministers of Uganda (Sadgrove et al. 2012: 112–113), is one example of a vigorous anti-gay preacher (see e.g. YouTube 2011). There are, however, opponent views within the church as well. Some conservative religious leaders in Uganda and other African countries admit that homosexuality has always been present in Africa, but as a private matter (Kaoma 2009: 13). There are individual Christian church ministers who speak for sexual minority rights and some Muslim leaders have also begun to defy the official Islamic homophobia (Izugbara 2011: 552). The role and rhetoric of religious leaders is important because they play such a central role in many African societies. (Human Rights Watch and IGLHRC 2003: 160, Hollander 2009: 264).

Epprecht (2013) claims that both Christianity and Islam (as well as traditional African faiths) have in fact historically been much more tolerant of sexual difference than is generally claimed. Faith – be it Christian or Muslim – is very important to many Ugandan homosexuals today. Therefore it may be empowering for the sexual rights activists to know how the opponents of their rights use the texts of the Bible or the Koran selectively to support their arguments, ignoring the elements that contradict with their views. (Epprecht 2013: 67.)

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5 This issue will be discussed in detail in chapter 2.4.3.
2.3.4. Homosexuality as a threat to gender norms and family values

Another important reason why homosexuality is seen as a threat in Africa is that it is considered to destroy the family because homosexuals cannot biologically reproduce with each other. Reproduction is of key importance in Ugandan (as in many other African) society and it is seen as an obligation especially for men to have children in order to continue patrilineal lines of kinship (Sadgrove et al. 2012:106). Vorhölter (2011) lists how homosexuality on a general level poses a threat to three important aspects of Ugandan society: to family and kinship systems, to integrity of society, and to gender order (Vorhölter 2011:1, 11). Ugandan society has strict cultural rules that determine its members’ gender expression and role and these roles further determine one’s place in the society (Otiso 2006: 81). The purpose of the gender roles is to prepare children into “functional members of society” and antisocial activity is harshly punished (ibid.: 96). Heterosexual marriage also has a fundamentally important meaning in Ugandan societies (ibid.: 82).

“African values” often refer to the widely acknowledged community orientedness in commonly accepted social values, often posed in contrast to individualism associated with “West”, Western modernity and influences brought about by globalization. African values that need to be defended in the face of globalisation are human relations often linked to family such as sharing assets with them, and taking care of the sick and old (Palmgren 2001: 199). However, Hollander (2009) argues that the claim that the laws are needed against homosexuality to “protect the family” is contradictory as the laws go well beyond the family context. And on the other hand there are other restrictions that would be needed to protect the family but that are not in place. (Hollander 2009: 253.) Thus, Hollander considers it likely that rather than protection of traditional families, the real reason for the promotion of anti-homosexuality laws is simply hostility towards homosexuals (ibid.: 254).

Homosexuality is also often seen as a threat to masculinity. Heterosexuality is seen as a fundamental part of masculinity and homosexual men are seen to “betray the dominant ideology of manhood in Africa” (Ratele 2011: 401). Homophobia thus
“creates a sense of what men are not suppose to be” (Gunkel 2010a: 92). Because dominant masculinity is associated with heterosexual sex, women attracted to other women are also considered a threat to the idea of heterosexual masculinity (ibid.: 399-400, 403-404). The world is ruled by a heterosexual masculine culture embedded in national power arrangements. The fact that gay masculinities, however, also exist, sends ruling masculinity into a rage and it uses every means to defend its own dominance. (Ratele 2008: 130, 131-132.)

Similarly, homosexuality is regarded as a threat to patriarchy. Lesbians, viewed as women who cannot be subjected to men’s social power, are a threat to patriarchal power as well as masculinity. (Ratele 2011: 406-407, Tamale 2003: unnumbered.) The power of heterosexual patriarchy needs the majority to support it and homosexuality disturbs this idea in showing that men are not all sexually the same (ibid. 407-408). Patriarchy uses sexuality as a tool to sustain gender hierarchy by hiding it in secrecy and taboos. Another means is to use the law to prohibit those who deviate from the norm. (Tamale 2003: unnumbered.) The Anti-Homosexuality Bill could be seen as an example of this.

Because masculinity, femininity, gender and sexuality are all cultural and social constructions, they also change in different historical and social contexts (Silberschmidt 2005: 241). Thus, referring to them as “tradition” is not a very credible starting point in the sexual rights discourse.

2.3.5. Homosexuality as a conduct versus as an identity

What seems to be the main difference between African and Western concepts of homosexuality is the labelling of certain type of behaviour. In the contemporary international sexual rights discourse the fact that the idea of sexual identity is culturally specific seems often to be forgotten. Queer theory and lesbian and gay studies have for a long time ignored same-sex intimacy and sexuality outside European and North America (Gunkel 2010a: 12). According to constructivist theories similar sexual acts have different social significance and meaning in different cultural and historical contexts. Cultures give different labels for sexual experiences and the social constructions of sexual behaviour impact the emergence of sexual identities and definitions. (Vance 2005: 20.)
According to Gunkel (2010a), Western concepts of homosexuality tend to label most same-sex relationships as “lesbian” or “gay” in a way that marginalizes non-Western forms of same-sex intimacies (Gunkel 2010a: 79). Kendall (1998) notes that “lesbian only appears where and when there is the socially constructed concept ‘lesbian’” (Kendall 1998: 238). And in Africa homosexuality is often seen as behaviour instead of as identity (Rudwick 2011: 91). Few Africans even today identify as homosexual, lesbian, gay, bisexual or any other Western term indicating an innate sexual orientation (Epprecht 2008a: 4). Thus it is good to notice that the identity politics that underpin the notions such as “gay”, “lesbian” and “transgender”, which are promoted by many Western societies, do not necessarily apply in African societies because they differ quite significantly from some of the African same-sex relations (Tamale 2011d: 26-27). By rejecting sexual labels such as “homosexual” or “gay”, African activists are simply communicating that they do not fit within these Western concepts, and thus such labels should not be forced on African same-sex relations (Ajen 1998: 138). The assumptions of universal sexual identities and meanings are ethnocentric, because they arise from a particular context, which is the twentieth century industrial Western society (Vance 2005: 22).

The term homosexuality itself is a concept of a specific historical, social and political context different from the African ones and it still does not accurately fit to describe the majority of Africans who engage in same-sex activity (Epprecht 2008a: 8). Many Africans today may prefer the traditional ways of practising their sexuality instead of the Western gay rights approach (Epprecht 2008b: 37). The whole idea of “sexual orientation” as a characteristic that defines a person, may be very hard to grasp for people from different cultures with different systems of naming sexual practices and different ways of “linking up sexual acts, reproduction, status and identity” (ICHRP 2009: 18).

Sexual minorities themselves are constantly debating and discussing the nature of gay identities and in the public sphere there exists multiple ideas of what it means to be “gay” (Reid 2006: 138). The concept “sexual orientation”, which assumes an identity nature for homosexual conduct, is trying to provide a fixed meaning to a range of desires and practices and doesn’t take into account the elusive nature of
these categories (ibid.: 144). Because many traditional African societies see homosexuality as an act instead of a psychological orientation, it is not viewed as incompatible with heterosexual marriage, or parenthood (Gaudio 1998: 117-118). The idea of homosexuality as a threat to family values, is thus a more recent thought brought on by the identity politics promoted by Western actors.

Many people engaged in same-sex activities might prefer not to label themselves also because in their environment it would be too dangerous (Morgan and Wieringa 2005: 322-323.) Therefore one should be careful when applying these terms in different social, cultural and political contexts. Cock (2005) warns that the notions of gayness and lesbianism as “identities” is politically dangerous and particularly problematic in an African context, and can be expected to provoke strong reactions (Cock 2005: 202). To adopt an identity such as “gay” or “lesbian” is a choice and in a culture where homosexual behaviour is denied, adopting that identity becomes a political choice (Weeks 1987: 47). For politicized sexual identities to emerge, there needs to exist certain social conditions that allow the forming of “collective endeavour” and “community experience” (ibid.: 42). The naming of people as “gay”, “homosexual” or “lesbian” also makes these “non-conforming” people more visible and thus more difficult to marginalize. And while the refusal to use these terms can be about refusing to recognize the existence of non-approved sexual practices, it may also be about opposing the imposition of new cultural values and meanings to a culturally different society. (ICHRP 2009: 16.)

Murray and Roscoe (1998) group homosexual behaviour in three different categories. The eldest and more common patterns in Africa are “status-differentiated” relations based on difference in either age or status of the two people involved, and “gender-defined” relations where the other partner is categorized as different gender. The identity-based sexuality pattern, embraced by contemporary gay and lesbian Westerners seems to be historically most recent and least widespread. (Murray and Roscoe 1998: 6-7.) However, sexual identities should not be seen as uniquely Western, as there is also evidence of subcultures in traditional African societies where individuals adopt a distinctive gender identity as part of a same-sex relation without any Western influence (ibid.: 272).
Practices of gendering and sexual identity are controlled also because they can challenge dominant structures of inequality (Amory 1998: 86). Perhaps, this very challenge to the predominant structures is the reason why, as Kendall (1998) argues, with the spreading of homosexual identity view, comes “its shadow, homophobia” (Kendall 1998: 240). Success in such a contested arena often causes an opposite reaction as well (Hollander 2009: 266). Gunkel (2010a) notes that in South Africa, the spreading of metropolitan gay culture to more remote areas is threatening the existence of traditional mummy-baby relationships, as they now have to come up against homophobia (Gunkel 2010a: 132).

The idea of homosexuality as an identity, however, is nowadays spreading to Uganda (and other non-Western countries) as well. According to Tamale, most homosexuals she has encountered in Uganda have acquired the kuchu (Ugandan equivalent to “gay”) identity and kuchuism has become an important factor of the personal identity of homosexuals in Uganda (Tamale 2003: unnumbered). Especially young urban people seem to adopt some sort of “gay” identity (Gevisser 2010, unnumbered). The emergence of this kind of “gay identities” indicates important changes in local constructions of social identity (Amory 1998: 68). It retains a call for equality expanding the issue from covert practice to public identity (Gevisser 2010, unnumbered) and reflects self-assertion by the gay community (Nell and Shapiro 2013: 23). However, among Ugandans it is a common view that gay lifestyle is a choice, the purpose of which is to obtain material gain (from international human rights groups for example). Consequently, the concept of sexual orientation is being undermined. (Sadgrove et al. 2012: 123-124.) And as for the material gain, in reality many LGBT activists are actually extremely poor as a consequence of discrimination (Kaoma 2009: 14).

According to Sadgrove et al. (2012), this international tendency to adopt a “gay identity” is causing concern in Uganda (Sadgrove et al. 2012: 109). Sadgrove et al. thus suggest that it is important not to force Western concepts to African context but instead to generate local discussion and make it possible to define norms and ideas from local perspective. Although it is important to question the Western gay-straight dichotomy and see things from an African perspective (Gunkel 2010b: 532–533), international involvement may be invaluable and should not be seen as
opposite to local activity (Oinas 2011: 20). Kuchu, although undoubtedly influenced by Western ideals, could be seen as an example of locally defined identity category.

People who adopt the label “homosexual” in non-Western societies, should not be considered as “inauthentic” as they can be seen as adapting the term and its meaning to their own cultural inheritance and surroundings (Human Rights Watch and IGLHRC 2003: 8). Thus, modern African gay identities are much more than an imitation of Western gay life and should be seen as part of the wider historical struggles over sexuality in the colonial and post-colonial eras (Epprecht 2008b: 50). As much as the categorization and labelling in the form of social identities may be controlling and restricting, it may also provide comfort and security by way of giving a sense belonging, creating a collective way of dealing with divergence and establishing a community (Weeks 1986: 78).

2.3.6. The consequences of homophobia

In African context, with often many other economic and social problems, homophobic speech may seem a small concern. However, if no one interferes in it, rights protection will not be based on a sense of shared humanity but will turn into a “popularity contest” based on opinions of whose rights are important. Political intolerance against minorities could be viewed as an assault for the principle of respect and equality of all human beings. (Human Rights Watch and the IGLHRC 2003: 10.) Official homophobia is a threat to fragile African democracies and the repression of gay rights groups can seriously undermine civil society as a whole (Epprecht 2001: 1101).

Historically homophobia has often coincided with xenophobia, the hatred of foreigners, as well as oppression of women who do not fit into traditional feminine roles. This in turn is a hindrance to economic development and political rights of the majority. (Epprecht 2008b: 9-10.) Keeping in mind the political aspects of sexuality, discussion around it is actually a battleground for national interests. But people’s private sexual lives are also shaped by these politics. (Oinas and Arnfred 2009: 151, 152.) Englund (2006) argues that socioeconomic development should
not be regarded as a more urgent matter than the safeguarding of civil and political rights (Englund 2006: 27).

The political leaders’ hate speech against homosexuals is not insignificant as it may harden people’s negative attitudes towards homosexuality (Epprecht 2008b: 4) and has often led to persecution and violence by the police, neighbours, strangers and families (Human Rights Watch and the IGLHRC 2003: 2, 62). The legal penalties imposed by the “sodomy laws” are not the only effect they have, but they also create prejudice and stigma defining sexual minorities as object of contempt and hatred (ibid.: 86). When the state treats homosexuals as criminals, it is encouraging people to do the same (Mambaonline 2011b). Official homophobia also limits people’s capacity to organize, express themselves and access essential services (Human Rights Watch and the IGLHRC 2003: 103). Censorship limits the basic rights to freedom of expression, sharing of experiences and exchanging of information and thus makes it difficult to develop a community (ibid.: 104). Young “queer” people face discrimination is schools making it an unsafe place for them. Lack of access to information and provision of basic health services, make sexual minorities particularly vulnerable to HIV/AIDS and hampers their access to treatment. (ibid.: 107, 109.) Many members of sexual minorities face discrimination in workplaces, or cannot even find a job because of their sexuality (ibid.: 156). Family members may abandon a gay member of the family because of the social stigma connected to it. This puts especially young people to danger and can lead to homelessness and lack of education. (ibid.: 167.) The rejection of a person by both family and society can also create psychological trauma especially for a young person and lead to internalised homophobia and self-hatred (ibid.: 172; Epprecht 2008b: 4, 114). This in turn may lead to higher risk of drug abuse, vulnerability to sexual assault and thus higher risk for contracting HIV (Epprecht 2008b: 213). Some people may also choose to flee their country and become refugees (Nell and Shapiro 2013: 26).

The story of the homosexual men and women interviewed by Scott Lively illustrate many of these points very well. These people live in Kampala and they tell that their families have disowned them and that nobody will employ them. They live in a hideaway place in very modest circumstances with no possessions. One person
tells that a particular gay bar in Kampala is the only place in the city where he feels safe. (BBC 2011.) From these circumstances it is quite difficult to organize and try to be a powerful group claiming for their rights in the society.

Epprecht (2008b) argues that homophobia damages everyone, particularly by contributing to the spread of HIV (Epprecht 2008b: 210). In the HIV/AIDS epidemic, the spread of the virus in Africa was at least initially placed in heterosexual contagion, while in the fight against the disease sexual diversity has been ignored or censored (Epprecht 2010a: 773-774). Semugoma et al. (2012) argue that homosexual men’s increased risk for contracting HIV/AIDS is not the only concern, but that homophobia threatens African people’s health more generally. The denial of the high risk of HIV to the health of homosexual men, leads to a lack of preventive methods and health care to this group, which further increases the spread of HIV in Africa. (Semugoma et al. 2012: 312-313.)

Human Rights Watch and International Gay and Lesbian Human Rights Commission (2003) conclude that state-sponsored homophobia “devastates lives”, “strikes at core values of democratic societies” and “violates international human rights standards” (Human Rights Watch and the IGLHRC 2003: 231). But widely spread homophobic sentiments make it politically risky for leaders to support gay rights (Epprecht 2008b: 212). The ideological clash between state-sponsored homophobia and local minority rights groups, who are challenging the status quo, also creates a potential for violent backlash and extortion by the state officials (Epprecht 2010b: 10).

2.4. Sexuality in Uganda

In most African cultures sexuality is not a topic that can be openly discussed (Prah 2011: 596). Sexuality also remains a controversial subject in Uganda. Kaggwa (2011) states that what is popular is seen as normal and there is almost no room for sexual diversity (Kaggwa 2011: 231.) Many leaders deliver the message that the positive acknowledgement of diverse sexual patterns is immoral and destructive and therefore the issue should be kept silent. That is a major reason why heteronormativity is hard to challenge in Uganda. (ibid.: 233-234.) The government has banned the positive or neutral presentation of homosexuality in
the media under pain of disciplinary action (Nell and Shapiro 2013: 28). President Museveni even stated in 2004 that there are no homosexuals in Uganda (Hoad 2007: xiv). However, the operative anti-sodomy laws are rarely enforced (Hollander 2009: 221).

Nagadya and Morgan (2005) claim that most people in Uganda actually hate homosexuals. This opposition, according to them, is a big reason for the government’s intolerance towards sexual minorities. (Nagadya and Morgan 2005: 65-66.) The hostile environment makes it very difficult for the sexual minority rights organizations to try to promote LGBT rights (ibid.: 66).

Sadgrove et al. (2012) argue that because sexuality is traditionally considered a private matter, gay activists’ tendency to make it public is a concern for many common citizens (Sadgrove et al. 2012: 120). However, if sexuality really is a private matter, why then is there a need to bring the non-heterosexual conducts under the public eye and judgement? Machera argues that sexuality is not a private matter exactly because social institutions, such as family, the church, or neighbours strongly control it (Machera 2005: 168). Heterosexuality is thus maintained in many African societies by social control and sanctions (ibid.: 163).

2.4.1. Historical perspectives

Tamale (2011b) emphasizes the importance of approaching African sexualities from a historical perspective. This approach reveals the significance of colonialism, religion, capitalism, and culture in shaping sexuality on the continent. It also shows the dynamism of sexuality and helps to place contemporary sexual controversies in their proper contexts. (Tamale 2011b: 608-609.) The rules that apply to sexuality, for example distinguishing conforming and non-conforming sexual behaviour always depend on the historical period and place (ICHRP 2009: 17).

The taboo of sexuality has not always been prevailing in Africa. In many traditional African societies, customs related to sex and sexuality existed that showed that sexual issues could be discussed openly (Prah 2011: 590). One example is the rituals around sexual initiation among the Baganda of Uganda, the Senga institution. The purpose of Senga is to teach young girls about sexual matters. (Tamale 2005: 9.) The use of metaphors and symbols is a central part of the
Ssenga, which is an indication of how African sexuality often is communicated through metaphors and symbols. They make it acceptable to talk about sexuality, shifting it from the “private” to the “public” sphere. (ibid.: 12, 20.)

According to Southwold (1973), the Baganda acknowledged homosexuality but considered it a “disgusting vice” learned from the Arabs and regarded it as foolish (Southwold 1973: 170). However, during the reign of Kabaka (king) Mutesa from 1857 onwards homosexuality seemed to have been rife in the Court (Faupel 1965: 9). Mutesa’s son and successor Mwanga was even more famous for his homosexual practice (ibid.: 68). He evidently persecuted the Christian pages in 1886 because they did not approve of his homosexual tendencies and advances (ibid.: 82). In the eyes of the missionaries Mwanga was considered degenerated and his relations with the pages was one push for the British colonial intervention in his kingdom and eventually subordination under colonial rule (Hoad 2007: 2, 9; Epprecht 2013: 116).

2.4.2. Current trends, attitudes and politics and the impact of globalization

The struggle for sexual rights is a relatively recent phenomenon in most of Africa (Epprecht 2008b: 3). And because the African LGBT groups are quite young, they are easily considered heavily foreign-influenced (ibid.: 182). Better knowledge of African sexual history, might actually strengthen the arguments and the activism aiming to secure more space for non-heterosexual people and ideas in Africa (ibid.: 7).

Since the beginning of 2000s, the gay movement in Uganda has become more and more noticeable (Mujuzi 2009: 282) and in present day Uganda a modern urban gay culture is beginning to appear especially in the capital Kampala (Ward 2002: 96). Especially in the African context it can be argued that identifying as gay is highly dependent on the modern media and its ways of making people able to communicate across space and time. By linking people with each other, the media allows for people to identify as being part of a group that they may not have physical contact with and, according to Donham (2005), as media density increases so does the number of people who identify as gay. (Donham 2005: 273.) Maybe this phenomenon could at least partly explain the fear of gay propaganda
and the accusations that gay people recruit children and other people, which are quite common in Uganda as well as rest of Africa (see e.g. Mambaonline 2011a).

Nonetheless, the homosexual activity in Uganda is often regarded as deviant behaviour and anti-social activity (Ward 2002: 99). Ward argues that although Ugandan and other African societies have not historically been homophobic, when homosexuality becomes more visible, expressions of disapproval also increase (ibid.: 106). Epprecht (2009b) points out, that homosexuals as a “new and unfamiliar” group in urban settings easily become scapegoats for many ills (Epprecht 2009b: 1260). In 2012, the government of Uganda banned 38 Ugandan NGOs accusing them of “promoting homosexuality and recruiting children” (Nell and Shapiro 2013: 35). The atmosphere in Uganda forces gay people to live underground and the organizations to hide their offices. Gay bars also need to work in secrecy. (ibid.: 45.)

Hollander (2009) recognizes two types of harassment against sexual minorities in Uganda: “human rights violations” and “failure to provide governmental and non-governmental services” to them. The first type arises from lack of understanding and disgust of this group and is reflected in everyday actions. The second type is reflected in discrimination of sexual minority individuals in health services for example. (Hollander 2009: 221-222.) A number of service providers have stated that they have left LGBTI individuals out in fear of government repercussions (ibid.: 222). The government has also fined radio broadcasters for leading discussions about LGBTI rights (ibid.: 223).

A report by three human rights group from 2010 indicates that sexual minorities in Uganda face discrimination and harassment on a daily basis from all directions. They are regularly victims of attacks and rapes and live in constant fear of violence. High rates of suicide attempts are also reported (CEDAW et al. 2010: 4-5, 9.) However, the LGBTI people rarely report the crimes they confront for fear of further persecution by the authorities (ibid.: 9). It is also difficult for LGBTI people to actively participate in a common movement because of threats and hostility from the government and the public. They thus need to keep a low profile and limit their activism. (ibid.: 4.) Anyone speaking positively about LGBTI/kuchu rights
“risks inciting government and public backlash against the whole [LGBTI] community” (ibid.: 17). According to the report, Ugandan government is the “key force attacking the work of LGBTI human rights defenders and NGOs” but also notes that the government will not address the discrimination as long as the majority of Ugandans consider homosexuality unacceptable (ibid.: 8, 17). This is a reminder of the fact that discrimination cannot be ended solely by legislation because there are many other factors that affect the social acceptance of homosexuality (see e.g. Dunton and Palmgren 1996: 59). Decriminalization is thus only a small step in a large movement. Hollander (2009) argues that Uganda is a “very conservative nation” and will not suddenly accept homosexuality because it is no longer criminalized (Hollander 2009: 264). While decriminalization may not end homophobia, it nevertheless makes a difference to individuals and organizations living in fear in a legally sanctioned homophobic space (Ndashe 2010: 5).

Tamale (2011d) emphasizes that one cannot underestimate the global effects of neo-colonialism, religion and globalization in the discussion on contemporary sexualities around the world (Tamale 2011d: 30). In the modern global context, tolerance of homosexuality is often seen as an indicator of civilised sexual values and some states may use antidiscrimination clauses of homosexuals as a means of divert attention from other human rights abuses in their country. However, in the postcolonial African context, the bourgeois nuclear family is more generally regarded as a proper form of modernity, and the acceptance of homosexuality is not seen as important in this respect. (Hoad 2005: 15.) Yet it should also be noted that sexual values are essentially intertwined with the wider social values, which themselves are highly diverse, different groups having different perspectives and significantly opposing priorities (Weeks 1986: 118).

Same-sex relations in Uganda are often understood from a social problem perspective (Mujuzi 2009: 285). In 2005 the government of Uganda amended the Constitution and added, among other things, a clause particularly prohibiting same-sex marriages. This was much affected by the concern by the government over the increased campaigns promoting the recognition of same-sex relationships, and their need to confront the issue somehow. (ibid.: 282, 285.)
2.4.3. Making of the Anti-Homosexuality Bill

The Anti-Homosexuality Bill was released at the same time when three American evangelists were in Uganda to promote the anti-gay agenda (Sadgrove et al.: 2012: 113). Kaoma (2009) argues that the arguments of the representatives of the U.S. Christian Right expressed for example in this seminar held in Kampala are being used “almost word for word” in the Anti-Homosexuality Bill (Kaoma 2009: 22).

The author of the bill, David Bahati, indeed was strongly inspired by his own view of Christian belief as well as the views of the American evangelists when writing the bill. He has called homosexuality “modern witchcraft” that should be eliminated and he believes that the bill would help Uganda to become a God-led nation. (Sharlet 2010: 44.) Sharlet (2010) argues that it was Bahati who in fact was recruited to promote a foreign agenda even though he himself believes he is fighting against the foreign forces (of homosexuality) (ibid.: 46). Bahati’s view of Christianity could be said to be quite radical and only the threat of losing millions in foreign aid forced him to make a compromise and cut the death penalty from the bill, which he seems not to be happy about because it is against his interpretation of the Bible. He told Sharlet: “if we had an opportunity to implement what is in the Bible, that would be a perfect position… But we don’t live in a perfect world” (ibid.: 47-48).

Sharlet (2010) argues that the whole idea of drafting the Anti-Homosexuality Bill started with the concerns and agenda of the American fundamentalists in mind. In the beginning of the process the group of Ugandans preparing the law were not hiding the American influences. They were inviting the anti-gay activists, for example Scott Lively, to speak to the Parliament. (Sharlet 2010: 41.) Ramos (2009) claims that Africa’s anti-gay campaigns are actually “to a substantial degree made in the U.S.A.” (Ramos 2009: iv). These American conservative evangelicals characterize homosexuality as a purely Western phenomenon (Kaoma 2009: 3), which according to one of these evangelists, Rick Warren “is not a natural way of life and thus not a human right” (Lirri 2008; ref. Kaoma 2009: 15). Kaoma argues that the U.S. Christian Right is depending on African religious leaders to legitimize their position in the mainline churches where they are in the minority (ibid.:3, 22). They have thus united with African church leaders to promote homophobia in
Africans understand “evangelicalism” to mean biblical and doctrinal orthodoxy, which is why they take the statements by the U.S. evangelists as gospel and not as opinion (ibid.:6, 16).

The American fundamentalists have been active in Uganda for years, imposing their theocracy to the political leaders. They have been sending their missionaries, money and ideas and these ideas seem to have taken a strong hold in certain, quite influential part of the leadership. (Sharlet 2010: 37.) They have an extensive network in the whole continent and their message and anti-gay rhetoric has gained ground in mainline churches as well (Nell and Shapiro 2013: 19-21). In a way the Anti-Homosexuality Bill seems to be a culmination of that ideological influence. Nell and Shapiro remind that although the role of the US churches is significant, one should not ignore the importance of home-grown fundamentalism either (ibid.: 21).

### 2.4.4. Pro-gay voices in Uganda

Obviously not all Ugandans agree with the Anti-Homosexuality Bill or oppose homosexuality. There are a variety of individuals who have expressed their support for gay rights and/or opposition to the bill. Sylvia Tamale, the dean of the Faculty of Law and Jurisprudence at Makerere University in Kampala is one such voice. She has argued that the bill “promotes hatred, intolerance and violence” and is an “embarrassment to our intelligence, our sense of justice and our hearts” (Tamale 2009: unnumbered). She also calls the bill undemocratic and unconstitutional (ibid.). Tamale has been perceived as a defender of gay rights already since 2003, when the issue took a centre stage in the Ugandan media. Because of this position she endured “the most virulent verbal attacks, including calls for the ‘lynching’ and ‘crucifying’ of Tamale”. (Tamale 2003: unnumbered.)
Despite widely spread homophobia within the Church in Uganda there are individual exceptions who speak for sexual minority rights. Mark Kiyimba, the leader of Unitarian Universalist Church of Kampala is an example of a church minister who actively defends LGBTI rights (Examiner.com 2011). Former Anglican bishop Christopher Ssenyonja is another example. He has been one of the local leaders in the combat to stop the Anti-Homosexuality Bill. When refusing to stop administering to gay people despite orders from his superiors, he was barred from the Church and denied his pension. (Epprecht 2013: 95.) This case shows that indeed the gay friendly part of the Church is limited to individual cases.

The Ugandan Law Society has expressed their worry about the bill leading to further human rights violations and contravening with Ugandan Constitution and international treaties that Uganda is committed to. The Kampala Women’s Lawyers Association has also opposed the bill. Some religious and opposition leaders have also criticized the government for wasting time on an unnecessary bill while there are more serious problems to be dealt with. (Nell and Shapiro 2013: 49.) Nagadya and Morgan (2005) plead for action and help from “everybody” in order for the sexual minority groups to gain their rights (Nagadya and Morgan 2005: 75). There are also domestic LGBT rights organizations like SMUG and FARUG, whose main purpose is to promote the legal and social rights of sexual minorities. These are examples of some organized and some less organized domestic voices that speak for the rights of sexual minorities.

As for the organizational capacity, Marc Epprecht suggests that many African gay rights movements are not only threatened but in a paradoxical way also enabled by the most outspoken homophobes of the continent, such as Mugabe and Museveni. Their homophobic speech has caught international attention, which has brought foreign funds to support local gay rights organizations. This has helped the local activists to organize better and be part of the broader political struggles for sexual and human rights. (Epprecht 2008b: 199-200.)

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6 Marie Nagadya is a Ugandan social worker
3. Human rights discourse

The human rights aspects have entered the development discourse quite recently but are nowadays playing a significant role in many relations between the West and the non-West. They are almost the defining feature of the current social and political reality. (Donnelly 2003: 61.) Most of the arguments by Western politicians and activists for the protection of sexual minorities in Africa and elsewhere are based on human rights claims. Yadav and Baghel (2009) see the concern for the advancement of human rights as part of a legacy of the US foreign policy towards Africa, albeit this policy has been rather inconsistent (Yadav and Baghel 2009: 42).

3.1. The origins of human rights

According to Koshy (1999), the need to monitor human rights on an international level was born after Second World War and the Nazi Holocaust (Koshy 1999: 3). The universalist ethic of human rights was much shaped by political and economic interests of the United States (ibid.: 4). In the work of the United Nations Human Rights Bill, there could be seen an ideological battle between the West and the East bloc, the Western group emphasizing civil and political rights and contesting the inclusion of economic, social, and cultural rights pleaded by the developing and East bloc countries (ibid.: 6). The debate shows how human rights are to a large degree socially and politically constructed and contested. Koshy further argues that the group of rights most fought by the West have had a priority in the implementation work (ibid.: 8).

During the Cold War era, democracy promotion was one of the main means to combat communism by the United States and its Western allies. Meanwhile they ignored the human rights violations by African regimes that supported them. (Yadav and Baghel 2009: 1.) Although democracy and human rights have been part of the American foreign policy since the Second World War, they have often been of secondary importance. The orders of realpolitik consistently left human rights concerns aside, especially during the Cold War. (ibid.: 40.) Often, the promises of strengthening human rights in Africa by American leaders, would be interpreted as mere political rhetoric (ibid.: 55).
According to the critical voices, the human rights standards experienced a “second coming” in the international relations agenda after the Cold War era and it is especially in the area of trade where it is used as a political leverage by the West (Koshy 1999: 10). The promotion of Western democracy and human rights ideals became a way of imposing political and economic values of the West, especially the US, on Africa. Often they were a precondition for getting foreign aid or loan. (Yadav and Baghel 2009: 1-2.) Koshy (1999) argues that the human rights arguments are often “complicitious with neocolonial domination in an international framework”. (Koshy 1999: 2). She also notes that it should be remembered that the present-day human rights standards combine contributions of different ideological and political traditions and therefore cannot be viewed simply as Western (ibid.: 3).

Sadgrove et al. (2012) in turn view international human rights instruments as Western in origin and character and thus questions whether non-Western people can be expected to adopt them. The application of human rights arguments in the gay rights promotion in Africa has for this reason been problematic. (Sadgrove et al. 2012: 108.) Using the language of universal human rights actually reinforces the idea of homosexuality as Western import (Hoad 2007: 75-76). Nevertheless, the crude anti-gay expressions by many African leaders in recent years have been an easy target for Western human rights activists (Epprecht 2008a: 11).

Despite many problems that can be found in the regime of human rights its “utopian potential has become a crucial vehicle for the struggles of oppressed peoples” (Koshy 1999: 26). Paul Hunt (2008) recognizes an important relationship between human rights, development, and poverty reduction and argues that the human rights approach “brings entitlements, obligations and accountability” (Hunt 2008: xii). He is of the opinion that human rights need not to be based on single normative standards but can actually “create a space without norms” (ibid.: xiii). Cornwall et al. (2008) argue that human rights norms are important in the way that they can be used to challenge “culture” as a political excuse to suppress debate on sexuality (Cornwall et al. 2008: 18). Corrêa and Jolly (2008) also consider human rights based approach as the “most promising estuary for sexuality” (Corrêa and Jolly 2008: 31).
3.2. The universality of human rights?

There is a presumption in the Universal Declaration of Human Rights (UDHR) about the universality of human rights, which is based on a common human dignity and consciousness (UN 1948, article 1). This idea of the universality of human rights is often reflected in the current human rights discourse. Human rights are seen as a “higher form of human intelligence” and as having a high standing because they are universally accepted and no state is allowed to violate them (Mutua 2011: 456). UN Secretary-General Ban Ki-moon for example has stated, “where there is tension between cultural attitudes and universal human rights, universal human rights must carry the day” (UN News Centre 2010: unnumbered). Many human rights activists also argue that claims for cultural diversity can be a threat to human rights, and therefore national sovereignty and culture should not be privileged (Nell and Shapiro 2013: 14). By definition human rights are rights that one has “simply because one is a human being” and therefore they are universal in the sense that all people are considered “human beings” (Donnelly 2003: 10). Donnelly also argues that human rights as the “highest moral rights --- take priority over other moral, legal, and political claims” and no higher possible rights appeal exist (ibid.: 1, 12). And whatever the human rights situation is in practice, almost all states accept the authority of the human dignity behind these rights (ibid.: 61).

However, many scholars also question this universality hypothesis. The universality concept of human rights is especially contested in many parts of Africa (Nell and Shapiro 2013: 12). Koshy (1999) argues that for a human rights discourse to have legitimacy and credibility across political and cultural divisions, it should take into account unequal resources and complex histories of different areas (Koshy 1999: 23). Mutua (2011) reminds that human rights are socially constructed and they arise from struggles for freedom, identities and resources. Rights are negotiated and fought for and they become rights only when the claims where they start form achieve success in the wider society. (Mutua 2011: 456.) Englund (2006) highlights the situational character of human rights. The fulfilment and the “universalism” of “universal” ideals are always situational. Therefore, one should be sensitive to context. (Englund 2006: 26, 31.) Understanding human
rights as particular should not be confused with cultural relativism because their particularity is visible in the selective nature of official definitions of human rights (ibid.: 47). Moreover, the situation of human rights is political, but there is a tendency by various participants in the discourse to depoliticize the situation (ibid.: 31). Englund further argues that human rights discourse can be used to serve the interests of particular groups in society (ibid.: 49). Many human rights activists, who believe in a universal subjectivity of human rights, also think they have the exclusive right and capacity to realize these rights. This reflects certain contempt for the actual realities. (ibid.: 118.)

Equality is also often emphasized as a basis for human rights (e.g. UN 1948, article 1). Fester (2006) questions the universality of equality because not all people are globally equal (Fester 2006: 101). Therefore when demanding equality, she urges us to ask: “equality with whom and what equality?” (ibid.: 108). Also, claiming rights is not enough to achieve equality but a radical transformation of society is required. This means challenging traditions, cultures and religions that hamper the equal treatment of citizens in a given society. (ibid.: 109.)

Koshy (1999) makes an important point by noting that if human rights are understood as universal, development should not “redeem us from its responsibilities”. The United States, however, have long exercised exceptionalist politics in the human rights arena by issuing reports on human rights abuses in other countries while refusing to report on domestic human rights abuses to international agencies. (Koshy 1999: 23.) This may cause a serious breach in the credibility of the state at the international level. Working on the basis of the universality idea can also cause disputes over state sovereignty (ibid.: 10).

Even if human rights are considered universal, it is the states that have the sole responsibility to implement them for their own citizens (Donnelly 2003: 23). So, although the norms have become international, the implementation is national. Thus, the modern state is both the most important executor of human rights and the “principal threat” to them. (ibid.: 34, 35.)
3.3. Are sexual rights human rights?

It is not self-evident which rights are actually considered crucial in the human rights discourse. During the years that human rights have entered the development agenda, certain rights claims have achieved more attention and success than others (Mutua 2011: 452). In general discussion human rights often means the rights that are written in the Universal Declaration of Human Rights (Donnelly 2003: 22). Although it does not explicitly mention sexual orientation, the UDHR does not condition equality on any basis (Mutua 2011: 455). However, because human rights are socially constructed, in practice some rights are considered more important than others. In some contexts human rights are seen as more important than other rights but within the human rights context itself, it is usually social and cultural rights that are seen as less important than for example civil and political rights (ibid.: 456.). Sexual orientation as a protected right is actually the newest one in the universal human rights discourse (Hoad 2007: 69) and sexual rights more generally are not widely affirmed as a category of rights in international legal regimes. The consensus on the human rights of sexual minorities that has emerged during the past few decades is a Western phenomenon that has not gained ground in Africa (Hollander 2009: 235-236). Consequently no comprehensive, universally accepted set of sexual rights standards exists at present (ICHRP 2009: 11).

Thus, the important question is whether sexual orientation is or should be among the protected rights (Mutua 2011:456). Mutua’s view is that there should be no room for homophobia in any society and that homosexuals should have same rights as human beings as every other individual (ibid.: 452-453). Donnelly (2003) holds the same view by stating that sexual minorities “are still human beings, no matter how deeply they are loathed by the rest of the society” and that discrimination against homosexuals has no moral grounds and is as indefensible as racism or sexism (Donnelly 2003: 236, 237). Dunton and Palmgren (1996) argue that considering the harassment homosexuals have experienced, they constitute minorities that need legal protection and this is the reason to view homosexuality as a human rights issue (Dunton and Palmgren 1996: 52). These views are not widely supported among African states. One indication of that is a resolution
tabled by Egypt at a 2010 AU summit calling on member states to “reject the divisive nature of efforts at the UN seeking to impose controversial concepts, falling outside the internationally and regionally agreed legal framework on human rights, in particular regarding social and value systems and matters”. This most evidently was a reference to sexual orientation although it was not explicitly expressed. (Ndashe 2010: 4.) Gay rights activists saw it as an effort by African states to insist on exceptions to universal human rights as defined by the UN (Nell and Shapiro 2013: 14).

The issue can also be looked from the point of view that sexual rights are connected to other rights and thus are important. Various rights in general, should not be seen as distinct but as complementing each other (Englund 2006: 11). Sexuality has political, economic and social dimensions, which can have big impacts on people’s lives (Ilkkaracan and Ronge 2008: 226). The denial of sexual rights limits the right to health, education, security, work and political participation (Armas 2008: 213-215, 217). Thus, there is no hierarchy of rights, as different rights depend on one another (Englund 2006: 27). According to Ilkkaracan and Ronge (2008), in the promotion of sexual rights as human rights it is important to adopt a holistic and affirmative approach to sexuality, link experiences at local, national and international levels, and adopt a rights-based approach to sexuality (Ilkkaracan and Ronge 2008: 240).

3.4. Human rights in Uganda

Uganda is a signatory to several international human and civil rights treaties for example the United Nations International Covenant on Civil and Political Rights, which recognizes the promotion of human rights as an important part of its mission. In theory, the treaties Uganda has signed provide a strong protection for sexual minorities. In practice, they are only rhetorical in the Ugandan context at least concerning laws against homosexuality. (Hollander 2009: 226-227.) The treaties have weak enforcement mechanisms and furthermore Uganda does not consider its duties under international treaties important, which should not be a surprise considering that the country has not implemented even the decisions of the national Human Rights Commission (ibid.: 227).
In Uganda there is a long history of human rights violations. A process of excluding the dominant section of society, the Baganda, from national politics preceded the deterioration of human rights conditions in Uganda and this was apparent already soon after independence in 1962 (Schmitz 1999: 41). The situation worsened throughout the period of Idi Amin’s dictatorship and did not greatly improve after his removal from power in 1979 (ibid.: 39). Yadav and Baghel (2009) state that in Amin’s period “all categories of violations of Human Rights [took] place” in Uganda, which they see as partial explanation of “Uganda’s tragedy” (Yadav and Baghel 2009: 105). There was some mobilization of international human rights networks from around 1974 but it took a long time for this to lead to anything concrete. At the end of Amin’s rule, hardly any official responses to human rights reports had been given. (Schmitz 1999: 44, 47.) President Yoweri Museveni, who took the office in 1986 had from the very beginning a different approach to human rights. Before his presidency, he strictly advised his rebel army not to conduct human rights abuses against civilians. (ibid.: 48.) In October 1987, addressing the United Nations General Assembly as the president of Uganda, he declared: “The Uganda Government under the National Resistance Movement (NRM) begins first and foremost with an unwavering commitment to the respect of human rights and to the sanctity of human life” (cited in Amnesty International 1992: 1). The new government consistently used this rhetoric and, according to Schmitz (1999), government-sponsored human rights violations were indeed decreasing after 1986, which also was the end of civil war (Schmitz 1999: 68, 73).

International human rights organizations such as Amnesty, however, have reported serious human rights violations in Uganda since the last decades of the 20th century. A 1992 Amnesty report noted Ugandan government’s unwillingness or inability to bring to court people who had committed human rights abuses. (Pirouet 1995: 36-37.) Uganda’s former colonial master and one of its biggest current donors Britain has also threaten to cut its aid unless they see real improvements in the human rights issues. The Anti-Homosexuality Bill is not the first instance when this happens but it has happened for example already in 1985 after an Amnesty report indicating several violations. (ibid.: 36.) Because Uganda is highly aid dependent, it has usually found it necessary to maintain good
relations with Britain (ibid.: 95). The shelving of the bill is perhaps one indication of this.

Discrimination and violation against as well as arrests of members of sexual minority groups have been reported in the more recent reports as violations of human rights (Amnesty International 2012: 346; Human Rights Watch 2010: 180). In this issue, however, a small compromise was made, when the High Court of Uganda banned the media from publishing the names of alleged homosexuals (Amnesty International 2012: 348).

3.4.1. Is homosexuality a human right in Africa?

All member states of African Union (AU) (including Uganda) have ratified the Charter on Human and People’s Rights (ACHPR) which states that “freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples” and demands the elimination of “all forms of discrimination” (OAU 1981/1986: preamble). The at least nominal acceptance of the ACHPR by all member states indicates that a basis for human rights thinking exist in Africa, although it is still very fragmented and the inclusion of sexual minority groups into this thinking is not at all obvious (Nell and Shapiro 2013: 13.) Although the Charter does not explicitly refer to homosexual rights it commits to guarantee the rights “without distinction of any kind such as race, ethnic group, colour, sex, language group, religion, political or any other opinion, national and social origin, fortune, birth or other status” (OAU 1981/1986: article 2). “Other status” could here be interpreted to include sexual minority groups. Moreover, there is no suggestion anywhere in the Charter that any individuals are not guaranteed the same rights and thus, Ndashe (2010) argues, that the Charter is a “sufficient basis for the recognition of all rights without distinction, including those of LGBTI people” (Ndashe 2010: 2). However, such a reading of the commitment can rarely be observed among African governments (Epprecht 2008a: 23) and the Charter has not been used to protect sexual minorities (Hollander 2009: 235). Also, the African Union has not expressed any official position on sexual orientation (Ndashe 2010: 4) and the national laws illegalizing homosexuality indicate that sexual minority rights are not considered a priority. Moreover, the African Charter is significantly weaker than the UN International Bill
of Human Rights, because it grants rights “within the law” leaving more discretion to the state, but does not define what laws are constituted as just (Pirouet 1995: 26; Donnelly 2003: 143). Hollander (2009) thus sees the whole African Charter as “nothing more than a well-meaning rhetorical device” (Hollander 2009: 234).

Mujuzi (2009) points out that the reason why “sexual orientation” was not included as one of the grounds which a person may not be discriminated against, may be that it simply was not considered an issue by the Commission drafting the law nor the human rights organizations who were consulted in the drafting process (Mujuzi 2009: 280). The list of human rights has constantly evolved in response to social changes. Human rights are not principally based on a priori moral principles but they arise from concrete experiences, especially sufferings, of real human beings. The list of human rights reflects “a politically driven process of social learning”. (Donnelly 2003: 57, 58.) At the time of the writing of the African Charter, the political struggle of sexual minorities had not yet started in Africa and perhaps that is the reason why no attention was given to the rights of this group.

Nell and Shapiro (2013) argue that shared values are a key concept in the mandate of the African Union and the development of human rights in Africa. The AU, however, has not been very effective in coordinating its efforts partly due to its dealing with other problems such as civil wars. Therefore the understanding of human rights as shared values has been “fairly piecemeal; sometimes opportunistic and reactive, but never proactive”. (Nell and Shapiro 2013: 12.) Some African regimes use “tradition” as a justification to dismiss certain human rights arguments, but as All Africa Council has stated, this rarely means a return to the positive, authentic practices of African tradition. (Donnelly 1989; ref. Koshy 1999: 9.)

Sharma (2008) points out that in a context in which homosexuality is criminalized and despised by many (such as Uganda and most of the rest of Africa), rights language is not a very practical tool for claiming justice. The hostile players might not even recognize that homosexuals are “human” and therefore claiming “human rights” for them becomes difficult. (Sharma 2008: 70.) Armas (2008) maintains, that to organize in order to demand their rights can be difficult for sexual minority
groups, because they are often dealing with basic issues of survival. They may also fear that they will face discrimination, if they publicly stand up for their rights. (Armas 2008: 220.)

Many African leaders have criticized the tying of aid or trade to human rights and reject homosexuality as being part of human rights. President Nujoma of Namibia for example linked human rights to the promotion of homosexuality (Human Rights Watch and IGLHRC 2003: 34). Vice president of Botswana stated that “human rights are not a licence to commit unnatural acts” (ibid.: 49). A dean at the University of Zambia expressed his view that homosexuality should not be considered as acceptable behaviour in Zambian society and homosexuals should not “corrupt the Zambian society” in the name of human rights (Hampnade 1998 ref. Human Rights Watch and IGLHRC 2003: 43). David Bahati has stated that “in Uganda, homosexuality is not a human right. It is a behaviour that is learned and it can be unlearned.” (The Guardian 2011: unnumbered). The former Ugandan Minister of State for Ethics and Integrity, James Nsaba Buturo also has declared that “[h]omosexuals can forget about human rights” (New York Times 2011).

3.5. Neo-colonialist echoes

Koshy (1999) claims that the universalist ethics of human rights are a way of articulating neo-colonial strategies (Koshy 1999: 1). The United States and European governments are linking trade issues with human rights standards, which is causing some contestation in the geopolitical context. Developing countries often claim that the human rights arguments are used as neo-colonial weapon to undermine their national sovereignty. (ibid.: 13.) In Uganda as in many other African countries homosexuality is deemed as a foreign threat and thus gay rights promotion is seen as neo-colonialism (Vorhölter 2011: 1). Also, Englund (2006) argues that the international human rights discourse has been dominated by a neoliberal approach, which has been imposed to recipient countries together with neoliberal governance and economic development schemes. No room has been left for open debate about government policies and human rights at the national level as the donors have dictated the courses of action. (Englund 2006: 196.)
The global human rights discourse has arisen as a consequence of such global processes as the spread of neo-liberal capitalism, open trade relations, and concern over regional conflicts. In the discourse there is a tendency to universalize human experiences by forcing Western concepts to people elsewhere. (Morgan and Wieringa 2005b: 309-310.) Steady (2005), among others, expresses a concern that globalization has replaced colonialism as a new form of domination, and carries with it neoliberal paradigms reflecting the colonial project (Steady 2005: 314). The universalization of homosexuality as transhistorical and trans-spatial subject and the assertion that the Western sexual norms are the only valid ones reproduce colonialist and imperialist axioms (Hoad 2007: 61-62). The problem is also in how the human rights advocates are perceived in Africa. The leading advocates of sexual rights are coming from the West, and often have a colonizing tone in their voice, which may drive away the Africans (Epprecht 2009a: 6). In addition, the human rights discourse has been brought to Africa in the official languages inherited from the colonizers (Englund 2006: 48).

Pala (2005) argues that the hegemonic position of the West gives it an exclusive right to decide the priority of matters discussed in the international arenas, and the focus point of development problems addressed by the Western actors tend to be based on what happens to be politically significant in the metropolises at a particular moment. At one time it may be human rights and at another time something else. (Pala 2005: 300; Dellenborg 2005: 90.) Donnelly (2003) in turn notes that even though the prominence of human rights in the international arena is much related to their promotion by the United States and other Western states, most individuals and groups around the world have social and political aspirations that human rights offer a solution to (Donnelly 2003: 39, 40).

Pala calls for development planning and implementation that prioritizes issues considered important by the local communities (Pala 2005: 302). However, in the issue of sexual minority rights, this ideology may cause conflicts of interest if the majority of a community does not see these rights as important, while the focus group itself experience problems because of the lack of rights in their daily lives. Whose priorities count then? Cultures and societies are heterogeneous and
therefore it is impossible to claim that certain society or community holds a certain belief (see e.g. Donnelly 2003: 100).

Promotion of human or sexual rights always has to be adjusted to the national context and its social, political, religious and ethnic particularities. The usage of rights instruments as a whole has to be carefully considered and in any case it must be culturally sensitive. (Morgan and Wieringa 2005a: 22.) In South Africa, which is the only African country where sexual minorities have achieved political recognition and legal protection, the developments seem to draw from the Western idea of human rights rather than from traditional acceptance of same-sex patterns (Murray and Roscoe 1998: 278). Gunkel (2010a) notes that the use of “sexual orientation” in the constitution reflects Western ideals (Gunkel 2010a: 75). Maybe this is part of the reason why, as reported by Cock (2005), in practice, homophobia is “intense and widespread” in South Africa despite the sexual rights clause in the constitution (Cock 2005: 199).

Kaoma (2009) argues that the African themselves should lead the work on sexual minority issues in Africa. The Western led activism only “fuels bigotry and attacks on African LGBT people” because so many see homosexuality as a Western “aberration”. (Kaoma 2009: 5.) Furthermore, the Africans should learn that the fight against homosexuality, which is presented to them as anticolonial struggle, is actually a campaign by Western religious conservatives (ibid.: 5). However, to credible challenge the idea that homosexuality is a Western import, it has to be the African scholars and politicians who take the lead in the debate. The study of African sexualities should be led by Africans in order to correct the misconceptions around it. (ibid.: 24.) African self-agency should be emphasized both in the legal battles and the social struggles. Using foreign precedent as an argument against anti-homosexuality laws is not an effective method in the Ugandan cultural context (Hollander 2009: 226). The excesses of Western gay rights promoters can actually alienate both the gay rights activists and the straight population in Africa (Epprecht 2001: 1099). Also, the threats to cut aid by some donors disregard the local social movements and create a “risk of a serious backlash against LGBTI people”, a group of African social justice activists claim (Pambazuka News 2011). Ensuring the visibility and rights of the sexual minorities is impossible with the
withholding of aid. Donor sanctions make the environment of intolerance worse, when the political leaderships accuse sexual minorities of these sanctions in an “attempt to retain and reinforce national states sovereignty”. The sanctions also reinforce the idea that homosexuality is a Western-sponsored idea. (ibid.)

However, according to Donnelly (2003), the Western origin of human rights does not mean that they should not be brought elsewhere because “human rights are too important to be rejected – or accepted – on the basis of their origins” (Donnelly 2003: 69-70). Instead, Donnelly argues, they should be adopted and adapted in all cultures and societies of the world (ibid.: 63-64). The unfamiliarity with the concept of human rights among some peoples and cultures either does not mean that the concept is irrelevant in that context because cultural reasons are not enough to be used to reject human rights (ibid.: 84, 88).

3.5.1. Westernization versus neo-colonialism

Vorhölter (2012) considers it important to separate the concepts “Westernization” and “neo-colonialism”, the former of which is an internally oriented battle within the Ugandan society, and the latter a critique to Western interference to Ugandan internal affairs (Vorhölter 2012: 284-285). Westernization can have both positive and negative connotations. The positive connotations include economic benefits whereas Western social values, which are seen as materialistic, individualistic, and “immoral”, are considered negative. (ibid.: 285, 290.) In any case, the criticism is directed to fellow Ugandans, who are trying to imitate the Western lifestyle (ibid.: 291).

The discourse on neo-colonialism is a different, highly politicized discourse. It criticizes global power inequalities, Western dominance, and foreign driven neo-liberal change, and in turn emphasizes Ugandan sovereignty and autonomy. (Vorhölter 2012: 285, 304.) Although references to neo-colonialism are not common among “ordinary” Ugandans, Vorhölter views the debate on homosexuality as an exception. Homosexuality is totally rejected in the public discourse and it is frequently referred to as a sign of neo-colonialism. Homosexuality is delineated as something, which is “enforced by outsiders”, is not compatible with Ugandan culture and needs to be stopped because it is contagious.
Neo-colonialism specifically criticizes the West for trying to interfere with Uganda's national politics, and its use in the homosexuality discourse is a sign that homosexuality causes severe anxieties in the Ugandan population (ibid.: 302).

3.6. Non-governmental organizations' role in the human rights discourse

The human rights NGOs are gaining more influence in world politics, even though their effectiveness is quite sporadic. Moreover, the rich Western-based NGOs have an advantage in the international playground. (Koshy 1999: 18-19.) Shaw (1994) sees a problem in the leverage of social movements in interstate issues as their work is based more on cultural influence than on connections with the political systems, and interstate issues are traditionally top-down politics compared to bottom-up politics typical for NGOs' working methods (Shaw 1994: 655-656).

According to Epprecht (2008b) African human rights groups, including LGBTI groups should create more contacts with each other to be more efficient (Epprecht 2008b: 217). The local gay rights groups are especially small and vulnerable, but they nevertheless could play an important role in the “transition to democracy” and in the fight against HIV/AIDS (Epprecht 2001: 1091, 1097). A concern is that the donors of many African gay rights NGOs are Western, whom many of them are almost entirely dependent on, and the language and imagery that they use appear foreign to most local people. The occasional lack of sensitivity to African perceptions of the subject matter may make it difficult to find local allies. (ibid.: 1100.)

Nell and Shapiro (2013) underline the importance of self-agency by African organizations. They argue that donors should support NGOs to follow agendas established by themselves. And while the work of regional bodies such as the African Commission on Human and People’s rights is important, many donors see that it is “critical that local grassroots organisations push for change”. (Nell and Shapiro 2013: 57-58.) Though the African organizations may need some international support, local activists should lead the advocacy and action and local ideas need to take priority (ibid.: 76-77). And they claim that the sense of self-agency is indeed increasing on the continent the key players being more and more at the national level (ibid.: 75, 76).
According to Nell and Shapiro (2013) Uganda has one of the best-organized LGBTI sectors in Africa and thus attracts much of the funding coming to Africa in that sector. However, generally the sector still does not receive a lot. Most of the money from bilateral donors goes to governments, who can decide where to give it. And in African countries, the governments do not usually consider the LGBTI sector very important. (Nell and Shapiro 2013: 58.)

In addition to the dependency on donor money, there are many obstacles to the work of African LGBTI movement, of which “intolerant cultural attitudes, economic disparities, adverse political and legal environments, limited funding streams, provocative and non-responsive police, aggressive and insensitive media, and religious fundamentalism” are some of the most important ones (Nell and Shapiro 2013: 62). And these forces are getting more and more organized (ibid.: 72). Therefore it is important to situate the struggle of the LGBTI organizations into the wider political and socio-economic context (ibid.: 76).

3.7. Identity-based sexuality politics in the human rights discourse

The careful use of terms is important when striving to protect the rights of sexual minorities for example. It needs to be closely considered what is being protected: a status, an identity or behaviour (ICHRP 2009: 16). The rights approach of human rights advocates often starts with the idea of non-discrimination, which is applied to identities assumed to be fixed and settled (ibid.: 19). As discussed in chapter 2.3.5., understanding of sexual identities is not obvious in all societies and therefore universal categorisation of people can conflict with efforts to protect diverse practices. Human rights advocates have a significant influence on the formation of “contemporary ideas of sexuality”. Therefore they should find ways to protect both sexual acts and identities as well as use relevant terms with precision. (ibid.: 16, 19-20.)

The way sexuality and sexual rights are defined matters a great deal in the human rights discourse. To define sexual rights as a property of particular social groups such as gays, or sex-workers can be a dubious basis for addressing the rights of all humans to realize their sexuality. This requires labelling in order to claim those rights, which in turn define people only based on their sexuality or social position.
(Cornwall et al. 2008: 10.) Identity policies and gender essentialism can in fact make it difficult to link sexuality and human rights and thus it is important to make alliances beyond these restrictions (ibid.: 15). Thus, there is a need to seriously reconsider the use of Western identity-based approaches in the sexual minority rights discourse especially in African contexts.

It is dangerous to assume that identities are the only reality in same-sex desire, because in reality they are only one part of it. The identity policies promote a view that sexuality can be fitted to categories, which often is not the case. (Sharma 2008: 68, 69.) Human sexuality is not stable (Epprecht 2008b: 86). Although the identity politics leaning on categories such as “gay” and “lesbian” are sometimes an effective way to organize in order to claim sexual rights, they have also caused exclusions and restrictions and should not be a precondition for claiming sexual rights (Corrêa and Jolly 2008: 32). The terms that the Western LGBT groups embrace are a particular interpretation of same-sex sexualities and may well be rejected in other contexts, in favour of indigenous ways of understanding same-sex sexualities. Thus, although sometimes very effective, identities are not a necessary basis for collective organizing around human rights connected to sexuality (ibid.:33, 34, 40). This approach exercises power over individuals and reinforces essentialist identities (Gunkel 2010a: 76). Human rights by definition should be accessible to all. In the identity-based model, people who do not feel to fit in the predetermined sexual categories may feel left out and find it difficult to claim their rights (Baudh 2008: 93). Therefore, using sexual autonomy as a conceptual framework could be an alternative approach and could exist together with identity-based models (ibid.: 101). Moreover, using identity as a basis for human rights has also led to a situation where different social groups or categories such as “sexual minorities”, “women”, or “sex workers” claim their own distinct rights, which has caused fragmentation and made it more difficult to construct a collaboration that would advance the rights of all humans (Cornwall et al. 2008: 9; Sharma 2008: 68).

A constructivist approach to sexuality, which emphasizes the culturally constructed characteristics of sexual identities and meanings, recognizes the great variations in sexualities in different cultures instead of supposing that same kind
of fixed sexual identities can be found in every context (Corrêa and Jolly 2008: 22, 23). Although similarities across cultures also exist, imposing Western norms on non-Western cultures makes discussing and changing practices that affect sexual safety and rights more difficult (Lewis and Gordon 2008: 203-204).

The dangers of publicly “coming out” as gay or lesbian in many African societies may also be an important consideration in the identity politics and rights based approach. Many African homosexuals have noted that “as long as they do not publicly name themselves or their sexual preference they will be left alone” (Epprecht 2008b: 115).

3.8. Criticism of human rights politics

Englund (2006 and 2012) has strongly criticized the Western human rights politics in developing countries. He argues that in human rights promotion, there is often a tendency to act based on fundamentalism that does not listen to the opinions of the weakest in society. In the human rights based thinking alternatives are often not accepted. And even though organizations and other actors in the field are concerned about human rights the concern does not necessarily reflect the demands of those whose rights have been violated. (Englund 2012.) Englund sees the standing of sexual minorities in Africa as one example of this. He argues that in the discourse, the homophobic fundamentalism is fought against using another kind of fundamentalism: a human rights fundamentalism, which does not listen to the views of the common people. He argues that there are different ways to claim and discuss rights; using the concept of human rights is not the only way to do this. The concepts change according to the speaker and the demands. And the people of the West need to learn how to listen and respect these alternative claims instead of ignoring them and deem them as traditional and conservative. (Englund 2012.)

Englund (2006) also argues that a narrow definition of human rights as freedoms prevail in the international arena. The agents promoting this view are politicians, donors, journalists and activists and they have become “prisoners of a very specific idea of human rights as freedom”. (Englund 2006: 6-7.) Freedom is a contested concept and, according to Englund, promoting freedoms can actually have similar consequences in the public debate as denouncing them (ibid.: 1-2). Human rights
also contain inequalities and status distinctions. Most human rights NGOs are
dependent on transnational funding and other support and thus do not work “from
below”. (ibid.: 8.) The problem with many actors in the human rights field is that
they take human rights as self-evident objects of thought, not as contestable
concepts, which they actually are (ibid.: 20). This problem is part of the wider
human rights fundamentalism issue.

Puar (2007) criticizes the (Western) acceptance of queer identities by arguing that
it is very much racialized with no room for especially Muslim sexualities.
According to Puar it is only certain i.e. Western or American white homosexualities
that are recognized in the multicultural tolerance discourse. (xii.) The inclusion of
sexual minorities in the national imaginary is based on an idea of American “sexual
exceptionalism” compared to the Muslim hetero- and homosexuality, which on the
contrary are seen as “improper” or “perverse” (ibid. xxiv). Puar uses the term
“homonationalism” to describe this phenomenon. In homonationalism certain
homosexual constituencies are conjoined with US national agendas whereas “the
queer terrorist of elsewhere” is seen as its evil counterpart. (ibid. xxv.) The Muslim
population is thus presented as a threat to LGBTIQ persons (ibid.: xxiv).

According to Puar, the American sexual exceptionalism – the homonationalism – is
coopurate with the exceptionalism of American empire. The national
heteronormativity is thus joined by national homonormativity i.e.
homonationalism. (Puar 2007: 2.) According to Puar, a “homonormative
Islamophobia” is on the rise in the global North. This allows homonormative gay
men to belong to the national or racial “community” by joining the “collective
vilification of Muslims”. (Ibid.: 21.) In the post-civil rights era a binary thought that
considers the homosexual other as white, and the racial other as straight, has
emerged in legislative, activist, and scholarly realms (ibid.: 32). Queerness unites
with US exceptionalism in nationalist foreign policy by articulating whiteness as a
queer norm and accepting the US imperialist expansion (Puar 2005: 123). The
Muslim Orient is seen as repressive and perverse while the West is a symbol for
freedom (ibid.: 125). The West at the same time represents the sexually, racially
and gendered normal (ibid.: 122).
Influenced by Puar, Gunkel (2010a) also notes that homophobia is both nationalized and racialized. Islam is defined as homophobic and thus outside the discourse of human rights, while gay rights are associated exclusively with the West. (Gunkel 2010a: 9.)

4. Methodology and research data

This study is based on research data consisting of newspaper articles, video clips, blog writings and press releases that comment on the Ugandan Anti-Homosexuality Bill or the issue of sexual minority rights in Uganda on a more general level. The data is collected from online sources and is composed of commentaries and views of a sample of Western actors, such as politicians and non-governmental organizations. The data has been collected between 23 April 2013 and 25 June 2013 and the publishing dates of the data are between October 2009 and November 2012. The data only includes views that are opposing the bill or otherwise speaking for the rights of sexual minorities. There are two reasons for this. First, most of the commentaries from Western actors have been “pro gay rights” and opposition to the bill has been strong. Therefore, I see the statements as representing the most audible and dominant views from the West towards the Ugandan anti-homosexuality measures. Second, I specifically wanted to study what the arguments behind the opposition to and disapproval of the Anti-Homosexuality Bill are. There seems to be a certain conflict of opinions between the West and Africa about homosexuality and the rights of the sexual minorities. Obviously there are differences also within the West and within Africa as well as similarities between them. However, on a general level, most Western countries are legally and socially moving towards greater recognition of sexual minority rights and want to identify as promoters of gay rights abroad as well. Most of Africa instead still have strict laws prohibiting homosexuality and in some cases are moving to the opposite direction compared to the West. (see e.g. Waaldijk 1994: 51, 57.)

However, it is good to remember that the recognition of sexual minority rights is quite recent in the Western world. For example in France the decriminalisation of homosexual sex came into law in 1971 and the introduction of anti-discrimination

Another important factor worth noting here is that the original anti-homosexuality laws in Africa were in fact put to force by the Europeans. (e.g. Tamale 2009: unnumbered). Considering the European origin of the anti-homosexuality laws of Africa (or anti-sodomy laws, as they are often called) and that the full acceptance of homosexuality is quite recent in many Western societies and is still being debated and fought over, it is interesting to study on which basis these countries are now trying to push the African countries – in this case Uganda – to decriminalize homosexuality. The assumed current clash of ideas regarding homosexuality between Africa on one side and Europe and North America on the other, gives an interesting starting point to the study. The data that I have collected is a representation of this clash. My intention is not to simplify matters and assert a clear-cut dichotomy between the West and the non-West. However, for the sake of this study, it is necessary to make some categorization and I believe that considering the many social, political and historical factors treating the “West” as an entity that is divergent from Uganda is not a forced one.

As big part of the data is collected from newspaper articles that report about the statements given by certain actors and are thus not first-hand data, I do not have an exact number of separate statements or comments. In all, the data is collected from 41 different sources and consists of 70 pages when printed out as one document as well as 46 minutes of video/audio. Some sources may cite several different statements given in different occasions. And some comments given by the same actor in the same occasion may have been cited in two or more different sources I have used. Therefore the analysis of the data is purely qualitative. A little less that half of the sources are first-hand data: press releases, blog writings or action appeals collected from the actors’ own web pages as well as speeches or statements accessed in YouTube video-sharing website. The other half of the sources are second-hand data, reports collected from newspaper articles or other webpages that report on or quote the original statements.
The opinions and statements in the data that I have studied come from the following actors: Heidi Hautala (the Chairwoman of European Parliament Subcommittee on Human Rights and Finnish Minister of International Development), Gunilla Carlsson (Swedish Minister for Development Cooperation), Barack Obama (President of the USA), Hillary Clinton (US Secretary of State), Russ Feingold (US Senator, chairman of the Senate’s Committee on Africa), US State Department, David Cameron (Prime Minister of UK), Andrew Mitchell (International Development Secretary of UK), the foreign ministry of France, Stephen Harper (the Prime Minister of Canada), Stephen Lewis (Canadian politician and former UN envoy on AIDS in Africa), John Baird (Transport Minister of Canada), Christian Friis Bach (the Development minister of Denmark), the office of the United Nations High Commissioner for Human Rights, Catherine Ashton (The European Union High Representative), Jerzy Buzek (the European Parliament President), The members of the European Parliament, the United Nations, Amnesty International, Human Rights Watch, International Gay and Lesbian Human Rights Commission and several other non-governmental organizations who are signatories of certain statements. These actors represent some of the most influential politicians in the international arena as well as big, well-known non-governmental organizations who also have quite a lot influence in the discussion on human rights.

5. Analysis of the data

I have identified recurring arguments and themes that arise out from the statements by the actors studied. Several common justifications and reasoning that constantly come up in the data can be named. First I will identify the common themes that are visible in the data and then shortly analyse the terminology and language used in these views. Finally I will analyse the possible effects of the comments on the Ugandan situation by using the theory of human rights socialization by Risse and Sikkink (1999). In addition to this theory, which is strongly supportive of the Western-based human rights language and promotion, I

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7 All the personal titles are from the moment when the statements are given and may no longer be valid at the moment of writing.
will look into some alternative theories and evaluate the best possible practices in the Ugandan case.

5.1. References to human rights

The data shows that protection of human rights is the most commonly used reasoning for the opposition of the Anti-Homosexuality Bill. Almost all of the statements appeal to “human rights” as a basis for protecting homosexuals in Uganda and condemn the Anti-Homosexuality Bill by calling it a violation of human rights. The universality of human rights is commonly seen as a given value that must be protected. The idea is expressed for example by appealing to “universal values and fundamental rights” (Hautala 04/2011), “universal human rights standards and obligations” (U.S. State Department according to CNN 12/2011), “same rights and dignity to which each and every person is entitled” (Hillary Clinton according to The New Civil Rights Movement 01/2011), “universal human rights and fundamental freedoms” (Jerzy Buzek according to IGLHRC 01/2011), “universality of human rights” (Amnesty International 2010: 16), “foundations of the human rights regime” (IGLHRC 12/2009), “the entitlement of all persons to enjoy the full range of human rights” (Catherine Ashton according to Daily Monitor 05/2011).

There is no doubt about the fact that the rights of sexual minorities are part of the human rights regime and that the Anti-Homosexuality Bill and discrimination of homosexuals is a violation of these basic rights. This is explicitly expressed for example in these phrases: “gay rights are part of human rights based development cooperation” (translated from Hautala 01/2012) and “being LGBT does not make you less human. And that is why gay rights are human rights, and human rights are gay rights” (Clinton 12/2011).

The strong commitment to the “universalism of human rights“ and the inclusion of sexual rights to this regime leads to the strong condemnation of the Anti-Homosexuality Bill and other state discrimination against sexual minorities in Uganda. The commentators argue that the bill “defeats the core of human rights and disparages human value” (Hautala 05/2011a), is “in dire violation of universal values” (Hautala 04/2011), is “inconsistent with universal human rights standards and obligations” (U.S. State Department according to CNN 12/2011), is “a very

In addition to references to general human rights, other more specific rights that are violated are mentioned in the data. Non-discrimination, equality, right to privacy and freedom are mentioned in several of the statements as basic rights of all individuals. Sexual orientation is seen as a matter of the individual right to privacy. The international human rights regime promotes equality and non-discrimination, which the anti-gay agenda is considered to severely violate. On several statements it is mentioned that the bill also limits many freedoms such as freedom of speech, expression, association, and assembly, and freedom of thought and conscience. These specific rights and freedoms are a part of the spectrum of human rights. The bill is also seen as a threat to the dignity that all people are entitled to. According to some example statements from the data, the Anti-Homosexuality Bill also “creates a climate of fear and hostility” (IGLHRC 10/2009b) undermining solidarity and security and encourages “mistreatment and violence” (IGLHRC 12/2009) and “persecution of LGBT people by private actors” (IGLHRC 10/2009a).
5.1.1. Human rights as part of foreign policy

The statements show that the approach to the Ugandan situation by most of the Western actors studied is subjective. The starting point is in the (Western) idea of human rights or the foreign politics of the country in question, not in the political and social context of Uganda. In many of the statements there are references to the political programs or principles of the country that the person is representing. Hautala (01/2012) writes that the international community should promote the rights of homosexuals as part of the development agenda and that “Finland’s new development political programme will be built on human rights based approach” (translated from Hautala 01/2012). Clinton also talks about the political programme of the United States when defending the rights of homosexuals abroad:

“The Obama administration defends the human rights of LGBT people as part of our comprehensive human rights policy and as a priority of our foreign policy. --- This morning back in Washington president Obama put into place the first US government strategy dedicated to combating human rights abuses against LGBT persons abroad.” (Clinton 12/2011.)

In an earlier instance she states:

“it is at the top of our list because we see many instances where there is a very serious assault on the physical safety and an increasing effort to marginalize people and we think it’s important for the United States to stand against that [discrimination of LGBT] and to enlist others to join us in doing so.” (Clinton 12/2009).

Clinton also presented Ugandan sexual minority rights groups a Human Rights Defender Award with it sending a message to “African and Islamic nations that Washington will not backtrack its fight against the legal and political persecution of homosexuals” (Reuters 08/2012). The US state representatives have declared that the USA will fight discrimination against gays and lesbians abroad by using foreign aid and diplomacy to encourage reform (BBC 12/2011) and Clinton announces that “our ambassadors and diplomats around the world will continue to
advance a comprehensive human rights policy” (Hillary Clinton according to The New Civil Rights Movement 01/2011).

The United Kingdom sees it crucial that the members of the Commonwealth – which Uganda also is – adhere to common values. These values are mainly defined by the UK and Uganda’s Anti-homosexuality Bill is seen as a threat to them. An internal report of 2011 about the future relevance of the Commonwealth included a recommendation to end the bans on homosexuality. (BBC 10/2011b.) The Prime minister stated: "The Commonwealth is a great organisation, a third of the world’s population, 54 countries across six continents, a really great network, but it is a network that must have strong values.” (David Cameron according to BBC 10/2011a). He also said that “[the rights of homosexuals] is an issue where we are pushing for movement, we are prepared to put some money behind what we believe.” (David Cameron according to The Guardian 10/2011). A UK government representative also stated that:

“The Government is committed to combating violence and discrimination against lesbian, gay, bisexual and transgender people in all circumstances, in this country and abroad. We take action where we have concerns.” (Spokesman for UK Development Secretary according to Daily Mail Online 10/2011).

Canadian representatives have also referred to the Commonwealth values as a basis for opposing the Anti-Homosexuality Bill. Politician Stephen Lewis stated that the Ugandan President "makes a mockery of Commonwealth principles" by chairing the Commonwealth summit without opposing the bill (Stephen Lewis according to The Globe and Mail 11/2009a). A Canadian minister expressed his view saying:

"The current legislation before Parliament in Uganda is vile, it’s abhorrent. It’s offensive. It offends Canadian values. It offends decency. We strongly condemn that and the Prime Minister will make that strong condemnation as well.” (John Baird according to The Globe and Mail 11/2009b).
France also expressed that protecting the rights of homosexuals is part of their foreign policy and an important value for the country: “France reiterates its commitment to the decriminalisation of homosexuality and the fight against discrimination based on sexual orientation and gender identity.” (French foreign ministry according to Pink News 11/2009). The European Union High Representative follows the same principles by reaffirming “the strong commitment of the European Union – and myself – to the entitlement of all persons to enjoy the full range of human rights without discrimination.” (Catherine Ashton according to The Daily Monitor 05/2011).

These quotes indicate that the reason for most of the Western countries to interfere in Ugandan domestic politics arise from a personal/state commitment to the international, Western-based human rights regime. The actors see the protection of minority rights as an integral part of their country’s policy and their own values. And because they claim to be committed to fight for human rights at home and abroad, they are bound to comment on human rights violations when they see them. The Anti-Homosexuality Bill of Uganda is considered a human rights violation because it discriminates against one specific group of people and therefore infringes the principle of equality.

Donnelly (2003) discusses this matter and argues that a significant reason for pursuing human rights based foreign policy is indeed that human rights are an important part of national identity, especially for the United States and the United Kingdom (Donnelly 2003: 159, 161) just like we notice from the data. However, the human rights arguments almost always are set aside in case of other foreign policy objectives (ibid.: 163). In the case of Uganda, the Western actors do not seem to have other more important policy interests with the country and therefore it is safe to use strong human rights language and pressure towards the Ugandan government.

5.1.2. Universality versus local context

The idea of the universality of human rights is very visible in the data. In most of the statements the focus is on the universal implementation of human rights no matter what the context is. Very seldom the local context of Uganda is given much
attention. The common impression that the data gives is that wherever a human rights violation is detected, the international community should react and intervene. The persecution of homosexuals is seen as a human rights violation contradicting the values that the Western actors see as universal. Hautala (04/2011) for example writes: “sexual orientation is a matter falling within the sphere of the individual right to privacy and is, as such, a universal value which should be respected and defended under all circumstances” (italics added). In her speech about LGBT rights, Clinton (12/2011) invokes to the universal declaration of human rights and argues:

“Rights are not conferred by government. They are the birth right of all people. It does not matter what country we live in, who our leaders are, or even who we are. Because we are human, we therefore have rights. And because we have rights, governments are bound to protect them.” (Clinton 12/2011.)

She then continues: “no practice or tradition trumps the human rights that belong to all of us. And this holds true for inflicting violence on LGBT people” and “it is because the human experience is universal that human rights are universal, and cut across all religions and cultures”. (Clinton: 12/2011.) Similar views are expressed by Amnesty International (2010): “All people, regardless of their sexual orientation or gender identity, are entitled to all human rights described in the Universal Declaration of Human Rights” and “under international human rights law, Uganda cannot use religion or traditional African values as a justification to restrict people’s human rights” (Amnesty International 2010: 8, 9). These statements are good examples of the ideas that can be found in rest of the data as well.

Very seldom the comments seem to explicitly take into account the Ugandan context. The particularities of the local social realities are not paid much attention to and the language of the commentators is representing the Western human rights language that always pleads to the universality principle over local context. There are, however, some references to the circumstances in Uganda that at least superficially acknowledge the different starting point and cultural values of
different countries. While highlighting the importance of equal rights for all people and common values in all the countries of the Commonwealth, David Cameron also comments that “deep prejudices” in some of these countries means that the bans on homosexuality will last for years. “I’m afraid that you can’t expect countries to change overnight”, he remarked. (David Cameron according to the Guardian 10/2011.) Hillary Clinton also acknowledges how the situation in many African countries is very different from the Western context. In a speech in Syracuse University she mentioned that in parts of Africa and Asia gay rights is “just a totally foreign concept” adding:

“...I mean, the first response is, ‘We don’t have any of those here. Second response is, ‘If we did, we would not want to have them and would want to get rid of them as quickly as possible. And it’s your problem, United States of America, that you have so many of those people. So don’t come here and tell us to protect the rights of people we don’t have or that we don’t want.’” (Hillary Clinton according to the Pink News 04/12.)

She also expressed that it is “a very difficult conversation because it’s just not been one that people have had up until now” (Pink News 04/12). In another instance, talking about LGBT rights to the United Nations human rights council, she recognizes that “raising this issue --- is sensitive for many people” and tells the audience to have come before them “with respect, understanding and humility” (Clinton 12/2011). Earlier she also states how “it is clear that across the world this is a new frontier in the minds of many people about how we protect the LGBT community” (Clinton 12/2009). While recognizing the relative novelty, sensitiveness and strangeness of the subject in many countries, there seems to be no understanding of or interest in looking into the reasons behind these issues. For example the Western influences on African homophobia are not mentioned. Neither any other historical or social particularities are given a thought. Also, the language strongly reflects and stresses an identity-based understanding of homosexuality, which is a still a very new idea in many societies. Perhaps terminology that took better account of the different social and historical contexts
and was better adjusted to the different audiences would be better understood and
generate more productive change of ideas and opinions.

Differences of opinion about matters concerning homosexuality are rarely
mentioned and when they are, they are not accepted as a basis for the
discriminatory legislation. The following statement is an example of this:

“While people may hold differing opinions about sexual orientation
and gender identity, the legislation before Parliament is an ineffective
and fundamentally illegal way to express opposition to a minority
group.” (IGLHRC 10/2009b).

Obama also mentions in a speech:

“We may disagree about gay marriage but surely we can agree that it
is unconscionable to target gays and lesbians for who they are
whether it’s here in the United States or --- more extremely in odious
laws that are being proposed most recently in Uganda.” (Obama
02/2010).

The comments that somehow refer to the socially or culturally different context of
Uganda (or more generally of different countries or continents) are few and an
exception in the data. And when the context is mentioned, it is mostly just to bring
attention to the fact that the human rights regime may be slower and harder to
bring into effect in some places. The human rights language itself and the
promotion of universal human rights in these different contexts are not
questioned. The local context is considered more like a hindrance on the way of
realizing the universal human rights agenda.

5.2. Breaking laws

Many of the actors state that the Anti-Homosexuality Bill violates Uganda’s
constitution and even more notice that it is contradictory to international law and
treaties that Uganda is a party.

The bill is noted to violate the independence and freedom of human rights non-
governmental organizations, the principle of non-discrimination, freedom of
expression, freedom of peaceful assembly, freedom of association, liberty and security and freedom of privacy, which are all guaranteed under Uganda’s constitution and international treaties. The bill is for example called “outright unconstitutional” (Hautala, 05 2011a), “illegal” (Kate Sheill according to Akina Mama wa Afrika et al. 10/2009) and accused of violating “multiple protections guaranteed by the Constitution of Uganda” (IGLHRC 11/2009).

Several statements refer to the Cotonou agreement, which was established between the EU and seventy-nine African, Caribbean and Pacific (ACP) states in 2000. The Agreement for example recognizes that the respect for human rights is a “part and parcel of a long term development” (European Commission 2010: 14) and states “respect for and promotion of all human rights” as a fundamental principle of cooperation between the EU and ACP countries (ibid.: 21).

According to the data the bill is violating this agreement as well as international law in general. In addition to the Cotonou agreement, the African Charter on Human and People’s Rights, and the International Covenant on Civil and Political Rights are mentioned. Sexual orientation is regarded as a matter “falling within the remit of the individual right to privacy as guaranteed by international human rights law” (European Parliament 12/2009). In one statement it is reminded that “a state cannot, through its domestic law, negate its international human rights obligations” (ibid.). Uganda is also urged to “uphold its obligations under international human rights law” (Hautala 05/2011b). The Anti-Homosexuality Bill is seen as a “dangerous precedent” undermining “Uganda’s commitment to the international human rights regime” (IGLHRC 11/2009). The bill is also considered a sign of withdrawing Uganda from “any international treaty that recognizes rights for LGBT people or contradicts the spirit of the legislation” (IGLHRC 10/2009a).

Based on the data it therefore becomes clear that the Western actors view the international human rights commitments as the most important rule of law that the Ugandan government cannot bypass in their domestic legislation.

The references to the international law and treaties are actually based on the human rights regime too. The treaties that the Anti-Homosexuality Bill is seen to violate are treaties that are meant to protect human rights or at least the articles
that the bill is seen to violate are the ones that are referring to human rights. It is argued that the bill would specifically violate international *human rights* law and international *human rights* treaties. When it is argued that the bill is violating the Cotonou agreement for example, it is the human rights clauses in it that are emphasized. An example of this is a statement by Hautala (05/2011b): “The Cotonou Agreement between the African States and the EU and the *human rights clauses there contained* foresees that Uganda uphold its obligations under international *human rights law*” (italics added). It is also stated that “both UN treaty bodies and international jurisprudence repeatedly have declared that [LGBTI] are protected by existing *human rights* treaties” (italics added) (The Office of the United Nations High Commissioner for Human Rights according to The Daily Monitor 05/2011). Therefore, opposition of the bill by reasoning based on human rights in itself and reasoning based on international treaties are essentially based on the same idea: the universality of human rights. The language of the treaties is a representation of the same regime as the language of the general appeals to human rights in the case of opposing the Anti-Homosexuality Bill.

### 5.3. State relationships

Many of the statements by state representatives warn that if passed the Anti-Homosexuality Bill will weaken state relationships between Uganda and its cooperative states. One actor argues that the relations between Uganda and the United States would suffer because of the proposed bill and “its passage would hurt the close working relationships between our two countries, especially in the fight against HIV/AIDS” (Russ Feingold according to Daily Monitor 12/2009). As discussed above, several Western states have announced the promotion of human rights as a fundamental part of their foreign policy. They thus consider that the Anti-Homosexuality Bill, which is considered to trample upon these rights and indicate a clash of values on sexual matters between their own foreign policy and the Ugandan domestic policy, will do harm to the relationships between these states.

Also non-state actors note that the passage of the bill would be harmful for Uganda’s international status. One statement for example expresses its view by
stating that the bill would “seriously undermine [Uganda’s] reputation and credibility in the international arena” and “strain Uganda’s relations with regional and international partners” (IGLHRC 10/2009b).

UK has been in the forefront of threatening to cut aid as a consequence of the passage of the bill. David Cameron has declared that a country’s LGBT rights record should play a role in the allocation of foreign aid (Washington Blade 08/2012) and has threatened to cut aid for countries that do not accept homosexuality (The New York Times 02/2012). Cameron has also declared that those countries receiving UK aid should “adhere to proper human rights” (David Cameron according to BBC 10/2011b) and another UK government representative stated that “we only provide aid directly to governments when we are satisfied that they share our commitments to reduce poverty and respect human rights” (Spokesman for International Development Secretary according to Daily Mail Online 10/2011). European Parliament also is “extremely concerned that international donors, non-governmental organisations and humanitarian organisations would have to reconsider or cease their activities in certain fields should the bill pass into law” (European Parliament 12/2009). Denmark has a different view, the Development minister stating that cancelling the Danish support would only make matters worse for sexual minorities in Uganda and therefore Denmark should continue giving development aid to Uganda but restructure it to focus more on the gay rights issue (The Copenhagen post 08/2012).

5.4. HIV/AIDS prevention

Based on the data, HIV/AIDS prevention is not the main concern or the reason why the Anti-Homosexuality Bill is being opposed. However, the harmful effect to HIV/AIDS work of discriminative legislation of homosexuals is expressed by some of the actors studied and is worth mentioning here. The bill is seen to hurt Uganda’s fight against the spread of HIV/AIDS, as it would hamper the work of organizations working with HIV prevention activities and treatment of people living with HIV/AIDS, it is argued. An example is the statement by an officer of the World AIDS campaign: “Discrimination and punitive laws like this aimed at
marginalized groups and at those often among the most affected by HIV drives people underground and does nothing to help slow down the AIDS epidemic”. (Daniel Mokokele according to Akina Mama wa Afrika et al. 10/2009). Another example comes from IGLHRC (10/2009b): “HIV prevention activities in Uganda, which rely on an ability to talk frankly about sexuality and provide condoms and other safer-sex materials, will be seriously compromised.” Canadian politician Stephen Lewis also sees the dangers declaring: “What is put at risk here – beyond the threat of the death penalty for HIV-positive homosexuals – is the entire apparatus of AIDS treatment, prevention and care”. (Stephen Lewis according to The Globe and Mail 11/2009a). The dismissal of a particular group from HIV treatment and denial of their rights to adequate information about the risks are considered not only discriminative and affecting that particular group but as a serious health hazard to the entire population.

5.5. Appeals to state authorities and other actors

Many of the actors appeal to Ugandan government, Parliament or other officials to reconsider the Anti-Homosexuality Bill. Appeals to different foreign and international actors are also made with the intention to widen the Western opposition line and increase the pressure on Uganda.

5.5.1. Appeals to Ugandan government

Most of the statements include some kind of appeal to Ugandan government to stop the discrimination against homosexuals. The appeals are quite strong in character and use stern language. Some of the appeals are indirectly aimed at the Ugandan officials, expressed in speeches given to miscellaneous public, for example: “The Bill must be withdrawn. There is no place for this kind of legislation in any community” (Hautala 05/2011a); “[I] urge the government of Uganda to ensure the safety of [LGBT] people” (Hautala 10/2010); “the United Nations High Commissioner for Human Rights and the European Union High Representative have urged Uganda to --- repeal all legislation that criminalizes same sex and other "unnatural" sexual behaviour” (The Daily Monitor 05/2011); “[The European Parliament] calls --- on the Ugandan authorities not to approve the bill” (European Parliament 12/2009); “Amnesty International calls on the government of Uganda
and the Ugandan parliament to reject this bill” (Amnesty International 2010:18). Some actors announce that they have addressed the president of Uganda directly about their concern over the bill. Examples of this kind of actions are the following passages: “I recently called president Museveni whom I have known through the prayer breakfast. And expressed the strongest concerns about a law being considered in the parliament of Uganda” (Clinton 02/2010); “I did raise it directly with the president of Uganda and indicated Canada’s deep concern and strong opposition” (Stephen Harper according to The Globe and Mail 11/2009c). It is not revealed in the statements how exactly these actors have expressed their views to Museveni nor what has been the reaction of Museveni.

Some actors scold the Ugandan government or give advice to it: “Ugandan authorities have not responded adequately to discriminatory views expressed about homosexual persons” (Hautala 04/2011); “for years, President Museveni’s government has drummed up homophobia and denied the basic rights of LGBT people for his own political advantage”; “measures must now be taken to protect the rights of sexual minorities in Uganda” (Hautala 05/2011b); “legal safety guards must be applied” (ibid.); “it is critical for [the government of Uganda] to speak out against discrimination” (Hillary Clinton according to Reuters 08/2012); “what the government should be doing --- is protecting them [sexual minorities] from discrimination and abuse” (Akina Mama wa Afrika et al. 10/2009).

From these points of view, any government’s obligation is to protect the citizens of its country and secure that their rights are not being violated (see e.g. ICISS 2001: xi). Although Uganda’s leaders in theory are committed to guarantee the rights of its citizens, in the constitution as well as in international treaties, in practice the rights are either interpreted differently or not put high in the priority list of the government. If a state fails to protect its citizens, “the international responsibility to protect” is put before “the principle of non-intervention” (ibid.). So when a state is not protecting the human rights of all its citizens as is considered to be the case of sexual minorities in Uganda, many Western leaders see it as their right and obligation to interfere. And this is very well illustrated by the data. The only reason to do this, however, may not be their concern over the rights of Ugandan citizens.
but to also make a name for themselves as defenders of human rights in the international arena.

5.5.2. Appeals to other actors

Many appeals to other actors, Ugandan and international are also expressed in the statements. Some of the appeals are directed to authorities, while others are urging civil society actors to take action and join the common human rights cause. Examples from the data that appeal on such actors are the following statements from Heidi Hautala:

“I call on the European External Action Service and Member States in Kampala to provide their unconditional assistance to LGBT human rights defenders, and pressure their Ugandan counterparts to decriminalise homosexuality.” (Heidi Hautala according to Hautala et al. 01/2011);

“I --- call the High Representative Baroness Ashton, the EU Council, the Commission and the Member States to analyse the situation in Uganda in relation persecution on grounds of sexual orientation and to take concerted international action to promote respect for these fundamental human rights.” (Hautala 10/2010).

Also Clinton tries to convince her audience that everybody should take action in the matter: “it’s important for the United States to stand against that [discrimination of LGBT people] and to enlist others to join us in doing so” (Clinton 12/2009);

“[David Kato’s] tragic death underscores how critical it is that both the government and the people of Uganda, along with the international community, speak out against the discrimination, harassment, and intimidation of Uganda’s LGBT community” (Clinton according to The New Civil Rights Movement 01/2011).

The European Parliament also appeals to a wider international community to join the cause and work together to fight for sexual minority rights:
“[European Parliament] calls on the Commission, the Council and the Member States to analyse the situation in third countries in relation to executions, criminalisation or discrimination on grounds of sexual orientation and to take concerted international action to promote respect for human rights in those countries through appropriate means, including working in partnership with local NGOs” (European Parliament 12/2009).

The European Parliament wants to make sure that its message gets across to the influential actors involved and thus it “instructs its President to forward this resolution to the Council, the Commission, the President of the Republic of Uganda and the Speaker of the Ugandan Parliament” (European Parliament 12/2009). Appeals to the general international audience are also made in the form of online petitions. International Gay and Lesbian Human Rights Commission for example published a petition shortly after the introduction of the bill, asking people to join them “in calling for the swift dismissal of the Anti-Homosexuality Bill” (IGLHRC 10/2009b).

The appeals to a variety of different actors show that the issue is regarded to be serious and fighting together against the Anti-Homosexuality Bill is considered very important. Behind these appeals there is an idea that pressure can affect both “the opposing side” to reconsider their points of view and people on “the same side” who have not yet had an active role around the issue to join the movement. The final goal is to make the pressure so strong that eventually the Ugandan Parliament would reject the bill.

5.6. The terminology and language

A noticeable feature of the terminology in the research data is that the many of actors often use the acronym LGBT (lesbian, gay, bisexual, transgender, sometimes with “I” in the end for intersex). This acronym is most often used without opening the meaning of the letters, thus with the supposition that it will be understood by the audience. Some actors speak of “(Uganda’s) LGBT community”, creating an image that these people form a coherent group. Another often-used term is “sexual orientation”. Both terms “LGBT” and “sexual orientation” indicate an
understanding of homosexuality based on fixed identities. As discussed for example in chapter 2.3.5., the identity-based understanding of homosexuality is quite new in Africa, and has strong connotations to the West (see e.g. Epprecht 2008a: 4). On the other hand, the modern African gay rights movements have adopted the Western terms; for example the Ugandan organizations SMUG and FARUG use the term LGBT in their communications. However, the term may seem alien and hard to grasp for the majority of Ugandans because it is borrowed from a very different context and its meaning is often not explained. Furthermore, the terms such as LGBT contain ideological content and their relevance should be understood as “part of a continuous process of sociocultural change” or they will be inadequate (Robertson 2005: 1). And in any case, it is important to clarify the terms that are used in order to address sexual rights meaningfully (International Council on Human Rights Policy 2009: 20). Also, one should not assume that these commonly used terms are an inescapable part of the identities or speech of homosexual persons themselves (Robertson 2005: 8). The term “gay” in the West was self-adopted by the homosexual community in the latter part of the twentieth century (Weeks 1989: 286). This, according to Weeks, is important as it created a “sense of pride in self” as well as “defiance of moral norms” (ibid.). So maybe in Uganda the domestic term kuchu could better serve this purpose than the borrowed Western terms “gay” or “LGBT”. Furthermore, by referring to an “LGBT community”, an idea of a minority group is constituted. This makes the human rights question of this group similar to for example ethnicity and thus easier to handle than the concepts of sexuality and morals, which are more charged. At the same time, however, this kind of terminology may hide important aspects related to the subject.

The rhetoric and word choices in some of the statements show that there are strong emotions involved in the condemnation of the bill. The bill is called “odious”, “heinous”, “vile, abhorrent and offensive”, “immoral” and “unconscionable”. The actors are “shocked” and “outraged” by the bill. They “strongly condemn” and “deplore” the measures suggested in the bill. “Deep concern” and “strong opposition” is expressed. The Anti-homosexuality Bill seems to provoke specifically strong feelings in many of the actors. One actor for example
states that “nothing is as stark, punitive and redolent of hate as the bill in Uganda” (Stephen Lewis according to the Globe and Mail 11/2009a). The reason why this particular bill causes these reactions and is so strongly condemned using strong language is probably that it is viewed as exceptional and especially harsh. In the same statement this comes up in the expression: “I’ve truly never seen its like before” (Stephen Lewis according to the Globe and Mail 11/2009a).

6. Evaluation of the data

The data is a clear expression of international human rights pressure, the purpose of which is to change the domestic politics of a particular state. But how can such change be achieved in reality? Are these statements, appeals and threats making any difference? Is it probable that as a consequence of the international pressure, the human rights of sexual minorities in Uganda will be given more respect? And if the Ugandan state is making concessions in the matter, does it have anything to do with actually internalizing the human rights way of thinking or is it just politics built on economic or other strategic grounds? I will try to find answers to these questions in the following chapters.

6.1. Human rights pressure and domestic change – theoretical perspectives

In *The Power of Human Rights*, Risse and Sikkink (1999) develop a theory on the processes and phases of how international human rights norms can change domestic politics and state behaviour. The book also includes several chapters of case studies that prove the validity of the theory and a concluding chapter, which evaluates the findings, by Risse and Ropp (1999).

The theory describes the socialization process of human rights norms and helps to understand the general impact of norms in international politics (Risse and Sikkink 1999: 2). The theory explains how the norms of international human rights as defined in the UDHR can be internalized by a state. The authors use the right to life and freedom from torture and arbitrary arrest and detention as the basis of the theory, because these rights “have been most accepted as universal rights”. (ibid.: 2.) However, they claim that the theory can be applied to any situation where “(1) a given state is adhering to a particular set of public norms that have become
embedded in its laws, institutions, and policies; and (2) these state norms are increasingly being challenged by a contradictory set of international norms promoted by emerging transnational issue networks” (Risse and Ropp 1999: 273). The rights of sexual minorities could be considered as such norms because the international (or at least Western) community is moving to the direction of greater recognition of these rights and creating transnational networks that are challenging the anti-homosexuality politics and rhetoric of certain other states. Therefore I see it as reasonable to adjust the theory to my study of Western pressure towards Ugandan government considering the Anti-Homosexuality Bill.

The theory can be used to understand and explain the “conditions under which international human rights regimes and the principles, norms, and rules embedded in them are internalized and implemented domestically and, thus, affect political transformation processes” (Risse and Sikkink 1999: 3). In order to do this, the authors propose a five-phase “spiral model” of human rights change and norms socialization in state actions (which will be explained below). This model is argued to work in all places so that the cultural, political or economic differences among countries do not affect its adaptability (ibid.:6; Risse and Ropp 238). The ideological starting point is that the human rights norms should be internalized by the states that do not (yet) respect these norms. The results from my research data indicate a similar view among the actors studied in the case of the sexual minority rights in Uganda. Thus, this theory can help to analyse whether the studied pressure towards the Ugandan government by these actors can be a useful way of achieving the goal they are aiming for.

In the theoretical model the establishment of transnational networks is given great importance. The advocacy networks, which consist of domestic and transnational actors, who link with international regimes, serve three purposes that compose the “necessary conditions for sustainable domestic change in the human rights area”. First, they put the “norm-violating” state in the international agenda while at the same time highlighting their own “identity as promoters of human rights.” Second, they “empower and legitimate” the domestic groups’ claims against their government and this way offer important support for local social movements and
NGOs in the target country. Third, they create a transnational structure that pressures the government both from above and from below. (Risse and Sikkink 1999: 5.)

6.1.1. The spiral model

The “spiral model” starts with the phase of “repression and activation of network”. The domestic opposition at this point is too weak to present an actual challenge to the government. In the second phase called “the denial,” the “norm-violating” state is put on the agenda of human rights network and under increasing international public attention. (Risse and Sikkink 1999: 22.) The state usually responds to this attention with denial meaning that it doesn’t accept the “validity of international human rights norms” and opposes the international jurisdiction’s interference in its national practices in this area (ibid.: 23). The state may also question the universality of human rights and claim that these kind of individualistic norms are alien to the culture of their society (ibid.: 13). Governments of developing countries often use nationalist and anti-colonialist rhetoric to increase their legitimacy against international criticism (Risse and Ropp 1999: 243). This phase may be counterproductive for the pressuring part if the government succeeds in arousing national sentiment against the foreign intervention and gain domestic support for its own cause (Risse and Sikkink 1999: 23.) This phase is typical to a period when new international norms have emerged, but they are still strongly contested internationally. The denial by the government is a way of taking part in the debate. The denial phase may last for a long time, as some governments do not care greatly about international pressures and may also silence or destroy the domestic opposition. (ibid.: 24.) The norm of “gay rights” is a relatively new norm and is still contested internationally. Even among many of the Western countries that are actively and vigorously promoting the “gay rights agenda” in the international arenas, there is still a lot of internal debate about the extent and validity of these rights. Although few actors would go as far as the Anti-Homosexuality Bill suggests, very dissenting views about the norm exist inside the Western governments and societies. (eg. Epprecht 2008b: 217.)

The third phase of the “spiral model” is named “tactical concessions”. In this phase, after continued international pressure, the state starts to make some changes in its
practices to cool down the attention. Although the situation may improve a little, there is unlikely to be any stable improvement in the human rights conditions. The state is acting only from instrumental or strategic motives, using concessions for example to regain economic assistance. (Risse and Sikkink 1999: 25.) In other words the state adjusts their behaviour to the international norm for tactical reasons without necessarily believing in the validity of the norm (ibid.: 12). In this phase the networks of local human rights activists are strengthened as a consequence of the increased international attention and its legitimising effect on their demands. The international linkages and attention may also have a protective influence on the physical integrity of the domestic actors. (ibid.: 25.) Towards the end of the phase, the government doesn’t deny the validity of the human rights norms it is being imposed. It starts to take both the international and the domestic opposition more seriously and treat them as equal interlocutors. If the government makes another violation, the domestic-international network will pressure it from above and below making it very difficult for the government not to consent to the requirements. (ibid.: 26, 28.) The instrumental adaptation is already a start of the real socialization process (ibid.:16).

The fourth phase is called “prescriptive status” and it means that the validity of the norm is accepted in the target country and it is regularly referred to in comments about the behaviour of others and oneself (Risse and Sikkink 1999: 29). The more the state accepts the validity of the norm and takes part in the dialogue about its implementation, the more likely they are to institutionalize it in domestic practices (ibid.: 17). The government is considered to have accepted the validity of a human rights norm if: they ratify the respective international human rights conventions; the norm is institutionalized in the constitution and domestic law; there is a mechanism for citizens to complain about violation of the norm; and the government acknowledges the validity of the norm regardless of the audience, and no longer denounce criticism as “interference in internal affairs” but instead engage in a dialogue with their critics. (ibid.: 29.) This leads to the fifth and final phase of the model, the “rule consistent behaviour” (ibid.: 31). In this phase the norm is fully institutionalized domestically, it is enforced by the law and compliance to the norm has become habitual practice of domestic actors. The final
stage of the socialization process is reached and the norm is fully internalized. It is, however, important that also in this phase the pressure toward the government to “live up to their claims” continues from below and from above. That is the only way a sustainable change can be achieved. (ibid.: 33.) The ultimate goal of socialization is that external pressure is no more needed to ensure compliance of the government (ibid.: 11).

Only when actors comply with a certain human rights norm “irrespective of individual belief about [its] validity”, when they follow the norm, because “it is the normal thing to do”, can the norm be regarded as internalized domestically. Then the norm is taken for granted and is fully institutionalized. At this point, changes in government and individual leaders do not matter greatly anymore. (Risse and Sikkink 1999: 16-17.) The theory assumes that this is the process that is required for sustainable improvement of human rights conditions in any given country. (Risse and Ropp 1999: 237).

According to Risse and Sikkink’s theory, the importance of the transnational human rights networks, the international regimes and organizations, and the Western powers are essential in the early phases of the socialization process in terms of: “putting the repressive regimes on the international agenda; starting a process of ‘shaming’ and moral consciousness-raising; empowering and strengthening the initially weak domestic opposition”. In later stages in turn the role of the internal networks of domestic actors becomes more significant. (Risse and Sikkink 1999: 33-34.)

Elaborating the spiral-model theory

The model does not assume “evolutionary progress toward norm implementation” but is striving to explain variation and lack of progress in governments. The governments that are less dependent on the outside world in terms of material and ideational resources are also less concerned about the international pressure towards them. (Risse and Sikkink 1999: 34.) However, once a domestic opposition network with transnational links has been established, it becomes more and more difficult for the government to ignore the pressure and continue the violations (ibid.: 35). Risse and Sikkink argue that countries that care more about their
international reputation are more sensitive to outside pressure and the economic weakness has only a secondary significance (ibid.: 37-38). There are many evidences of human rights changes happening because the leader of a given country cares about what other leaders think of them. International human rights norms define the appropriate behaviour and the identities of liberal states. Good human rights performance is a way to a state to become a member of the “community of liberal states” that is different from the “norm-violating” states. (ibid.: 8-9.)

The theory posits that the process of human rights change usually begins with governments adapting to transnational norm pressures for instrumentally motivated reasons, but that the change rarely ends there. The instrumental adoption of human rights norms starts a process of “identity transformation” in which the norms gradually become to be maintained for identity and belief reasons. This, however, also requires some domestic structural change. (ibid.: 10.)

In the concluding chapter of the book, Risse and Ropp (1999) make some general observations about human rights promotion based on the theory of Risse and Sikkink and the case studies presented in the book. They argue that the main point of the book is:

“Transnational human rights pressures and policies, including the activities of advocacy networks, have made a very significant difference in bringing about improvements in human rights practices in diverse countries around the world.” (Risse and Ropp 1999: 275).

They further conclude that transnational network pressure is a necessary condition for human rights change in a given society, although not at all sufficient (ibid.: 275). Sustainable change can only be achieved, when the pressure to the “norm-violating government” is coming both “from above” and “from below” (ibid.: 276). It is highlighted that the pressure by Western states and international non-governmental organizations is an important factor in making the norm-violating government more vulnerable to external influences, which in this case is the point of the whole pressure (ibid.: 277). The international pressure is seen to have some problem points too. Risse and Ropp point out two problems in the Western efforts
to promote human rights change. One is that the governments rarely have a consistent long-term human rights policy toward a given state. The other lesson to learn is that sanctions can be useful in certain phases of the “spiral model”, especially between the “denial phase” and the “tactical concessions” phase. But in other phases the sanctions may actually be counterproductive. (ibid.: 277-278.)

Testing the theory in Uganda

According to Schmitz (1999), who is testing the “spiral model” theory in Uganda, the country at the end of the century had already almost completed the fourth phase, where the government has fully accepted the validity of the human rights norms and is institutionalizing them in their law and policies. This change, however, has been mostly “top-down” and therefore its sustainability can be questioned. (Schmitz 1999: 40.) Schmitz argues that president Museveni has been the central figure in the human rights institutionalizing process since he started in 1986 (ibid.: 67). Museveni and the army that he controls are the main keepers of peace and stability. Museveni as a “benevolent dictator” guarantees respect for human rights, but on the other hand, he also inhibits the development of democratic institutions, which would be a necessary condition to secure human rights in the long run. Therefore it is questionable, whether the changes will last after Museveni leaves office. (ibid.: 71.) The role of the local human rights organizations in getting respect for human rights has been small and these organizations have remained weak (ibid.: 77). The local NGOs have stayed away from the issues that they consider too controversial (ibid.: 70). It can be argued that this situation has at least somewhat changed considering the emergence of local LGBT rights organizations during the past decade. Whether or not they have any effect on the state politics, at least they are addressing the issue, which is very controversial in their society.

The socialization process of human rights in Uganda that Schmitz describes may be true regarding the acceptance of general validity of human rights. Nevertheless, it is clear that the rights of sexual minorities are not included in this acceptance. Therefore the norm “gay rights” has to be treated separately when evaluating the performance of Uganda using the “spiral model” of norm socialization. I argue that in the process of “gay rights socialization” Uganda would be between phases two
and three. As happens in phase two, “the denial”, the Ugandan government does not accept the validity of the norm nor the international interference in the discussion about the Anti-Homosexuality Bill. Ugandan parliament is also questioning the universality of the norm and referring to Ugandan or African culture to reject it. The Western pressure is also causing some counterproductive effects because the general public seems to be on the government’s side, together opposing foreign intervention and the promotion of this “new norm”. All of these features are described to be typical for the phase two of the model. Also, as earlier mentioned, this phase is typical in the emergence of new international norms that are still contested. And the “gay rights norm” is a relatively new norm internationally and still very much contested also in the Western countries and international arenas.

On the other hand, in the Ugandan anti-homosexuality case, there are also some features of the third phase, the “tactical concessions”. In response to the international attention, the government of Uganda has made some concessions, like dropping the death penalty from the bill. The prolongation of the handling is also one type of concession. However, as is typical to this phase, the motives of the government seem to be purely strategic and no actual approval of the norm has happened. The motives are based on for example the fear of losing foreign aid. In this phase the local human rights organizations are strengthened and the international attention has some protective influence on the domestic actors’ safety. In Uganda there are signs of this phenomenon as the local LGBT rights NGOs have become more visible and they are getting more and more international attention and support. Sserwadda (2013) notes that although the social standing of “middle class” sexual minorities is extremely difficult in Uganda, the “high ranking” activists are safe because the government knows that they have “direct contact with the international community”, who is constantly watching and if any of these known people are attacked, the international community, including for example the US government, will immediately know about it and react (Sserwadda, Jimmy, personal interview, 2 June 2013).
Reflecting the data to the spiral model

The authors of the “spiral model” theory have a very strong commitment to human rights and see the promotion of these rights globally justifiable and desirable. When judging the data of this study based on this theory, the Western actors are doing the right thing by pressuring and interfering in the Ugandan internal affairs, the Anti-Homosexuality Bill. This, according to the spiral model, is the way in which change can be achieved: international pressure. And as per this theory the reasoning on human rights and strong appeals to the government seems to be the correct approach. However, the theory also points out that this alone is not enough. Sustained change can only be achieved if the local civil society also takes part in the pressure. Therefore the Ugandan sexual minority rights NGOs should have a central role in the struggle as well. Although the international attention has given some protection to the local movements, the organizations still have to work very much underground, because of constant threat of violence (Nell and Shapiro 2013: 35). But the biggest problem seems not to be the government but the common people. Majority of Ugandans do not support the “gay rights norm”, and they are not afraid of showing their intolerance and disgust. A Ugandan gay rights activist John Abdallah Wambere describes how what he is really afraid of are the people surrounding him, the colleagues, neighbours and people in the street, people who want to take justice in their own hands. They are the ones harassing the sexual minorities and forcing them to act underground. (Sistiaga 2013.) So perhaps the biggest problem the domestic movement in Uganda is facing is that their cause is supported by a tiny minority of Ugandans only. Therefore they are too small and weak to be able to put strong pressure against the government. It could thus be concluded that in the process of “gay rights norm” socialization, Uganda will be stuck in the third phase of the “spiral model” unless there is a radical change in the views and actions of the majority of the populace. As the theory does not assume an evolutionary progress of norm implementation, a hindrance in the process of moving from one point to another, in this case the weak civil society movement, explains the lack of progress. According to this model, unless the hindrance is eliminated, no further progress will be achieved. Therefore it is questionable, whether the international pressure should still go on.
Although the theory does not explain it, it is probable that the suggestion would be to continue the pressure in order to avoid a backlash in the achieved status.

The “spiral-model” theory is convergent with ideational-constructivist approaches that emphasize the international normative context, identity and social actors, and claim that the internal acceptance of international norms is the prerequisite for human rights reform. In other words, international and domestic norms need to converge in order for human rights reform to occur. (Cardenas 2004: 214, 216.) Materialist-rationalist approaches, in turn, treat states’ interests in human rights norms as given. These approaches emphasize notions of power and neo-institutionalist concerns with self-interested behaviour, which is shaped by institutions and legal measures. According to this view, the strength of international regimes and their institutional mechanisms are a defining factor in human rights compliance. Some liberal positions assume that greater economic openness, free trade, and globalization will increase political reform and improve human rights. (ibid.: 217.) The rationalist approaches also connect the influence of pressure on human rights to material power of both the pressuring state and the target state. This means that pressure from a hegemonic state to an internationally weak state will have the best results in terms of compliance. However, stable change in human rights conditions requires strong domestic state agencies. (ibid.: 218-219.)

Cardenas (2004) argues that overall there is evidence of several links between international human rights pressure and state behaviour but still more research need to be done on the question of why states do not always react to international pressure but keep on violating human rights norms (Cardenas 2004: 219). Whether the pressure has any impact or not may depend on “what exactly is at stake” and the stakes are high when the state’s or its supporters’ basic interests are threatened (ibid.: 221). Certain domestic conditions such as national security threats or the role of “pro-violation constituencies” may also influence the success of human rights pressure (ibid.: 226). Nevertheless, the theoretical models do not give clear explanations for why sometimes human rights violations persist despite on-going international pressure (ibid.: 227).
6.2. Evaluation of human rights arguments and universalist claims

The data shows a clear tendency to value the universality idea of human rights over cultural relativism. As previously discussed, the idea of universal human rights is a political phenomenon. The idea of human rights is socially constructed and is Western in origin. And especially in Africa the concept is contested (Nell and Shapiro 2013: 12). Hollander (2009) argues that in Uganda the treaties protecting human rights – especially those of sexual minorities – are mostly rhetorical (Hollander 2009: 227). Uganda does not have a high record of respecting human rights in a historical perspective. Therefore, the reasoning on universal human rights as a basis for rejecting the Anti-Homosexuality Bill could be questioned in this context. The eagerness of Western actors to appeal to human rights and use the language of human rights in Uganda is a sign of not adjusting to the context. This could be seen as reflecting contempt to the realities of the society that the actors are commenting on (see e.g. Englund 2006: 49). It could also be seen as a way of promoting neo-colonial strategies (Koshy 1999: 1). Furthermore, the centrality of human rights in the discourse level is not always reflected in the political will to actually address human rights violations in practice and in a well-organized systematic manner (ibid. 1999: 25). Other policy matters often win priority in the actual politics. The data clearly shows the discursive centrality of the human rights language, but to look into the possible lack of political will to act upon that language in a given context, is unfortunately beyond this study.

Radical cultural relativism is a view that considers culture as the only valid source of moral right or rule in a given culture (Donnelly 2003: 89-90). Radical universalism, by contrast, sees culture as irrelevant and holds that moral rights and rules are defined universally (ibid.: 90). Some signs of radical universalism can be observed in the data. Donnelly (2003) could be seen to agree with the ideas that arise from data when he argues:

“No matter how firmly someone else, or even a whole culture, believes differently, at some point – slavery and untouchability come to mind – we simply must say that those contrary beliefs are wrong. Negative external judgements may be problematic. In some cases, however, they are not merely permissible but demanded.” (Donnelly 2003: 93.)
He, however, recognizes that certain “limited relativity” should be accepted especially in the implementation of human rights (ibid.: 98). According to Donnelly human rights have an empowering effect and they give people the means to modify or reject the parts of their culture that they don’t find desirable (ibid.: 122).

Because the human rights regime has very limited international implementation powers, the control of perceived human rights violations is mostly based on international attention and moral judgement (Donnelly 2003: 135, 165). This attention and judgement is exactly what the data represents. Because the international community has no official or concrete means to force Uganda to respect the human rights of sexual minorities or to intervene in their legislation, the only way is to verbally attack them, let the government know that “we in the West” do not accept the way “you” are acting and try to convince them to change their ways. But does the reasoning on human rights grounds make any difference in the case of Uganda? According to Sserwadda (2013) it does not, simply because “they don’t talk human rights in Uganda” (Sserwadda, Jimmy, personal interview, 2 June 2013). The comment suggests that human rights are a foreign concept in Uganda and according to this view, the international actors’ statements, which are almost exclusively based on human rights language, will not have powerful influence on the Ugandan officials and therefore are unlikely to reach their long-term goals. However, it is quite likely that the international pressure is the main reason why the Anti-homosexuality Bill has not been passed yet (see e.g. Sadgrove et al. 2012:104). According to Sserwadda (2013) without the international pressure the bill would have passed “within a day or two” and that’s why the pressure is needed (Sserwadda, Jimmy, personal interview, 2 June 2013). It is unlikely, however, that the pressure based on human rights arguments have made the Parliament to value these rights more or made any actual difference in the realization of human rights in Uganda. The reasons why the pressure has worked are others, namely political and economic.

Indeed a quite common means, visible in the data as well, is the use of aid in pursuing human rights objectives. Aid is most often used punitively so that states are sanctioned for human rights violations with the withdrawal of aid (or the threat of it) rather than rewarded with more aid for good performance in human
As the spiral model theory suggests, the cutting of aid is often a useful way to influence the states to make concessions in human rights matters, be it for instrumental reasons. Sserwadda (2013) also sees the cutting of international aid as the best way to affect the Ugandan government to withdraw the Anti-Homosexuality Bill because “the Ugandan government only listens money” (Sserwadda, Jimmy, personal interview, 2 June 2013).

The appeal to human rights treaties and obligations, which is the most common feature of the data, is probably not the most effective approach in the case of Uganda. Donnelly (2003) writes: “The fate on human rights – their implementation, abridgement, protection, violation, enforcement, denial, or enjoyment – is largely a matter of national, not international action” (Donnelly 2003: 173). Thus in practice states can choose whether they want to follow the “obligations” set to them in the international treaties. The pressure that the international community can exert can be based either on appeal to “the good will” of the state or embarrassment by drawing international attention to apparent violations. This kind of pressure may work if a state is concerned about its human rights reputation abroad. (ibid.: 174.) However, Uganda may not be so much worried about its reputation at least when it comes to the rights of sexual minorities. Many Ugandans feel that the international community should not interfere in their domestic policies. They think that international actors should not push them, because they can manage the issue the way they want in their country. (Sserwadda, Jimmy, personal interview, 2 June 2013.) Bahati for example has declared: “Uganda is a sovereign state. We are doing this [the Anti-Homosexuality Bill] through a democratic process. Aid with the condition of homosexuality is not welcome in Uganda.” (Adams 2012). Nevertheless, the international outcry seems to have had some effect at least on the President, who has distanced himself from the bill after being pushed by high-ranking international politicians (NTV Uganda 2010). Schmitz (1999) argued that Museveni has wanted to identify as a defender of human rights and apparently he cares at least to some extent how his country is viewed outside of its borders (see chapter 3.4.).

On the other hand the Ugandan civil rights movements also use similar language and arguments as the Western actors. The Civil Society Coalition on Human Rights
and Constitutional Law Uganda, which all the most important sexual rights organizations of Uganda are members of, in its statement on the Anti-Homosexuality Bill to the Ugandan Parliament, uses much of the same arguments to oppose the bill as the Western actors in this study. The Coalition argues that the bill is unconstitutional and against international law as well as against human rights (Civil Society Coalition on Human Rights and Constitutional Law 2011: 2, 5, 15). The Coalition also refers to the negative influence of the bill to public health and argues that it is used as a political tool to divert the attention of Ugandans from more pressing domestic issues (ibid.: 17).

Donnelly (2003) argues that in any case human rights protection is fundamentally dependent on national political changes, which the international pressure cannot bring about (Donnelly 2003: 176). Thus, the international action can only have limited impact and the most powerful force towards a government to respect human rights can come from the people whose rights are debated (ibid.: 179). However, Donnelly claims, international action should not be rejected because it can have a supporting role in the national struggles (ibid.: 180). Sserwadda (2013) argues that in the case of Ugandan Anti-Homosexuality Bill there is no way that the change can come from inside even though this would be the preferred option. He is also sceptical about the local NGOs ability to make an impact. Therefore he sees that the international community’s pressure is necessary to make the Parliament reject the bill. (Sserwadda, Jimmy, e-mail interview, 9 June 2013.)

6.3. The inconsistencies in Western politics

Although the provisions of the Anti-Homosexuality Bill are from the current Western point of view a serious human rights violation and most of the West is committed to the protection of these rights, historically the concern for human rights has not been consistent. The realist agenda has more often guided policy practice of Western countries in Africa. (see e.g. Yadav and Baghel 2009: 42.) The emphasis point of the US foreign policy especially has been changing quite radically between the offices of different presidents (ibid.: 40-52). After the Cold War era, there have been conditions to build a consistent human rights based

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8 The name of the Coalition already suggests identification with the international human rights movement.
foreign policy. In practice, nevertheless, this often has not been the case since human rights are brought into play only when it is politically or economically safe (ibid.: 40).

Western countries have a long history of trying to bring democracy to Africa. This in itself could be considered another form of the “civilising mission”, which was a central feature of colonialism. (Yadav and Baghel 2009: 4.) The more recent human rights regime could be seen as a continuation of the same mission as well. There is a certain paradox in this mission. Considering that the West has been imposing its democratic values to Africa is it not somewhat contradictory to then question and interfere in the decisions of a democratically elected Parliament in the name of human rights? This could also be considered an act of questioning the sovereignty of the Ugandan state. In addition, although there are local Ugandan human rights advocates who talk the “Western human rights language” and the mass media has spread the consciousness of the populace of human rights issues (Koshy 1999: 20), the concept is not widely used or highly valued in the country, and definitely is not African in origin.

The data shows that these questions are not considered important by most of the Western politicians and other human rights defenders studied. Almost no attention is paid to the history and other social and political issues that are at play in the context. The inconsistent and changing foreign policy priorities neither are considered a problem. And although no consistent human rights policy often is in place, sporadic protection of human rights in particular situations – when the intervention is not seen to cause any political or economic harm to the intervening country – is considered such a fundamental moral obligation, that the West sees it is justifiable to interfere in the domestic politics of another state. (see e.g. Donnelly 2003: 168.)

6.4. What difference does the Anti-Homosexuality Bill make?

The bill has important political meanings, which can be seen for example in the fact that it has not come to a vote yet. If the Parliament of Uganda had really internalized the respect for the human rights of sexual minorities based on the international pressure, they most likely would have voted to reject the bill by now.
Instead the hearing of the bill is kept on hold and every now and then the issue is brought back on the agenda and to public attention (see e.g. Huffington Post 2011; BBC 2012). Sserwadda (2013) argues that this way the government wants to use the bill as a political tool. Whenever the government has some other political scandal that the international community reacts to, the government brings back the bill to turn the attention away from the scandal (Sserwadda, Jimmy, personal interview, 2 June 2013). This suggests that the LGBT rights have not been internalized and the discussion around them is mainly political and strategic.

Another question worth posing is whether the rejection of the bill would make the situation any easier for the minorities it is targeting. Even according to the current legislation homosexual behaviour is not permitted and no protection is guaranteed for sexual minorities. Therefore, for truly make improvements for the status of this group, it is not enough to reject the bill but more radical law reform would be needed. And even with formal protection, the struggle for enjoyment of rights for sexual minorities in reality would remain difficult (Donnelly 2003: 241). On the other hand, passing of the Anti-Homosexuality Bill would make the situation even more difficult in the sense that the operations of LGBT organizations would become extremely hard, and the life of people who are part of sexual minorities would become more difficult “health wise, mentally, socially, practically” (Sserwadda, Jimmy, personal interview, 2 June 2013). So in that sense, rejection of the bill would at least keep matters more or less at the level of the status quo. Moreover, it would most likely have an important symbolic meaning to the minorities themselves as well as to the general spirit of the society.

6.5. Understanding the historical context

The Ugandan (or more generally African) context and particularities are not paid much – if any – attention in the research data. The starting point of the statements is the Western commitment to human rights. To make their alleged support for the Ugandan sexual minorities fair and useful, the Westerners need to consider more carefully in which ways they express their support. Otherwise the activism and media attention may just create new problems. Epprecht (2013) points out that ridiculing African leaders and threatening the states with sanctions – both of which
are found in the data – without understanding the context, remembering the history of European suppression of homosexuality, and consulting local activists, the Western actors may in fact provoke “a nationalist defensiveness” and consequently undermine their actual long-term objectives and disserving their own cause (Epprecht 2013: 7, 178). Appealing to human rights without critical assessment is not likely to lead to desired outcomes (ibid.: 178). Understanding the history of why homophobia has gained so much ground across Africa is extremely important when change strategies concerning human rights are considered and conducted (ibid.: 109). The increased homophobic speech, discrimination and violence in Africa in recent years has many different sources and causes, which include parts of traditional culture, colonial past, economic stress, popular anger at the West, new fundamentalist and evangelical faith and political opportunism. The variety of different sources of homophobia requires that the responses to them take into account and “consider the specific issues at play in each country, city or culture”. (ibid.: 176-177.) The data is almost completely indifferent to this factor.

United States is playing a visible role in the politics of sexuality in Africa today and not least in Uganda. Mainly because of the religious right but also through previous state politics, its influence on the political homophobia is significant. What is dangerous in this influence is that is has been inconsistent and changing according to the politics of the current leadership. African homophobia should not be treated without taking into account this external pressure, which yet often happens. (Epprecht 2013: 139.) As seen in the data, the current government of USA has included the promotion of gay rights into its foreign policy and the leaders have vocally expressed their disapproval of the Ugandan politics concerning sexual minorities. The inconsistent influence of different American actors is not given consideration in these statements. The Ugandan homophobia is not linked to external pressures or wider international politics. This kind of ignorance, indifference or blindness to the complex origins of the homophobic expressions may cause confusion and resistance among Ugandans. It can create an arrogant image of a speaker who is placing him/herself in a superior position compared to the society he/she is commenting on. It also further reasserts the image of a pro-
gay West and homophobic Africa when in reality the situation is much more complex. To successfully promote human rights for sexual minorities in Africa, the history of Western imperialism and neo-colonialism needs to be considered. Western actors who are not aware of that history are probably not considered credible by the Africans. (Epprecht 2010b: 14.)

Epprecht (2013) points out that the stereotype of the USA, as the main and consistent proponent of sexual minority rights, is factually false (Epprecht 2013: 147). Uganda has for a long time been one of the countries where the Americans have had most influence. The US government as well as the Christian evangelists, with their anti-homosexuality theology, built close relationships with president Museveni already in the 1980s. USA has been supporting with significant amounts of public money for example the Uganda Christian University, which openly discriminates against homosexuals. (ibid.: 144.) During the past three decades, USA has indirectly promoted homophobia in Africa also by supporting the cultural adjustment programs, supporting tyrannical dictators, and giving money to organizations promoting anti-homosexuality education while abstaining it from those who have been working for sexual minority rights (ibid.: 140-141). All of this history and its possible effects to the current situation seem to be forgotten in the current statements against the Anti-Homosexuality Bill by the US government politicians.

7. Conclusions

The Ugandan Anti-Homosexuality Bill has been strongly condemned in the West because it is viewed as an exceptionally harsh measure limiting the rights and freedoms of a particular group in society. The bill is considered to violate the human rights norms, which are defined in international treaties that Uganda also has signed. Human rights language indeed is the most central feature of the research data and it continues to play a fundamental role in the international discussion around homosexuality. The discourse is constructed so that the Western point of view is that the Anti-Homosexuality Bill is extremely tough and unjust – a violation of human rights. It is considered to contradict with the core values of non-discrimination, respect for human dignity and freedom of expression
and privacy that many of us hold. Therefore it may be unsurprising that this kind of suggested piece of legislation evokes strong sentiments and causes reactions. However, other similar offences in different contexts, like death by stoning in Saudi-Arabia for indecency do not always cause equally strong reactions among the global North. This is an indication of the fact that human rights take a priority in foreign politics only when it is politically safe.

The political aspects of the discourse come up in another sense as well. The data shows that the motives of the Western actors are not necessarily only based on a genuine concern about the social standing of the Ugandan minority groups. State commitment to a certain foreign policy and its reputation and identification in the international arena may significantly influence the making of a statement by a state representative. These kind of motives based on policy commitment are openly expressed in several of the statements that make up the data. Often the intervention in the issue of sexual minority rights in Uganda thus arises from a subjective commitment to the assertion of human rights rather than from the social realities of Uganda.

African or Ugandan context is not much highlighted in the Western responses to the suggested bill. A notion of Westerners as promoters and defenders of human rights, whose mission is to bring these rights to every corner of the world, is constructed. Ideas of universalism win over ideas of cultural relativism. The Anti-Homosexuality Bill is seen as a representation of values that conflict with the Western notion of universal human rights. This conflict and the notion of universalism are considered to entitle the Western actors to interfere in Ugandan domestic politics. When the Ugandan social context is mentioned, it is to highlight the difficulties and obstacles that lie on the way of the universalist mission.

The human rights pressure is very often validated by referring to Ugandan constitution and international treaties that Uganda is a party. The Anti-Homosexuality Bill is seen to violate these commitments and it is specifically the human rights clauses of the treaties that are emphasized. International law and treaties thus operate as reinforcement for the language of universal human rights.
By breaking international human rights norms, the Anti-Homosexuality Bill is also considered to do harm to Uganda’s international status and its relationships with other states. A notion of a clash of values on sexual matters between the West and Uganda is constructed. And this clash is viewed to undermine Uganda’s international reputation. Some states, e.g. the UK, see the clash of values to be so serious that they are threatening to cut their aid to Uganda unless the country changes their politics on this matter. Overall, the Western actors are making appeals to increase the international pressure against Uganda as well as directly addressing the Ugandan president and parliament trying to convince them to reject the bill.

In addition to the human rights language, the terminology used in the statements draws strongly from Western concepts. The acronym “LGBT” and the term “sexual orientation” are often used, which supports the concept of homosexuality as a fixed identity. These terms and concepts may be alien and difficult to understand for Ugandan audiences. Talking about an “LGBT community” further supposes an image of a unified minority group, comparable to e.g. an ethnic minority. This may act as a way of avoiding the discussion about important questions related to sexuality and morals.

Risse and Sikkink highlight the importance of international human rights pressure in norm socialization, but even their theory admits that a hindrance in the local conditions may stop the whole process. And there are signs of this kind of hindrances in Uganda, the main one being scarce support for the cause among the populace. It is not at all obvious that the reactions lead to the desired outcomes and therefore a careful consideration of the means and possibilities of outside pressure is needed. If the starting point of the international commentators is that the social status and rights of sexual minorities in a given society need to be improved, it is only logical, and very much necessary, to examine whether their actions are bringing about these desired improvements. And if they are not, a reconsideration of these actions is in place. It should not be assumed that for example the (forced) imposition of universal human rights can be made to work in every society and every context. Alternative approaches need to be developed according to the historical and social context of the target society.
7.1. Alternatives to the language of rights

It has been several times pointed out in this study that human rights language is not necessarily the best option in the Ugandan context because it is quite strongly associated with Western ideas and concepts and reminds the people of colonial politics. Individual rights in general are perceived as a Western concept, which is contradicting historically non-individualistic African values (Epprecht 2013: 177-178). Epprecht therefore suggests a move away from the language of rights to the language of justice, which does not carry the same baggage and is more easily understood as “a universal desire” (ibid.: 33). Language of justice thus can also help to make the point that supporting sexual minority rights is not a sign of Westernization (ibid.: 179). Furthermore, the concept of justice can help to open doors beyond the “either/or struggle of rights versus culture” (ibid.: 34).

African culture itself is not mentioned in the petitions. The Western human rights language is treated as the only correct approach to the matter and looking into local culture and traditions to find solutions is not given a thought. But African culture should also be used as source, not just an obstacle, for finding ways to establish greater tolerance for sexual minorities. According to Epprecht (2013) this is already happening with the lead taken by Africans themselves (Epprecht 2013: 177). The debate within Africa is starting to become lively and is already revoking the homophobic bluster (Epprecht 2010b: 14). The African concept of Ubuntu, which promotes the sense of community and respect, could act as one source for elimination discrimination against sexual minorities. Epprecht (2013) notes that Ubuntu is not inherently “gay friendly”, but nevertheless has this potential. And this potential could give strength and solidarity to African activists in the future. (Epprecht 2013: 108.)

7.2. Way forward?

It is likely that the Western activists and donors will continue to play an important role in the efforts to guarantee rights for sexual minorities in Africa (Epprecht 2013: 150). Therefore it is important to consider what the best practices to do this are. Instead of trying to impose the idea of universal values and norms, the discussion and actions should consider the context more carefully. In order for the
full realisation of sexual rights to become reality in Africa, which supposedly is the long-term goal of the activists, quite a radical transformation of society, governance and political economy is needed (ibid.: 150). In the case of Uganda, the rejection of the Anti-Homosexuality Bill would only be a small step in this struggle. To achieve full equality and a safe environment free of discrimination for sexual minorities many further changes in the dominant political and social climate of Uganda are required. It is unlikely that this kind of change can be imposed from outside and therefore the potential of local cultures in provoking change should be more widely recognized.

The lack of a shared analytical framework by states and other advocates in addressing sexual and human rights is a problem that should be addressed. In order to develop a coherent and relevant vision of sexual rights that are linked to wider human rights, it is crucial that the wide variety of participants in the process are committed to work together according to certain principles and practices. (ICHRP 2009: 46.)

How the debates over human rights unfold in individual African countries depends on several factors related to history, local cultures, and the strength of the civil society as well as the political leadership (Epprecht 2013: 159-160). Rights, Epprecht concludes, “will emerge from local struggles in an organic way that reflects the art of the possible in differing circumstance” (ibid.: 160). The African activists cannot be treated as passive recipients of rights in their own countries and they indeed have taken more leadership in the matter over the past few years (ibid.: 159). In Uganda gay rights groups such as SMUG and FARUG are examples of this. Maybe the biggest challenge that they are facing is to convince the political leaders of the country that, in Epprecht’s words, discrimination and violence against one group are imposing costs for the whole of society whereas recognizing the rights of this group would be beneficial for the whole population (ibid.:16, 176). But even this alone is not enough, because the activists also have to convince the common Ugandans to believe in their cause. Drawing from local traditions and values may be a better way to achieve this than trying to bring ready-made concepts from outside.
7.3. Suggestions for further research

I mentioned in the introductory chapter that my original intention was to collect views from Ugandan actors about the Western pressure. To obtain a more conclusive picture of what the international human rights pressure is causing in Uganda and what kind of effects it has on the sexual minorities’ standing in the society, a thorough investigation of the local realities would be needed. A study concentrating on the domestic developments and possible social changes that have occurred after the introduction of the Anti-Homosexuality Bill and the international outcry induced by it would be useful in order to build a better picture about the impacts of the international attention. This kind of research would help to understand whether the international pressure is leading to the desired outcomes or whether there is a reason to alter the current approach.
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