



Global Campus
Europe

EMA Awarded Theses
2021/2022

Phoebe Eleanor Sheppard

Imperialist Queerphobia

The Curtailment of LGBTQ+ Rights in Uganda
and South Africa as a Product of Colonialism,
Religion and Patriarchy

EMA, The European Master's Programme
in Human Rights and Democratisation

PHOEBE ELEANOR SHEPPARD

IMPERIALIST QUEERPHOBIA
THE CURTAILMENT OF LGBTQ+ RIGHTS IN UGANDA
AND SOUTH AFRICA AS A PRODUCT OF COLONIALISM,
RELIGION AND PATRIARCHY



Figure 1

FOREWORD

The European Master's Degree in Human Rights and Democratisation (EMA) is a one-year intensive programme launched in 1997 as a joint initiative of 8 universities which now has participating universities in all EU Member States with support from the European Commission. Based on an action- and policy-oriented approach to learning, it combines legal, political, historical, anthropological and philosophical perspectives on the study of human rights and democracy with targeted skills-building activities. The aim from the outset was to prepare young professionals to respond to the requirements and challenges of work in international organisations, field operations, governmental and non-governmental bodies, and academia. As a measure of its success, EMA has served as a model of inspiration for the establishment of seven other EU-sponsored regional master's programmes in the area of human rights and democratisation in different parts of the world. Today these programmes cooperate closely in the framework of the Global Campus of Human Rights, with its headquarters in Venice, Italy.

Up to 90 students are admitted to the EMA programme each year. During the first semester in Venice, they have the opportunity to meet and learn from leading academics, experts and representatives of international and non-governmental organisations. During the second semester, they are hosted by one of the 42 participating universities to follow additional courses in an area of specialisation of their own choice and to conduct research under the supervision of the resident EMA Director or other academic staff. After successfully passing assessments and completing a master's thesis, students are awarded the European Master's Degree in Human Rights and Democratisation, which is jointly conferred by a group of EMA universities.

Each year the EMA Council selects five theses, which stand out for their formal academic qualities and the originality of the research topics, their relevance to the promotion and implementation of human rights and democratic values, the innovation of their argument, methodology, and theoretical approach, their Exceptional knowledge of the academic literature and the excellent capacity for critical analysis demonstrated by the authors

The EMA Awarded Theses of the academic year 2021/2022 are:

- Carter, Percy Elena Virginia, *Universal Legal Capacity for Persons with Disabilities: Will, Preferences and Communication*. Supervisor: Andrea Broderick, Maastricht University.
- Gscheidlen, Anne Sophie, *At Risk of Falling through the Cracks? The Protection of Children in State Care in Conflict Situations in International Law and Practice*. Supervisor: Katre Luhamaa, University of Tartu.
- Keogh, Bríana Maria, *Preimplantation Genetic Testing: the Conflict between Reproductive Autonomy and Disability Rights. With the UK, Ireland, and Portugal as Case Studies*. Supervisor: Helena Pereira de Melo, New University of Lisbon.
- Sheppard, Phoebe Eleanor, *Imperialist Queerphobia. The Curtailment of LGBTQ+ Rights in Uganda and South Africa as a Product of Colonialism, Religion, and Patriarchy*. Supervisor: Ekaterina Yahyaoui, University of Galway.
- Vodopija, Helena, *When the 'Terrorists' Speak the Language of Humanity. Counter-Memory of 15th July Coup d'État*. Supervisor: Josip Glaurdić, Université du Luxembourg.

The selected theses demonstrate the breadth, depth and reach of the EMA programme and the passion and talent of its students. We are proud of the range of topics as well as the curiosity and research skills demonstrated by this year's students. On behalf of the Governing Bodies of EMA and of all participating universities, we applaud and congratulate them.

Prof. Manfred NOWAK
Global Campus Secretary General

Prof. Thérèse MURPHY
EMA Chairperson

Dr Orla Ní CHEALLACHÁIN
EMA Programme Director

This publication includes the thesis *Imperialist Queerphobia. The Curtailment of LGBTQ+ Rights in Uganda and South Africa as a Product of Colonialism, Religion, and Patriarchy* written by Phoebe Eleanor Sheppard and supervised by Ekaterina Yahyauoi, University of Galway.

BIOGRAPHY

Phoebe is an LGBTQ+ and women's rights activist, with a specialisation in restrictions on human rights resulting from legacies of colonialism and imperialism. She graduated from the University of Leeds in 2018 with a Bachelor of Arts in History, specialising in African and Caribbean history and the themes of gender, sexuality, and race. Following the EMA programme, she interned at No Peace Without Justice, working on women's rights, Middle East and North African democracy, and international criminal justice. She is now pursuing a career in Policy within the NGO sector.

ABSTRACT

The concerning reality for LGBTQ+ people in sub-Saharan Africa is ever-increasing state-sanctioned queerphobia, societal oppression, heteropatriarchal violence and religious queerphobia. This thesis incorporates the analysis of archival interviews, political speech, newspaper articles, letters, case law, photographs and legislation to illuminate the fact that colonialism, religion and patriarchy have coalesced in contributing to increasingly queerphobic attitudes within sub-Saharan Africa, primarily driven by three core rationales: the contention that homosexuality is an 'un-African' phenomenon imported from the West which is morally corrupting Africa and must be eradicated to protect and preserve African culture; that homosexuality goes against Christianity – the dominant religion in South Africa and Uganda – and is therefore regarded as a 'sin' that must be punished and legislated against by African leaders placing their religious views at the forefront of legislative decision making; and that the existence of queer relationships and identities outside of the heteropatriarchal binary present a threat to masculinity which must be eradicated through heavily policing queer bodies and enforcing violence in the name of 'enlightenment'. It is these three concepts that need to be negated in order for the full and equal rights of LGBTQ+ people to be enjoyed.

Contains references to sexual violence, homophobia, misogyny, racist remarks, and derogatory language.

In memory and honour

of David Kato, Eudy Simelane and countless others who have lost their lives or continue to suffer at the hands of intolerance, ignorance, hatred and violence based on their imputed gender identity or sexual orientation.

‘A luta continua’¹

‘The struggle continues’

¹ ‘A luta continua’ was a rallying call used throughout the Mozambique war which has since been popularised in a song with the phrase as its title by Miriam Makeba. The phrase has since become widely appropriated by LGBTQ+ activists and those illustrating that ‘the struggle for decolonization continues’. Because ‘a luta continua’ was printed on T-shirts of LGBTQ+ activists attending David Kato’s funeral, it has been used within this context (Ana Deumert and Nkululeko Mabandla, ‘A luta continua- black queer visibilities and philosophies of hospitality in a South African rural town’ (2017) 21(3) Journal of Sociolinguistics 416.

ACKNOWLEDGEMENTS

Firstly, I would like to thank my friends both in Venice and at home. Without your support, encouragement and help, I would have struggled to keep up my morale and determination in producing such a body of work.

I would also like to thank my past professor and expert in this field, Adriaan Van Klinken, for his generous support and advice which was of huge assistance in the drafting process. Studying African politics and history through his classes at Leeds University, as well as reading his insightful works, is what originally sparked my interest in this subject area and for that I would like to express my sincere gratitude.

A huge thank you must also be extended to the Gay and Lesbian Archive (GALA), based in South Africa, and specifically Linda Chernis, for providing me with access to the Queer Youth Speak Out interview collection as well as other vital archival materials, which largely grounded my research.

I would also like to express my gratitude to DeLovie Kwagala, not only for allowing me to use their photographs within this thesis, but also for their continuous activism, courage and determination in fighting against heteropatriarchal norms and oppression. Without their photographs, this thesis would not be the innovative piece of research that I envisioned, nor as activist-focussed or comprehensive.

Finally, I would like to thank my family for their continuous support and endless encouragement, without which I would not have been able to complete this piece of work, especially to such a high standard. I would particularly like to thank my sister Kiah for their continuous advice, suggestions, proofreading and thoughts on my work, which were all vital to its success.

TABLE OF ABBREVIATIONS

ACDP	African Christian Democratic Party
AHA	Anti-Homosexuality Act
AHB	Anti-Homosexuality Bill
CAN	Christian Action Network
CEDAW	Convention on the Elimination of Discrimination against Women
ICCP	International Church Council Project
IPC	Indian Penal Code
LGBTQ+ plus	Lesbian, gay, bisexual, transgender, queer, questioning and plus
PAP	Pan African Parliament
SADF	South African Defence Force
UDHR	Universal Declaration of Human Rights

TABLE OF CONTENTS

Biography	IV
Abstract	IV
Acknowledgements	VI
Table of abbreviations	VII
Introduction	1
Outline	1
International human rights framework	2
Research questions and structure	3
Literature review	4
Part I: Colonialism	14
Introduction	15
1. Gender and sexual expression in pre-colonial Africa	16
2. Enforced binaries and queer repression during the colonial period	21
i) South Africa	23
ii) Uganda	27
3. Postcolonial nation building, political speech and the role of law in attitudes towards and the rights of LGBTQ+ people in contemporary Africa	32
3.1 The role of law in postcolonial attitudes towards LGBTQ+ people	32
i) Uganda	32
ii) South Africa	35
3.2 Postcolonial nation building and queerphobia	38
4. Politics and queerphobic discourse	41
i) Uganda	42
ii) South Africa	46
Conclusion	48
Part II: Religion	50
Introduction	51
1. The right to religion and legislation pertaining to LGBTQ+ rights	52
2. The arrival of missionaries and queerphobic attitudes	55
i) South Africa	56
3. The politicisation of Christianity and LGBTQ+ rights	64
i) Evangelical influence	67
4. Shifting the narrative: African Christianity and support for queer rights	71
i) Desmond Tutu	71
ii) Bishop Christopher Senyonjo	74
5. Religion as a sanctuary	75
Conclusion	76

Part III: Patriarchy	78
Introduction	79
1. The establishment of patriarchal structures and the sex binary	80
2. 'Corrective' rape as a patriarchal 'solution' to homosexuality	83
3. Heteropatriarchy and forced gender reassignment surgery/hormone treatment	95
Conclusion	98
Conclusion	99
Bibliography	103

TABLE OF FIGURES

<i>Figure 1. DeLovie Kwagala, 'Authentically Plastic and Raldy' The Quingdom - In Transition</i> < https://phmuseum.com/delovickwagala/story/the-quingdom-in-transition-cb0058955e >	I
<i>Figure 2 – DeLovie Kwagala, 'Favour Marvanne' I am Womxn</i> < https://deloviephotography.com/projects/i-am-womxn >	89
<i>Figure 3 - DeLovie Kwagala, 'Jesse' The Quingdom - In Transition</i> < https://wheretheleavesfall.com/explore/pictures/the-quingdom-in-transition/ >	91
<i>Figure 4 – DeLovie Kwagala, 'Authentically Plastic' The Quingdom - In Transition</i> < https://phmuseum.com/delovickwagala/story/the-quingdom-in-transition-cb0058955e >	92
<i>Figure 5 – DeLovie Kwagala, 'Raldy' The Quingdom - In Transition</i> < https://phmuseum.com/delovickwagala/story/the-quingdom-in-transition-cb0058955e >	94

INTRODUCTION

OUTLINE

The current situation for LGBTQ+ people living in sub-Saharan Africa is a concerning reality in which the community are facing increasing state-sanctioned queerphobia, societal oppression, heteropatriarchal violence and religious queerphobia. Whilst Uganda and South Africa possess significantly different constitutional models and legislation in relation to LGBTQ+ rights and varied colonial experiences, fundamentally the issues that they face in relation to persisting vehement queerphobia are the same. The lack of real protection of LGBTQ+ rights in South Africa despite the introduction of the equality clause in the new Constitution in 1997, which legally enshrined equal rights for all people including the LGBTQ+ community, illustrates that whilst legalisation of same-sex relations is a huge step forward, it does not necessarily guarantee that LGBTQ+ people will be treated equally or fairly and thus solely law reform is not sufficient in promoting and protecting LGBTQ+ rights. Hence, whilst the sole aim of LGBTQ+ movements in Uganda currently is to work towards the decriminalisation of homosexuality, the achievement of this alone, as seen through the South African model, would not be adequate in tackling queerphobia.

Since the tabling of the Anti-Homosexuality Bill (AHB) in 2009 which sought to introduce the death penalty for ‘aggravated homosexuality’ and the passing of the Anti-Homosexuality Act (AHA) in 2014 (which has since been rescinded due to a lack of quorum), not only have LGBTQ+ rights been progressively threatened in Uganda, but LGBTQ+

movements have gained increasing traction due to rising exposure.² Anti-queer rhetoric and a lack of seriousness surrounding LGBTQ+ rights within politics and the judicial system have also increasingly challenged the protection of LGBTQ+ rights in South Africa and thus in recent decades the LGBTQ+ community have faced vehement queerphobia.

The term queerphobia will be employed in this thesis as a more inclusive way of defining discrimination against LGBTQ+ people based on their sexual orientation and/or gender identity inspired by Rahul Rao's usage. Whilst homophobia will sometimes be used due to its prevalence within the scholarship foregrounding this thesis, an attempt will be made to place greater emphasis on the term queerphobia to promote greater inclusivity. The use of 'imperialist queerphobia' in the title serves to emphasise the continuance of imperialist discourse within perceptions of queerness on the continent and the impact of both neo-imperialist narratives and the threat of neo-imperialism within conceptions of sexuality in sub-Saharan Africa.

INTERNATIONAL HUMAN RIGHTS FRAMEWORK

Although there currently exists no specific international human rights treaty explicitly condemning discrimination on the basis of sexual orientation or gender identity it is nevertheless prohibited through article 2 of the Universal Declaration of Human Rights (UDHR) on the right to equality and freedom from discrimination.³ The African Charter on Human and Peoples' Rights also enshrines the right to freedom from discrimination in article 2 and the right to equality before the law in article 3.⁴ Moreover, Resolution 275 of the African Commission on Human and Peoples' Rights protects against the violation of the rights of LGBTQ+ people on the basis of their real or imputed sexual orientation or gender identity.⁵ The Resolution 'strongly urges' states to put an end

² R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 3.

³ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III) (UDHR) art 2.

⁴ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) OAU Doc CAB/LEG/67/3 rev 5, 21 ILM 58 art 2 and art 3.

⁵ 275 Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (adopted 28th April-12th May 2014) ACHPR/Res.275(LV).

to acts of violence and abuse, condemns state sanctioned queerphobia and systemic attacks by non-state actors against LGBTQ+ people and denounces increasing violence and other human rights violations on the basis of sexual orientation or gender identity.⁶ The Yogyakarta Principles additionally reify the requirement of all states to protect LGBTQ+ rights.⁷ Although the Yogyakarta Principles are not a binding treaty themselves, they reiterate specific rights and related duties and obligations of states based on other binding instruments.

RESEARCH QUESTIONS AND STRUCTURE

This thesis will address a multitude of questions with the most prevalent being: How have colonial attitudes and penal codes manifested themselves in contemporary African politics? Why are LGBTQ+ rights such a diverse issue on the continent, specifically in relation to restrictive legislation and social attitudes? How has the idea that homosexuality is a Western import and continued bitterness toward the West prevented progression in LGBTQ+ rights? How have patriarchal structures served to ostracise and violate queer people and maintained the idea of homosexuality being ‘un-African’?

This thesis employs a number of diverse sources – including archival interviews, political speech, newspaper articles, letters, case law, photographs and legislation to provide a unique interpretation of the nature of the curtailment of LGBTQ+ rights in South Africa and Uganda.

Part I on colonialism explores gender and sexual expression in pre-colonial Africa, using the existence of diverse sexual relationships and gender identities to prove that homosexuality is not ‘un-African’. The way in which binaries and queer repression were enforced during the colonial period is discussed and the final section on postcolonial attitudes portrays the role of colonialism in contemporary queerphobic discourses.

⁶ Resolution 275 (n 5) (4).

⁷ International Commission of Jurists, ‘Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity’ (March 2007) <http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf> accessed 1 May 2022.

Part II on religion discusses the use of Christianity as both a tool of imperialism and a tool of resistance in relation to both the imposition of and fight against anti-gay legislation. Whilst the influence of evangelical missionaries is discussed, it is emphasised that Africa has a long history of Christianity and therefore the assertion that recent evangelical movements are solely responsible for anti-gay legislation denies both African culture and agency.

Part III on patriarchy explores the colonial imposition of heteropatriarchal structures on Uganda and South Africa and how they have culminated in increasingly queerphobic attitudes. The African perception that sexuality is intrinsically gendered is interrogated and it is argued that society must be de-gendered before LGBTQ+ equality can be achieved.

LITERATURE REVIEW

Whilst scholarship on post-colonial sub-Saharan African sexual politics is an ever-growing field, few articles have discussed the topic with full consideration of the historical, political and cultural context of queerphobia on the continent. Literature on sexual politics in Uganda tends to heavily focus on the impact of religion on queerphobic attitudes with less focus on the patriarchy as a factor, for example. On the other hand, literature on South African sexual politics places a heavy emphasis on patriarchal attitudes and legacies of apartheid which have fed into queerphobic discourse in contemporary society. In order to identify patterns in the perpetuation of queerphobic sentiment, one needs to look beyond simply patriarchal and religious factors; without considering all of the factors that this thesis will explore including colonialism, religion and patriarchy, it is extremely difficult to fully understand the historical context of queerphobic attitudes. Why queerness has become so politicised on the continent, how religion is such a significant factor in both the perpetuation of queerphobia and the fight against it, and how patriarchal structures must be dismantled before LGBTQ+ equality can be achieved due to sexuality in sub-Saharan Africa being inherently gendered are also important factors to consider.

Thus, this thesis will attempt to fill this gap by generating an overview of how colonialism, religion and patriarchy have all coalesced to form contemporary discourse on LGBTQ+ rights in Uganda and South

Africa. This literature review will therefore discuss the main assertions and debates within this field that foreground this thesis, pointing out gaps in the literature and providing context to these discussions.

A multitude of scholars have focused on documenting the existence of diverse sexual relations and gender expression in the pre-colonial period to invalidate the recurrent claim that homosexuality is ‘un-African’. Marc Epprecht is one prominent scholar in this field, with numerous publications relating to gender and sexuality in sub-Saharan Africa and frequent explorations of the historical significance of same-sex relations and fluid gender identities. In “‘Bisexuality’ and the Politics of Normal in African Ethnography”, Epprecht asserts that much of the historical empirical data existing on sexual relationships and identities on the continent is ‘deeply flawed’, in that colonial-era anthropologists commonly suppressed evidence ‘in conformity with colonial ideologies’.⁸ As a result, much of the anthropological literature on pre-colonial same-sex relationships is ‘complicit in the construction and maintenance of racist colonialist structures’.⁹ Epprecht counters these discriminatory depictions by evidencing the diverse nature of gender and sexuality in the pre-colonial period, expressing that diverse sexual relationships were documented as early as the 16th century, with images depicting flexible gender systems reaching European culture in the 18th century.¹⁰ Epprecht emphasises that these relations were often of great significance within African culture with some even ritualised, again countering the idea that homosexuality is fundamentally ‘un-African’.¹¹

Kristen Cheney also raises this argument by highlighting that where same-sex practices existed, they often formed part of ‘the social body with named roles and sexual identities’, suggesting that they were largely normalised as opposed to simply being tolerated.¹² Cheney additionally distinguishes between those who engage in same-sex practices and those who identify as queer. Hence, she asserts that there is a considerable amount of distance existent ‘in African imaginations between situational

⁸ Marc Epprecht, “‘Bisexuality’ And The Politics Of Normal In African Ethnography” (2006) 48 *Anthropologica* 187.

⁹ *ibid.*

¹⁰ *ibid* 189.

¹¹ *ibid.*

¹² Kristen Cheney, ‘Locating Neocolonialism: “Tradition,” and Human Rights in Uganda’s “Gay Death Penalty”’, (2012) 55(2) *African Studies Review* 77, 81.

homosexual acts – which are indeed part of the African social landscape – and homosexuality as an identity or lifestyle’.¹³ Thus, whilst the homosexual ‘lifestyle’ is today and may have historically been disapproved of, same-sex acts were not necessarily discouraged and were significantly normalised within African life.¹⁴ Hence, it is this ‘lifestyle’ and ‘identity’ rather than same-sex acts themselves that originally formed the Western import narrative.

Moreover, Bharat Mehra and others explore the existence and representation of gender non-conforming people in pre-colonial sub-Saharan Africa. They indicate this through examples from African folklore, marriage traditions and in the discussion of King Mwanga II’s (the Kabaka of Buganda 1868-1903) involvement in same-sex practices.¹⁵ Scholars including Sowemimo,¹⁶ Kizito,¹⁷ Rao,¹⁸ Ward,¹⁹ Cheney,²⁰ Sanders,²¹ Wa Tushabe²² and Tamale²³ have also discussed the historical significance of King Mwanga II, contributing to the support for LGBTQ+ rights. His same-sex practices both evidenced their existence in Africa pre-colonialism and contributed to contemporary queerphobia through a manipulated interpretation which saw the creation of Martyr’s Day and subsequent denunciation of queer relationships and identities.

Several scholars have focused on British colonialism as the main cause of contemporary queerphobia in sub-Saharan Africa, including scholars

¹³ Cheney (n 12).

¹⁴ *ibid.*

¹⁵ Bharat Mehra and others, ‘An Exploratory Journal of Cultural Visual Literacy of “Non-Conforming” Gender Representations from Pre-Colonial Sub-Saharan Africa’ (2019) 3 *Open Information Science* 1, 7-13.

¹⁶ A Sowemimo, ‘How Britain’s Exported Homophobia Continues to Drive Health Inequalities Amongst LGBTQI Communities’ (*gal-dem*, 15 April 2019) <<https://gal-dem.com/how-britains-exported-homophobia-continues-to-drive-health-inequalities-amongst-lgbtqi-communities/>> accessed 12 March 2022.

¹⁷ K Kizito, ‘Bequeathed Legacies: Colonialism and State Led Homophobia in Uganda’ (2017) 15(3/4) *Surveillance & Society* 567

¹⁸ Rao (n 2).

¹⁹ Kevin Ward, ‘The Role of the Anglican and Catholic Churches in Uganda in Public Discourse on Homosexuality and Ethics’ (2015) 9(1) *Journal of Eastern African Studies* 127.

²⁰ Cheney (n 12).

²¹ AJGM Sanders, ‘Homosexuality and the Law: A Gay Revolution in South Africa?’ (1997) 41(1) *Journal of African Law* 100.

²² Tushabe Wa Tushabe, ‘Sexual Rights in Uganda and the Struggle for Meaning in Community’ (2017) 21(2) *Journal of Lesbian Studies* 169.

²³ Sylvia Tamale, ‘Confronting the Politics of Nonconforming Sexualities in Africa’ (2013) 56(2) *African Studies Review* 31.

such as Roland Danil,²⁴ McNamarah,²⁵ Kalende,²⁶ Kizito,²⁷ Ireland²⁸ and Durban²⁹. In her article in ‘The Ironic Gay Spectator’, focusing on the Ugandan AHA and using Stephen Fry’s documentary as a case study, Niamh Ní Mhaoileoin denounces the frequent centring of Western gay subjects in international queer advocacy, arguing that it ‘seriously undermines the relevance and efficacy of international anti-homophobia campaigns’.³⁰ She contends that motivation for international solidarity with queer movements in Uganda is not driven by a genuine desire to help those suffering at the hands of state-sanctioned homophobia, but instead, a ‘narcissistic perception that attacks on “gay” people anywhere represent an attack on the Western gay subject’.³¹ Whilst this postulation by Ní Mhaoileoin is partially veracious, the insinuation that assaults on LGBTQ+ rights internationally have no impact on those living elsewhere fails to recognise that although the repercussions may not be direct or instantaneous, these restrictions set a precedent, impacting the entire LGBTQ+ movement in the long term. Of course, Western gay subjects such as Fry centring themselves in the discourse and acting as if the implementation of anti-gay legislation in Uganda poses a direct risk to them is ‘narcissistic’ and tone deaf, but we must acknowledge that decisions to restrict human rights anywhere in the world are not isolated and will eventually bear weight on other nations. Ní Mhaoileoin’s assertion that, to an extent, the interference of international advocates has detracted from the work of local activists is far more convincing.

Whilst Ní Mhaoileoin’s contention that the assertion that Britain’s responsibility for anti-homosexuality legislation laws in its ex-colonies

²⁴ Linda Roland Danil, ‘Queerphobic Immunopolitics in the Case of HIV/AIDS: Political Economy, the Dark Legacy of British Colonialism, and Queerphobia in Sub-Saharan Africa’ (2020) 25(2) *Sexuality & Culture* 377.

²⁵ Chan Tov McNamarah, ‘Silent, Spoken, Written, and Enforced: The Role of Law in the Construction of the Post-Colonial Queerphobic State’ (2018) 51 *Cornell International Law Journal* 495.

²⁶ Val Kalende, ‘Africa: Homophobia is a Legacy of Colonialism’ (*The Guardian*, 30 April 2014) <www.theguardian.com/world/2014/apr/30/africa-homophobia-legacy-colonialism> accessed 22 March 2022.

²⁷ Kizito (n 17).

²⁸ Patrick R Ireland, ‘A Macro-Level Analysis of the Scope, Causes, and Consequences of Homophobia in Africa’ (2013) 56(2) *African Studies Review* 47.

²⁹ EL Durban, ‘Whither Homophobia? Rethinking a Bad Object for Queer Studies from the Black Global South’ (2021) 8(1) *QED* 49.

³⁰ Niamh Ní Mhaoileoin, ‘The Ironic Gay Spectator: The Impacts of Centring Western Subjects in International LGBT Rights Campaigns’ (2017) 22(1-2) *Sexualities* 148, 148-49.

³¹ *ibid* 152.

is an example of the centring of the Western subject and ‘the denial of African agency’ is partially convincing, arguably this is not always the case.³² Although the acceptance of British involvement by political leaders has resulted in them taking what can be perceived as neo-colonial actions – such as threatening the withdrawal of financial aid in an attempt to ‘reverse’ their mistakes – the idea that attributing some responsibility for vehement homophobia in Uganda on the colonial power which enforced the anti-gay legislation in question is denying African agency is an over-exaggeration. One can, as this thesis aims to do, acknowledge the significant role that imperialism has played in the enactment of queerphobic legislation and promotion of anti-queer attitudes whilst recognising that it is not the only contributing factor at play. Although attributing queerphobia in Uganda to imperialism alone would deny Ugandan agency as well as other cultural, religious and political factors at hand, simply recognising that British imperialism has affected queerphobic legislation and attitudes crucially does not.

More concerning are the portrayals of the AHB by Western media which ‘completely ahistoricize and “otherize” the phenomenon of homophobia, as if it has never existed in Western countries’.³³ Tamale has asserted this, going on to argue that not only is this sanctimonious and hypocritical, but serves to reinforce imperialist depictions of the ‘dark’ and ‘primitive’ African continent, existing decades behind the ‘sexual democracy’ that is the West.³⁴ This can be linked to the conceptualisation of the ‘dark body of the non-West’ by Graham Thomas, which became ‘an eternal sign of the inferior evolutionary development of non-white humanity’.³⁵ Rao has also used dark imagery to illustrate constructions of Africa by the West, asserting that Uganda has been formulated as a ‘gay “heart of darkness”’,³⁶ whilst Azille Coetzee looks at the ‘light’ and ‘dark’ side of the colonial gender system as presented by Lugones.³⁷ These imperial constructions of ‘darkness’ are evident within reports and documentaries formulated in Western countries such as Britain and

³² Ní Mhaioileoin (n 30).

³³ Tamale (n 23) 42.

³⁴ *ibid* 36.

³⁵ Graham Thomas, *The Sexual Demon of Colonial Power: Pan-African Embodiment and Erotic Schemes of Empire* (Indiana UP 2007) 4.

³⁶ Rao (n 2) 33.

³⁷ Azille Coetzee, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 95.

the US concerning the AHB. This documentation was ‘largely negative, ahistorical, and myopic’ and quick to denounce Uganda as the ‘world’s worst place to be gay’ without recognising the larger cultural, religious and historical context.³⁸ Thus, as Tamale asserts, ‘in perpetuating racist stereotypes even as they narrated homophobic stories, they eclipsed one example of discrimination with another’.³⁹

The neo-colonial aspect of this Western intervention can also be exemplified by the decision of a multitude of Western countries to threaten the withdrawal of financial aid. Tamale, Munro, Ní Mhaoileoin and Mehra and others are just some examples of scholars who have emphasised this. Financial aid from governments and non-governmental organisations became conditional; Uganda would have to quash its AHB or face its financial aid being withdrawn. The hypocrisy of this is that before the tabling of the AHB, LGBTQ+ activists had frequently spoken out about a multitude of human rights violations and yet received no response from the West, with Western governments instead endorsing Museveni as ‘one of only a handful of a “new breed” of African leaders’.⁴⁰ This, therefore, illustrates ‘selective conditionality’, a lack of sincerity and actions of the West towards African politics and nations being a ‘power play’ and thus essentially an attempt to maintain their political power and international influence through a neo-imperialist project.

As Nancy Nicol and others have argued, Museveni’s use of the phrase ‘social imperialism’ in his speech during the signing of the AHA in 2014 fits into the view that homosexuality is a Western import, and hence by withdrawing funding and taking a paternalistic approach in this situation, Western nations have reinforced this notion evidencing how, in the eyes of African leaders, ‘the West [are] destroying African values and systems’.⁴¹ With African politicians frequently denouncing homosexuality as a ‘dreadful Western disease’, these statement actions by countries such as Britain to ‘correct’ or overlook the role they played in the establishment of state-sanctioned queerphobia only serve to feed into the false narrative that colonists imported homosexuality rather than legislation condemning it, adding to malevolence towards and

³⁸ Scott Mills, ‘The World’s Worst Place to Be Gay?’ (BBC, 13 May 2011) <www.bbc.co.uk/programmes/b00yrt1c> accessed 21 May 2022.

³⁹ Tamale (n 33) 37.

⁴⁰ *ibid* 41.

⁴¹ Nancy Nicol and others, *Envisioning Global LGBT Human Rights: (Neo)colonialism, Neoliberalism, Resistance and Hope* (University of London Press 2018) 77.

stigmatisation of queer communities in sub-Saharan Africa.⁴² Thus, as Brenna Munro argues, inducing conditional loans based on adherence to human rights principles ‘can all too easily become the West’s civilizing mission of the day’, or a neo-colonial project if you wish, exacerbating existing conflicts ‘being worked out across the terrain of sexuality’ in sub-Saharan Africa.⁴³

Similarly to Ní Mhaoileoin, Tamale also argues that anti-queer attitudes in Africa were not ‘manufactured abroad’.⁴⁴ Tamale instead attributes homophobia to the politicisation of sexuality, suggesting that ‘homophobia has become a political tool used by conservative politicians to promote self-serving agendas’.⁴⁵ She insists that African leaders have manipulated sexual politics and religion in their favour to distract from more serious economic, social and political crises facing their governments. Munro has built on this argument suggesting that African leaders use anti-queer politics to distance themselves from colonists ‘assert[ing] national sovereignty and cultural authenticity in the context of their relative powerlessness on the global stage’.⁴⁶

Other scholars have conceptualised attitudes towards homosexuality in sub-Saharan Africa through Christianity. One such example is Adrian van Klinken and Ezra Chitando, who present two dominant imaginations of sexuality and Christianity in Africa.⁴⁷ Within the first imagination, Africa is depicted as a heterosexual continent in which ‘homosexuality is alien and foreign to African cultures’, a Western import imposed on indigenous people as an ‘example of Western imperial hegemony’.⁴⁸ In the second imagination, more significant in the West, Africa is visualised as a homophobic continent in which LGBTQ+ rights are not promoted or protected, illustrating the ‘backward nature of African cultures and societies’.⁴⁹ With the recognition of LGBTQ+ rights depicted as illustrative of ‘modernity and progress’, countries such as Uganda in sub-Saharan Africa with repressive legislation towards queer people have been utilised to reinforce ideas that Africa is backward in comparison to the ‘liberal West’.⁵⁰

⁴² Thabo Msibi, ‘The Lies We Have Been Told: On (Homo) Sexuality in Africa’ (2011) 58(1) *Africa Today* 55, 62.

⁴³ Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) xvii.

⁴⁴ Tamale (n 23) 31.

⁴⁵ *ibid.*

⁴⁶ Munro (n 43) xvi.

⁴⁷ Adriaan Van Klinken and Ezra Chitando, *Reimagining Christianity and Sexual Diversity in Africa* (Hurst 2021) 11.

⁴⁸ *ibid.* 11.

⁴⁹ *ibid.*

⁵⁰ *ibid.* 15.

Masondo, Ananyev and Poker, Kaoma, Ward, van Klinken, Hellweg and Grossman⁵¹ have all framed sexual politics on the continent around religion. Maxim Anayev and Michael Poker argue that the principles introduced by Christian missionaries have had a significant impact on anti-gay perceptions in contemporary Africa.⁵² Kevin Ward asserts that whilst Christian leaders feel entitled to express a ‘deep-seated sense of propriety of Ugandans as a whole’ through the promotion of ‘Christian’ understandings of sexuality and family, their reliance on these principles is contradictory to the opposition of Catholics and Anglicans to much of Uganda’s historically traditional practices such as polygamy.⁵³ Thus, this heavy reliance on ‘Christian’ discourse regarding LGBTQ+ rights, and emphasis on Christian traditions being the only ‘morally’ right way, can be conceptualised as contradictory to wider Ugandan culture. Sibusio Masondo offers a different interpretation, suggesting that Christianity has been Africanised to ‘serve the interests of an African worldview’.⁵⁴ West similarly contends that the Bible, originally a ‘tool of imperialism’, became intertwined with African culture and spiritual practices, eventually becoming an ‘African icon’.⁵⁵

Scholars including Hellweg and Kaoma have highlighted the influence of American Evangelicals in the promotion and enactment of anti-gay legislation and queerphobic attitudes. Their particular involvement in the formulation of the AHB has been stipulated as well as their wider role in promoting increasingly fundamentalist Christian beliefs. This has been presented as a projection of US ‘culture wars’ and an attempt to counteract their dwindling influence elsewhere, existing as a project to maintain their influence and power internationally. KapykaKaoma, using the process of ‘Africanization or glocalization’ – meaning ‘the process of domesticating the global in local contexts’ – suggests that both anti-gay groups and pro-LGBTQ+ rights activists localise foreign ideologies ‘to negotiate local politics’, leading to both accusing each other of being ‘influenced by foreign interests’.⁵⁶ Kapyka Kaoma concludes that this can

⁵¹ Guy Grossman, ‘Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa’ (2015) 77(2) *The Journal of Politics* 337.

⁵² Maxim Ananyev and Michael Poyker, ‘Christian Missions and Anti-Gay Attitudes in Africa’ (NICEP Working Paper 2020) 1.

⁵³ Ward (n 19) 141.

⁵⁴ Sibusio Masondo, ‘Ironies of Christian Presence in Southern Africa’ (2018) 31(2) *Journal for the Study of Religion* 209, 227.

⁵⁵ Gerald O West, *The Stolen Bible: From Tool of Imperialism to African Icon* (Brill Academic Publishers 2016).

⁵⁶ Kapyka Kaoma, ‘The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa’ (2014) 2(3) *Critical Research on Religion* 227, 228.

be situated in the wider politics of postcolonialism. Whilst LGBTQ+ movements generate increasing traction, and the majority of Africans continue to hold religious beliefs, religion will continue to be used as a tool by African leaders both as an excuse and reason for queerphobia and also in tandem with the resistance of African nations to subscribing to Western values and thus as a ‘critique of the West’s undemocratic relationship with the continent’.⁵⁷ Queerphobia is therefore not just a product of its historical, religious and cultural context, but also a product of post-colonial politics and resistance, in which African leaders do not want their sovereignty curtailed and thus use queerphobia as a way to reinforce their uniquely ‘African’ identity.

Scholars such as MacDougall and Short have examined the manipulation of the right to freedom of religion in the defence of queerphobia, arguing that weaponizing the right to religion in this way is never a legitimate claim to exemption from equality and discrimination law. Coyle similarly has suggested that the condemnation of homosexuality by religious conservatives has been successful through the redefinition of this issue as a ‘clash of rights’.⁵⁸ This has concerning implications for queer politics on the continent, which will be further discussed throughout this thesis.

Doan-Minh,⁵⁹ Koraan and Geduld,⁶⁰ Wheal and Mwambene,⁶¹ West and others,⁶² Graham⁶³ and Msibi⁶⁴ have all discussed the prevalence of ‘corrective’ rape in sub-Saharan Africa. Sarah Doan-Minh is the only scholar who defines ‘corrective rape’ more inclusively, as a ‘punishment for being gay and for violating traditional gender presentation’⁶⁵ rather than limiting the term’s application to women with the definition of ‘a

⁵⁷ Kaoma (n 56) 240.

⁵⁸ Stella Coyle, ‘The Queer, the Cross and the Closet: Religious Exceptions in Equality Law and State-Sponsored Homophobia’ (2021) 10(83) *Laws* 1.

⁵⁹ Sarah Doan-Minh, ‘Corrective Rape: An Extreme Manifestation of Discrimination and the State’s Complicity in Sexual Violence’ (2019) 30(1) *Hastings Women’s Law Journal* 167.

⁶⁰ R Koraan and A Geduld, ‘“Corrective Rape” of Lesbians in the Era of Transformative Constitutionalism in South Africa’ (2015) 18(5) *Potchefstroom Electric Law Journal* 1930, 1937.

⁶¹ Maudri Wheal and Lea Mwambene, ‘Realisation or Oversight of a Constitutional Mandate? Corrective Rape of Black African Lesbians in South Africa’ (2015) 15(1) *African Human Rights Law Journal* 58, 60.

⁶² Gerald West and others, ‘When Faith Does Violence: Reimagining Engagement Between Churches and LGBTI Groups on Homophobia in Africa’ (2016) 72(1) *Hervormde Teologiese Studies* 1.

⁶³ Lucy Graham, ‘“Then You Are a Man, My Son”: Kipling and the Zuma Rape Trial’ (2016) 36(2) *Comparative Studies of South Asia, Africa and the Middle East* 263, 271.

⁶⁴ Msibi (n 42).

⁶⁵ Doan-Minh (n 59) 167.

woman being raped to “cure” her lesbianism’.⁶⁶ In an attempt to be more inclusive within this thesis, Doan-Minh’s definition of ‘corrective’ rape will be utilised, representing that although ‘corrective’ rape may be more prevalent for specific groups within the community, it is not solely limited to them. There is a consensus that ‘corrective’ rape must be constructed as a hate crime if LGBTQ+ people are to be sufficiently protected by the law. These scholars, however, all focus on ‘corrective’ rape as a South African phenomenon, if not directly implying it then only using examples from South Africa. Whilst it can be recognised that ‘corrective’ rape is one of the main threats to LGBTQ+ rights in the country and with gendered violence a lasting legacy of apartheid, ‘corrective’ rape is also a prevalent and concerning issue plaguing Uganda. There is thus a significant gap in the literature regarding this issue which must be addressed in future scholarship. To fill this gap significantly is beyond the scope of this thesis, with it being extremely difficult to acquire information on ‘corrective’ rape in Uganda due to a lack of documentation on it. This thesis, however, uses photographs produced by a Ugandan non-binary visual activist, DeLovie Kwagala, in resistance to ‘corrective’ rape, stigmatisation, queerphobia and heteropatriarchy more generally, in an attempt to ensure that Ugandan violence is not completely excluded from the narrative.

In conclusion, this literature review has illustrated the gaps in the literature on LGBTQ+ rights in Uganda and South Africa, namely a lack of texts that discuss more than one main factor in the involvement of the generation of queerphobic attitudes. This thesis will therefore address three factors, colonialism, religion and patriarchy, providing a more succinct overview of how different factors have interacted to generate queerphobic attitudes on the continent, rather than it being attributed to solely one.

⁶⁶ Koraan and Geduld (n 60) 1937.

PHOEBE ELEANOR SHEPPARD

PART I: COLONIALISM

INTRODUCTION

Whilst homosexuality has been presented as a largely ‘un-African’ phenomenon, by looking at queer expression and tolerance during the pre-colonial period and the repressive nature of colonial policies, it can be demonstrated that it is rather queerphobia over homosexuality that is truly ‘un-African’. This section will explore how colonial attitudes and penal codes have manifested themselves in contemporary African politics, how the idea that homosexuality is un-African has been rationalised and advanced by African politicians and society at large, and how this idea that homosexuality is a Western import and continued bitterness towards the West has prevented the progression of LGBTQ+ rights.

This section by no means presents the entire history of same-sex sexuality and diverse gender identities in South Africa and Uganda, but instead touches on valuable evidence of diverse relationships and identities in pre-colonial Africa and uses them to invalidate the fabrication of Africa as a historically ‘homophobic’ continent.

This part is divided into three chapters: gender and sexual expression in pre-colonial Africa, enforced binaries and queer repression during the colonial period and the continuance of colonial penal codes and attitudes in contemporary Africa. The research questions are thus as follows: how were diverse gender identities and same-sex sexualities expressed and received in pre-colonial South Africa and Uganda? Why and in what ways has homosexuality been fabricated as an ‘un-African’ and purely Western phenomenon? How have colonial penal codes impacted legislation regarding LGBTQ+ rights in contemporary Africa? How has continued bitterness towards the West contributed to infringements on LGBTQ+ rights in South Africa and Uganda? How have political actors contributed to the dissemination of false narratives about homosexuality and hostility towards LGBTQ+ peoples? What actions can be taken to decolonise sexual politics in South Africa and Uganda?

1.

GENDER AND SEXUAL EXPRESSION
IN PRE-COLONIAL AFRICA

Despite the common misconception that homosexuality is ‘un-African’, a plethora of diverse sexual relationships and fluid gender identities existed and were tolerated in pre-colonial Africa with same-sex relationships being documented as early as the 16th century.⁶⁷ The existence of a multitude of African terms to describe different same-sex relations is testament to this. For instance, in Southern Africa the *Shangaan* used the term ‘*inkotshane*’ meaning ‘male-wife’ to describe same-sex relations.⁶⁸ Meanwhile, in South Africa the *Khoi-Khoi* used the term ‘*koetsire*’ to refer to ‘men considered sexually receptive to other men’ as well as the term ‘*soregus*’ to describe ‘a friendship which involved same-sex masturbation’.⁶⁹ The existence of this vocabulary alone illustrates that the notion that queer relationships are entirely ‘un-African’ is wholly unconvincing.

Whilst significant value was placed on heterosexual marriage and reproduction, early accounts from European travellers emphasised what ‘they perceived as African women’s subservience and easy sexual availability to men’, and that whilst people who engaged in same-sex relations more prevalently continued to pursue heterosexual relationships and marriages, diverse sexual relations were widely tolerated with the stigmatisation that endures today almost entirely absent.⁷⁰ Hence, same-sex relations were existent and widely perceived, however due to the importance of fertility and procreation within many

⁶⁷ Marc Epprecht, “Bisexuality” And The Politics Of Normal In African Ethnography’ (2006) 48 *Anthropica* 187, 189.

⁶⁸ Jones Hamburu Mawerenga, *The Homosexuality Debate in Malawi* (Mzuni Press 2018) 197.

⁶⁹ *ibid* 199.

⁷⁰ Epprecht (n 67) 188.

sub-Saharan African cultures, people who engaged in same-sex activity often still had heterosexual marriages in order to have children and thus continue their lineage. This is interesting considering that in African ontology sexual intercourse is ‘a sacred act through which ancestral lineage is ensured’ and that because of this perception ‘many Africans [today] insist that to be human is to procreate and homosexuals do not’.⁷¹ Feasibly, Africans who engaged in same-sex relations in the pre-colonial period avoided this criticism by also procreating through heterosexual marriages. Moreover, positive effects were attributed to same-sex relations in relation to fertility, with Epprecht arguing that ‘same-sex relationships existed in African societies with a wide variety of motives (...) including affection and fertility control’.⁷² Thus, arguably, same-sex relations were seen as a force which could in some cases protect or even heighten fertility, aiding more successful procreation rather than existing as a barrier to it. Additionally, same-sex intimacy was sometimes of ‘ritual’ or ‘symbolic’ significance with homosexual male sex under ‘proper conditions’ believed to bring good crops, protect from evil spirits and increase virility in marriage.⁷³ Therefore, although fertility and procreation were also heavily significant in the pre-colonial period, the perceived positive spiritual and ritual impacts of same-sex intimacy on fertility and virility meant that the two could co-exist and complement one another.

Withal, despite many not having knowledge of them, there are marked examples of the existence of diverse sexual relationships and gender identities in pre-colonial Africa. In a report formulated to argue for the dismissal of Uganda’s AHB in 2014, SMUG detailed a variety of examples of the existence of such relationships and identities. For example, in Uganda, there were men who acquired ‘alternative gender status’ amongst the *Nilotico Lango*, referred to as *mukodo dako*.⁷⁴ They were entitled to marry men if they so wished and within society they were received and treated as women.⁷⁵ Whilst the identities of *mukodo*

⁷¹ Kapya Kaoma, ‘The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa’ (2014) 2(3) *Critical Research on Religion* 227, 235.

⁷² Epprecht, (n 67) 189.

⁷³ Epprecht, (n 67), 189.

⁷⁴ Sexual Minorities Uganda (SMUG), ‘Expanded Criminalisation of Homosexuality in Uganda: A Flawed Narrative- Empirical evidence and strategic alternatives from an African perspective’ (SMUG 2014) 9.

⁷⁵ *ibid* 9.

dako may be what we would classify as transgender in today's society, it would be wrong 'to retrofit them into gender categories that we use in the twenty-first century'.⁷⁶ Thus, whilst the existence of *mukodo dako* is not evidence of transgender identity in pre-colonial Uganda, it is exemplary of the more fluid and flexible gender systems that were a commonality during this period. Similarly, men who presented as women were documented by a Jesuit working in South Africa in 1606.⁷⁷ They were known as *Chibadi* and were reportedly 'ashamed to be called men'.⁷⁸ This implies that *Chibadi* wished to be perceived as women and thus this identity arguably has more commonality with 21st century transgender identity than *mukodo dako*, though again it must be stipulated that these identities cannot be entirely correlated with 21st century Western identities as they exist in a completely different context and cultural setting, and thus can be easily misunderstood when removed from this distinct environment.

This could be one reason why a lot of sexual relationships were widely misunderstood and therefore perceived incorrectly by missionaries and colonial powers. One example of this is perceptions of homosexuality and gender in Buganda and, more specifically, in King Mwangi's court. It is widely known that King Mwangi – ruler of Buganda 1884-1897 – engaged in same-sex relations, most famously having intimate relationships with his male royal pages.⁷⁹ However, the way in which these relations have been understood is likely not entirely correct. As Rao points out in *Out of Time*, Nannyonga-Tamusuza has argued that gender was understood very differently in Buganda during this period, emphasising that pre-colonial Buganda was 'imbricated with considerations of status and space'.⁸⁰ Within Mwangi's palace *balangira* (princes) and *bambejja* (princesses) were prescribed the gender of male and *bakopi* (commoners) 'were gendered female regardless of

⁷⁶ Mohammed Elnaïem, 'The "Deviant" African Genders That Colonialism Condemned' (*JSTOR Daily*, 29 April 2021) <<https://daily.jstor.org/the-deviant-african-genders-that-colonialism-condemned/>> accessed 2 June 2022.

⁷⁷ SMUG (n 74) 10.

⁷⁸ *ibid.*

⁷⁹ A Sowemimo, 'How Britain's Exported Homophobia Continues to Drive Health Inequalities Amongst LGBTQI Communities' (*gal-dem*, 15 April 2019) <<https://gal-dem.com/how-britains-exported-homophobia-continues-to-drive-health-inequalities-amongst-lgbtqi-communities/>> accessed 12 March 2022.

⁸⁰ R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 60.

anatomical sex'.⁸¹ Whilst outside the sphere of the palace, the genders of *bakopi* more generally aligned with their anatomical sex although 'distinct' genders were appointed to 'masculine women, feminine men, and celibates'.⁸² The implications of these 'shifting but highly regulated gender possibilities' included a number of diverse sexual relationships and marriages which tended to be largely misunderstood by Western subjects and colonisers due to unfamiliarity.⁸³ For example, all *bakopi* (both anatomically male and female) were the 'wives' of the Kapaka.⁸⁴ This contrasting gender system alludes to a high likelihood that European missionaries may have misinterpreted 'what they saw' at the court of Mwanga.⁸⁵

Potential evidence of this misunderstanding may be in the accounts of the events which led up to the execution of a group of 23 Anglican and 22 Catholic pages at the court of Kabaka Mwanga II.⁸⁶ According to the story of the Ugandan Martyrs, Mwanga II engaged in same-sex relations with his young male pages but following their refusal of his sexual advances after they adopted Catholicism and the subsequent belief 'that homosexuality was an abomination', they were executed in 1886.⁸⁷ This event is also sometimes referred to as the *Namugongo* Holocaust.⁸⁸ More recently, Martyrs Day – 3 June – has become a national holiday in Uganda and a day for both Catholics and Anglicans to 'denounce homosexuality' which will be discussed in greater detail in later sections.⁸⁹ This understanding of the execution of the Ugandan Martyrs however has faced recent scepticism. It has been disputed whether 'homosexuality' was truly the main cause for the executions with it being asserted by many scholars such as Kevin Ward and Kristen Cheney that missionaries may have largely 'overemphasised, over-

⁸¹ Rao (n 80).

⁸² *ibid.*

⁸³ *ibid.*

⁸⁴ *ibid.*

⁸⁵ *ibid.*

⁸⁶ Bharat Mehra and others, 'An Exploratory Journal of Cultural Visual Literacy of "Non-Conforming" Gender Representations from Pre-Colonial Sub-Saharan Africa' (2019) 3 *Open Information Science* 1,11.

⁸⁷ Kristen Cheney, 'Locating Neocolonialism, "Tradition," and Human Rights in Uganda's "Gay Death Penalty"' (2012) 55(2) *African Studies Review* 77, 80.

⁸⁸ Mehra and others (n 86) 11.

⁸⁹ Kevin Ward, 'The Role of the Anglican and Catholic Churches in Uganda in Public Discourse on Homosexuality and Ethics' (2015) 9(1) *Journal of Eastern African Studies* 127, 135.

interpreted or misconstrued the sexuality issue in their own accounts'.⁹⁰ As previously stated, the gender system in Buganda operated very differently to those established in the West, and thus it is a convincing presumption that missionaries would resultantly have misconstrued what they perceived as 'homosexuality' as explained by Mehra and others, '[e]ven if Mwanga's corporeal intimacies with *bakopi* in the palace amounted to "sex" in the eyes of the Buganda, the ritualised fluidity of gender suggests that they might have regarded as heterosexual what nineteenth-century Europeans read as "homosexuality"'.⁹¹

Hence, whilst it is documented that missionaries viewed the acts which took place at Mwanga's Court as 'abhorrent (...) to the point that they were unmentionable' and that they were largely defined as 'homosexual' acts by said missionaries, given that 'homosexual' was still an emerging 'social identity' during this period and Mwanga most certainly did not identify himself this way, it is imaginable that these so-called 'acts' were not perceived this way by Bugandan society.⁹² Therefore, the dynamics of gender in Buganda were incomparable to Western gendered binaries, which were more rigid and thus more strictly enforced and due to their comparisons between these two systems and their perceived superiority, missionaries viewed gender identities and sexual relations in Buganda as deplorable. Furthermore, as Thomas argues, this comparison and condemnation of more diverse gendered systems and sexual identities by missionaries and colonisers more generally is extremely damaging as it promotes the enforcement of Western binaries on other cultures, and can be exemplified by the developments that followed during the colonial period. Thus, 'the fact that gender appears to always, inevitably, get collapsed with sex in Western accounts proves that both sex and gender have been conceived in culturally specific and historically static Western terms'.⁹³

⁹⁰ Ward (n 89) 135.

⁹¹ Mehra and others (n 86) 11.

⁹² Cheney (n 87) 80.

⁹³ Graham Thomas, *The Sexual Demon of Colonial Power: Pan-African Embodiment and Erotic Schemes of Empire* (Indiana UP 2007), 29.

2.

ENFORCED BINARIES AND QUEER REPRESSION
DURING THE COLONIAL PERIOD*The role of law in colonisation*

European colonists used law to ‘legitimize and rationalize the conquest and subjugation of indigenous African peoples’, to justify the exploitation of indigenous labour and to exploit resources and land from indigenous communities.⁹⁴ The belief of Europeans that Africans lacked ‘modern civilization’ and order was fundamentally justified through their perceived lack of rule of law and thus ‘Europeans justified the domination of African peoples with the belief that imposing their laws on Africans contributed to Africa’s civilization and development’.⁹⁵

Viewing the customs of African communities as ‘primitive’, European colonists amended existing customary laws where they were ‘thought to be repugnant to European ideas of justice, humanity or morality’ or conflicted with ‘the demands of colonial administrators’.⁹⁶ Thus, customary law was left in place to govern indigenous populations’ affairs whilst European law was implemented where colonists saw it necessary to advance colonial interests.⁹⁷ As Graham Thomas has advanced, ‘the rule of Europe (...) assumed a notably erotic form’ and thus the policing of the bodies of the indigenous were key to colonial control and the ‘civilising mission’ through the violent enforcement of a strict

⁹⁴ Chan Toy McNamara, ‘Silent, Spoken, Written, and Enforced: The Role of Law in the Construction of the Post-Colonial Queerphobic State’ (2018) 51 *Cornell International Law Journal* 495, 516.

⁹⁵ *ibid.*

⁹⁶ *ibid.*

⁹⁷ *ibid.*

sex binary and heteropatriarchy.⁹⁸ With the ‘idea of “race” itself (...) developed through narratives of sexual difference’, the link between white supremacy, the sex binary and heteropatriarchal order – all of which were forcefully imposed in both Uganda and South Africa during the colonial period – is certainly evident.⁹⁹

The imposition of anti-gay legislation

Colonial penal codes were imposed in British colonies such as Uganda, Kenya and Tanzania ‘with the belief that they could inculcate European morality into colonial populations whom they thought did not punish “perverse” sex sufficiently’.¹⁰⁰ South Africa was the only British colony in which these laws were not implemented, with the law instead being based on Roman-Dutch legislation.¹⁰¹ Whilst ‘sodomy’ was already prosecuted under British common law, it was first codified in the British Empire under section 377 of the Indian Penal Code (IPC) which came into force in 1860.¹⁰² Under section 377 of the IPC, homosexual acts were criminalised as ‘unnatural offences’, with anyone who ‘voluntarily has carnal intercourse against the order of nature’ facing imprisonment for up to ten years and being liable to a large fine.¹⁰³

In 1889, a further criminal code against homosexuality was introduced in the Australian colony of Queensland which ‘provided a second influential model in the empire’.¹⁰⁴ Unlike the IPC, this new criminal code mirrored legislative changes which had recently occurred in England and thus ‘its anti-sodomy provision was more expansive than section 377’.¹⁰⁵ In addition to criminalising same-sex sexual acts, the Queensland criminal code criminalised both ‘passive’ and

⁹⁸ Graham Thomas, *The Sexual Demon of Colonial Power: Pan-African Embodiment and Erotic Schemes of Empire* (Indiana UP 2007), 1.

⁹⁹ Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) xiv.

¹⁰⁰ Linda Roland Danil, ‘Queerphobic Immunopolitics in the Case of HIV/AIDS: Political Economy, the Dark Legacy of British Colonialism, and Queerphobia in Sub-Saharan Africa’ (2020) 25(2) *Sexuality & Culture* 377, 389.

¹⁰¹ Nancy Nicol and others, *Envisioning Global LGBT Human Rights: (Neo)colonialism, Neoliberalism, Resistance and Hope* (University of London Press 2018) 72.

¹⁰² R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 7.

¹⁰³ Roland Danil (n 100) 389.

¹⁰⁴ Rao (n 102) 8.

¹⁰⁵ *ibid.*

‘active’ partners in addition to any ‘attempts to commit the offences it defined’.¹⁰⁶ It was this model, rather than the IPC which was exported to British colonies including Tanzania, Kenya and Uganda.¹⁰⁷ Nicol and others argue that the implementation of this legislation arguably fortified claims that homosexuality was ‘absen[t]’ among Africans with laws being introduced to ‘clear European homosexuality’ rather than to ‘cure’ Africans of homosexual practices.¹⁰⁸ The adoption of these laws was initially intended more ‘for’ Europeans rather than Africans, thus reinforcing the foundation of the entire colonial system which was fabricated on the servitude of ‘European interests’.¹⁰⁹

Thus, there is no doubt that this legislation was, again, a manifestation of white supremacy with both ‘European interests’ and the preservation of the ‘superiority’ and ‘respectability’ of the white race at the heart of this policy. Concerns about ‘degeneracy’ thus initiated the construction of ‘racial and sexual anxieties’ which presented ‘unconventional sex as a danger to the body politic’, and fundamentally, to the entire white race.¹¹⁰

1) SOUTH AFRICA

The establishment of settler colonialism in South Africa in the form of apartheid was ‘deeply entangled with histories of sexuality and stigma’.¹¹¹ The alliance between Anglo-South Africans and Afrikaners which culminated in the implementation of apartheid was largely forged due to concerns from both groups about ‘Black Peril’ in the early 20th century. This was the idea that Black men posed a ‘sexual threat’ to white women, with interracial sexual relations perceived as harming the entire white race.¹¹² This is due to the fact that within racist colonial discourses, Blackness was marked by ‘sexual disorder that is bestial and non-gendered, implying homosexuality, among other things’.¹¹³

¹⁰⁶ Rao (n 102).

¹⁰⁷ *ibid.*

¹⁰⁸ Nicol and others (n 101) 72.

¹⁰⁹ *ibid.*

¹¹⁰ Rao (n 102) 8.

¹¹¹ Munro (n 99) xii.

¹¹² *ibid.*

¹¹³ Azille Coetzee, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 104.

This concern largely stems from a fear of ‘racial mixing’ and the idea that white women are emblematic of the white race and thus that by having sex with Black men, the white race is degraded and de-purified. The fear of ‘black peril’ became associated with a loss of patriarchal and racial control in colonial societies worldwide, and thus colonisers carried out a ‘civilising mission’ through which they violently enforced racial separation and a strict gender/ sex binary to prevent any further defamation of the white race.¹¹⁴ Hence, sexuality and gender were at the forefront of colonial control and violence, illustrating a clear link between colonialism, patriarchal values, and queerphobia in South Africa and elsewhere in sub-Saharan Africa. As Fullerton-Smith argues, ‘[t]here may be a particular connection between sexuality, sensuality, and politics uniquely inside South Africa. Because, after all, what is apartheid all about? It’s about the body. It’s about physical differences’.¹¹⁵

Despite the anti-homosexual stance of both the apartheid and government, South African history scholars have reported that queer coloured communities have “existed in major cities relatively unharassed” (...) since at least the 1940s’.¹¹⁶ One prevalent example of this are mine marriages which date back to the early 20th century in South Africa.¹¹⁷ Allegedly, this practice was introduced by a Shangaan migrant worker from Mozambique named Sokisi, who first established same-sex activity in Black mine compounds existing in Witwatersrand, presently known as Gauteng.¹¹⁸ Official records have illustrated that same-sex activity ‘was practised almost instantly by migrant black mine workers irrespective of ethnic origin’.¹¹⁹ Mine marriages entailed a senior miner taking a new, younger mine worker as a ‘mine wife’ for the purpose of ‘both domestic chores and same-sex sexual activities’.¹²⁰ Spurlin argues that this suggests that mine marriages were constructed based on ‘gender norms of traditional precapitalist, rural heterosexual

¹¹⁴ Coetzee (n 113) 102.

¹¹⁵ J Fullerton-Smith ‘Off the Page: Nadine Gordimer (1988)’. Interview. Bazin and Seymour 299-305. Cited in N Gordimer, ‘Dark Times, Interior Worlds, and the Obscurities of Difference’ (1994) 35(2) *Contemporary Literature* 252, 267.

¹¹⁶ McNamarah (n 94) 518.

¹¹⁷ AJGM Sanders, ‘Homosexuality and the Law: A Gay Revolution in South Africa?’ (1997) 41(1) *Journal of African Law* 100, 103.

¹¹⁸ *ibid* 103.

¹¹⁹ *ibid* 103-04.

¹²⁰ McNamarah (n 94) 519.

marriages'.¹²¹ He ascribes the only differences to the fact that the 'boy' or younger male in the marriage 'performed domestic services for remuneration' in order to 'earn *lobola* (bride wealth)', thus accrediting him more quickly with the status of a "real" man back home'.¹²² According to Moodie, seniority in the mines translated to greater status in rural home societies as well as 'govern[ing] definitions of masculinity and sexual relations in *both* locales'.¹²³

There was a power structure on the mines that seemed to reinvent gender relations of male domination and female subordination in the rural homestead, one that simultaneously resisted the stripping away of masculine authority accorded to black men within a racist regime, which was formally institutionalized as apartheid in 1948.¹²⁴

Mine marriages were thus extremely beneficial relationships for young Black men working in South African mines as they bestowed the opportunity for men to increase their status, domination and 'masculine authority' whilst existing in an oppressive system in which their masculinity and power would otherwise be diminished.¹²⁵ Their being illustrates not only tolerance towards certain temporary types of same-sex relationships in colonial South Africa but also the way in which these relations were elevated as a force of resistance to 'apartheid capitalism'.¹²⁶ With the exception of interracial relationships, European mine managers thus tolerated mine marriages because they believed that they contributed to greater productivity, and thus increased the lining of their pockets. Hence, where imperial capitalism was concerned, European management were willing to authorise same-sex relationships of this nature.¹²⁷

Moreover, another possible explanation for their tolerance of these relationships is the fact that South African authorities had 'defined homosexuality as a white problem, ignoring even the possibility of black homosexuality'.¹²⁸ As Coetzee argues, fundamentally, '[t]he binary heteropatriarchal system of the coloniser signifies whiteness - sexual

¹²¹ William J Spurlin, *Imperialism Within the Margins: Queer Representation and the Politics of Culture in Southern Africa* (Palgrave 2007) 38.

¹²² *ibid.*

¹²³ *ibid.*

¹²⁴ *ibid.*

¹²⁵ *ibid.*

¹²⁶ *ibid* 38.

¹²⁷ Sanders (n 117) 104.

¹²⁸ McNamarah (n 94) 519.

“otherness” (measured against the standard of binary heteropatriarchy) marked racial otherness, and racial otherness implied sexual otherness/monstrosity’.¹²⁹

Thus, because the heteropatriarchal system signified whiteness, deviating from a heterosexual identity as a white person marked a threat to white supremacy and subsequently ‘homosexual sex was (...) not simply deemed immoral but also seen as undermining the white race’.¹³⁰ It is for this reason that white male homosexuality experienced ‘violent state scrutiny’ whilst Black male homosexuality was deemed more ‘tolerable’.¹³¹

Crucially, colonial imputations of Blackness were grounded on alleged ‘transgressions of a sexual nature’ and thus ‘immoral’ sexual acts such as same-sex relations were categorised as part of the ‘uncivilised’ nature of the indigenous and hence only served to confirm the narratives perpetuated by white supremacists, rather than to challenge racial order.¹³² Resultantly, the National Party ‘rarely prosecuted homosexual conduct among South African colored communities’ as its main concern was to maintain racial order, and homosexuality (unless interracial) did not pose a threat to this.¹³³

This can be exemplified by the historically significant example of the 1966 Forest Town Raids. In January 1966, a police raid was carried out on a private home located in Forest Town, Johannesburg in which over 300 white homosexual men were gathered for a party.¹³⁴ Despite engaging in ‘the most indecent acts imaginable’, as described by a policeman involved in the raids, these men could not be prosecuted under the 1957 Immorality Act because the alleged crimes took place in a private home.¹³⁵ The Forest Town Raids brought increasing public awareness ‘to the issue of homosexuality’ due to the considerable media attention that the event received, eliciting a surge in homophobia and the escalating repression of the queer community by the apartheid government.¹³⁶

¹²⁹ Coetzee (n 113) 97.

¹³⁰ *ibid* 103.

¹³¹ *ibid*.

¹³² *ibid* 97.

¹³³ McNamara (n 94) 518-19.

¹³⁴ Kobus du Pisani, ‘Shifting Sexual Morality? Changing Views on Homosexuality in Afrikaner Society During the 1960s’ (2012) 57(2) *Historia* 182, 191.

¹³⁵ *ibid* 191.

¹³⁶ *ibid*.

As a result of media exposure ‘revealing the extent of white homosexuality’, the church and the state used the opportunity ‘to elevate homosexuality to the status of some sort of *volgsgevaar* (threat to the nation) which held a real threat for the gender order’.¹³⁷ This culminated in a proposed amendment to the Immorality Act in 1968 that ‘sought to make male and female homosexuality an offence punishable by compulsory imprisonment of up to three years’.¹³⁸ Thankfully, in 1969 this proposed amendment was relinquished as a result of the campaigning executed successfully by the 1969 Law Reform Movement.¹³⁹

II) UGANDA

As previously mentioned, penal codes prohibiting same-sex relations were introduced into British colonies such as Kenya, Tanzania and Uganda during the colonial period, with ‘the declaration of the British protectorate over Uganda in 1885, and formalised under the 1902 Order in Council’.¹⁴⁰ Section 15(2) allowed for laws in the United Kingdom to be applied to the Protectorate of Uganda ‘as they existed on or before 11 August 1902’.¹⁴¹

‘Moral Panic’ in Britain following WT Stead’s ‘exposure’ of trafficked girls within ‘London’s vice emporiums’ triggered the introduction of the Criminal Law Amendment of 1885, which outlawed ‘indecent acts between consenting male adults’.¹⁴² Because of the 1902 Order in Council, this legislation, by ‘virtue, was also adopted in Uganda’.¹⁴³ With this legislation being described as criminalising conduct which was ‘too awful to be named’, it is clear that it was a landmark moment in increasing stigmatisation, condemnation and secrecy of same-sex relations in Uganda and other British colonies.¹⁴⁴

¹³⁷ du Pisani (n 134) 192.

¹³⁸ McNamarah (n 94) 520.

¹³⁹ *ibid.*

¹⁴⁰ Adrian Jjuuko, ‘The Incremental Approach: Uganda’s Struggle for the Decriminalisation of Homosexuality’ in Corrinne Lennox and Matthew Waites, *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth* (University of London Press 2013) 385-86.

¹⁴¹ *ibid* 386.

¹⁴² *ibid* 386.

¹⁴³ *ibid* 386.

¹⁴⁴ *ibid.*

The 1950 Penal Code, which is still written into Ugandan law today, was eventually implemented in Uganda as a product of both the IPC and Queensland Penal Code, describing same-sex relations as ‘unnatural’ and thus ‘against the order of nature’.¹⁴⁵ As explained in the previous chapter on the pre-colonial period, prior to colonialism, Ugandan societies were largely tolerant, with a variety of diverse gender identities and sexual relationships existent. This expression of gender and sexuality, however, did not fit with Western norms and emerging binaries and thus ‘transforming the sexuality of the colonized [became] (...) part of the civilizing mission’.¹⁴⁶ A lack of prohibition of same-sex relationships in Uganda was therefore perceived by colonists as ‘primitive’, ‘uncivilised’ or ‘unnatural’. Thus the introduction of the 1950 Penal Code in Uganda – in the minds of colonial forces – ‘shifted Ugandans from “primitive” to “progress,” “savagery” to “civilization,” “simple” to “sophistication,” [and] “paganism” to “morality”’.¹⁴⁷ In Uganda, ‘the Victorian project [therefore] focused on ruling bodies and minds: actions and ideology’.¹⁴⁸ Through ‘civilizing natives’, colonists were able to create an increasingly ‘subservient demographic’, facilitating the spread of European values, ‘morality’, and binaries and simultaneously promoting Christian principles and the spread of Christianity.¹⁴⁹ Hence, ‘the colonial enterprise aimed to inculcate to others the moral and sexual values of the European society’ through the criminalisation of same-sex relations and the enforcement of strict sex and gender binaries.¹⁵⁰

Despite the existence of anti-homosexuality laws, repression was not described as ‘systematic’.¹⁵¹ Compulsory heterosexuality provoked the frequent entrapment of people into heterosexual marriages in which they did not feel fulfilled, thus these individuals sought illicit same-sex relationships in secrecy. Because these individuals lived up to heteropatriarchal standards through heterosexual marriages and the formation of ‘traditional’ families in the public sphere, they were rarely

¹⁴⁵ Jjuuko (n 140).

¹⁴⁶ Boris Bertolt, ‘The Invention of Homophobia in Africa’ (2019) 5(3) *Journal of Advances in Social Sciences and Humanities* 651, 654.

¹⁴⁷ Tushabe Wa Tushabe, ‘Sexual Rights in Uganda and the Struggle for Meaning in Community’ (2017) 21(2) *Journal of Lesbian Studies* 169, 175.

¹⁴⁸ SM Rodriguez, ‘Homophobic Nationalism: The Development of Sodomy Legislation in Uganda’ (2017) 16 *Comparative Sociology* 393, 401.

¹⁴⁹ *ibid.*

¹⁵⁰ Bertolt (n 146) 654.

¹⁵¹ *ibid.* 655.

prosecuted with attitudes of the coloniser largely being ‘do not ask do not tell’.¹⁵² Thus as Bertolt asserts, ‘settlers sometimes turned a blind eye to these practices if they could remain invisible without blurring the social equilibrium that was based on heterosexuality. We can’t therefore refer to colonialism as the main source of homophobia in Africa’.¹⁵³

Therefore, whilst the influence of colonialism on anti-gay legislation and subsequent queerphobia in Africa must not be underplayed, it must be recognised that the introduction of penal codes did not solely culminate in the vehement queerphobia existent in Uganda today.

The exclusion of female same-sex relations within colonial narratives

Although the 1950 Ugandan Penal Code criminalises male same-sex relations, there is no explicit mention of female same-sex relations. Whilst the language used within the Penal Code is fairly vague and could thus also be applied to female same-sex relations in court, the lack of explicit mention of female same-sex relations is indicative of the more general colonial discourse around homosexuality. As Wa Tushabe argues, ‘colonial constructions of sexuality in Africa never recognized African women as having respectable sexuality with legitimate sexual desires, and the penal code is a fruit of such colonial seeds’.¹⁵⁴ This can be exemplified by Thoonen in *Black Martyrs* in which he ‘gives us an archive of colonial knowledge that completely erases women in the construction of homosexuality and in the nation’s laws’.¹⁵⁵ According to article 145 of the Penal Code Act 1950 on ‘Unnatural offences’,

Any person who -

- Has carnal knowledge of any person against the order of nature;
- Has carnal knowledge of an animal; or
- Permits a male person to have carnal knowledge of him or her against the order of nature, Commits an offence and is liable to imprisonment for life.¹⁵⁶

¹⁵² Bertolt (n 146) .

¹⁵³ *ibid.*

¹⁵⁴ Wa Tushabe (n 147) 176.

¹⁵⁵ *ibid* 176.

¹⁵⁶ Penal Code Act 1950, art 145.

The use of the language ‘any person against the order of nature’ leaves the interpretation of this clause fairly vague, suggesting that the criminalisation of same-sex relations can be applied to both female and male same-sex relations. However, when reading this in the context of colonial rule, the meaning can be inferred as applying to male same-sex relations only. One can advance that the domination of heteropatriarchy in Uganda is an explanation for this, with the male always being centred in power and sexuality, all sexual relationships can only be conceived of if they involve a male. Female same-sex relationships are often viewed as inconceivable for this reason; as there is no male involvement and thus the sexuality and power of the male is decentred, they can therefore be viewed as posing a threat not only to heteronormativity but also to gender roles, nuclear ‘traditional’ families and, thus, patriarchy.

The referral of clause 145(c) to the criminal offence of permitting ‘a male person to have carnal knowledge of him or her against the order of nature’ could also be misinterpreted as being inclusive of female same-sex relationships. Again, this was not the intention of this phrasing within the Penal Code Act 1950. This clause instead included the pronoun ‘her’ in order to forbid an act of ‘carnal knowledge’ against the will of a female – so essentially heterosexual rape. The deliberate use of ‘permits a male person’ advances the idea that only a man could initiate ‘carnal knowledge’ and specifically ‘carnal knowledge’ against a woman or a man. Hence, the Penal Code clearly illustrates that whilst male same-sex sexual acts are ‘against the order of nature’ their existence can be acknowledged, whilst the only similarly ‘unnatural act’ that could take place involving a female is sexual intercourse against her will. Thus, this reinforces that within the heteropatriarchal society of Uganda, women perceivably possess no sexual agency and resultantly, would never initiate ‘carnal knowledge’. Fundamentally, it fortifies the idea that female same-sex relationships are incomprehensible.

Despite the lack of mention of female same-sex relations within the Ugandan Penal Code Act 1950, the implications of this legislation on queer women is nevertheless significant. In *Tommy Boys and Ancestral Wives*, Marie Ngyada and Saskia Wieringa illustrate this, stating that:

although the code doesn't mention lesbians it still leaves all of the issues hanging in such a way that they are not accepted, and do not have rights (...) None of the many cultures that exist in Uganda accept homosexuality, which is seen as unAfrican. This cultural opposition has played a large part in the government's position of intolerance towards gays and lesbians.¹⁵⁷

Ngyada and Wierenga therefore see this exclusion of queer women from the colonial and therefore legislative discourse in Uganda as a result of cultural attitudes. This argument is compelling, in that, as previously stated, Ugandan culture has a significantly embedded custom of 'tradition' through 'traditional families', heterosexual marriage and patriarchy. These attitudes which continue to permeate Ugandan society and culture can be in some ways seen as a legacy of colonial rule during which heteropatriarchal attitudes were strongly enforced. Therefore, the inconceivability of same-sex female relationships both by colonists as demonstrated through colonial legislation, and Ugandan culture as a whole is evident. It was not until the introduction of the AHA in early 2014 that female same-sex sexuality was explicitly criminalised for the first time, and yet for many, female same-sex relationships still remain unfathomable.¹⁵⁸ Whilst this sentiment continues in Uganda, queer women will continue to be silenced and feel alienated. 'Historical and cultural representations of female same-sex intimacy (...) remain at the margin' within literature and if Ugandan queer women are to be truly seen as Ugandan within both scholarship and society, this must change.¹⁵⁹ Hence, strides must be made in normalising female same-sex relationships and thus in reducing the stigmatisation and subsequent secrecy and denial surrounding them.

¹⁵⁷ Marie Nagadya and Saskia Wieringa, "'Some Say I Am Hermaphrodite Just Because I Put on Trousers': Lesbians and Tommy Boys in Kampala, Uganda' in Ruth Morgan and Saskia Wieringa (eds), *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa* (Jacana Media 2005) 65.

¹⁵⁸ Erin L Durban, 'Whither Homophobia? Rethinking a Bad Object for Queer Studies from the Black Global South' (2021) 8(1) QED 49, 57.

¹⁵⁹ Henriette Gunkel, *The Cultural Politics of Female Sexuality in South Africa* (3rd edn, Routledge 2010) 12.

3.

POSTCOLONIAL NATION BUILDING, POLITICAL SPEECH
AND THE ROLE OF LAW IN ATTITUDES TOWARDS AND
THE RIGHTS OF LGBTQ+ PEOPLE IN CONTEMPORARY
AFRICA

3.1 THE ROLE OF LAW IN POSTCOLONIAL ATTITUDES TOWARDS LGBTQ+ PEOPLE

Following independence, both South Africa and Uganda adopted the legal and political systems that were thrust upon them during colonialism.¹⁶⁰ Subsequently, ‘the laws of previous colonizers confined post-colonial societies’ with much of the enforced colonial anti-gay legislation remaining in place today.¹⁶¹

d) UGANDA

Whilst the Penal Code Act 1950 remains in place in Uganda, the government has expanded its provisions such as through the introduction of the criminalisation of female same-sex relations and the codification of anti-gay legislation including the 2005 constitutional amendment prohibiting same-sex marriage.¹⁶² The Penal Code Act 1950 is now referred to as the Penal Code Act Cap 106 and endured four revisions during the colonial period and one after independence in 1964.¹⁶³ In 2003 ‘the Laws of Uganda Revised Edition 2000’ was implemented containing the exact wording of the original Penal Code,

¹⁶⁰ Chan Toy McNamara, ‘Silent, Spoken, Written, and Enforced: The Role of Law in the Construction of the Post-Colonial Queerphobic State’ (2018) 51 *Cornell International Law Journal* 495, 523.

¹⁶¹ *ibid* 523.

¹⁶² *ibid* 525.

¹⁶³ Adrian Jjuuko, ‘The Incremental Approach: Uganda’s Struggle for the Decriminalisation of Homosexuality’ in Corrinne Lennox and Matthew Waites, *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth* (University of London Press 2013) 387.

with the exception of the penalty for having ‘carnal knowledge against the order of nature’ extended to a life sentence in prison.¹⁶⁴

Despite the Ugandan Constitution of 1995 being fairly progressive – with greater protection of minority rights than ‘most other political transitions in Africa’¹⁶⁵ – the rights of LGBTQ+ people are not adequately protected and, in some cases, are denied.¹⁶⁶ Article 21(1) states that ‘all persons are equal before and under the law in all spheres of political, economic, social, and cultural life and in every other respect and shall enjoy equal protection of the law’.¹⁶⁷ Given the phrase ‘all persons are equal’, one would interpret this as enshrining the right to equality and freedom from discrimination for all, including LGBTQ+ persons.¹⁶⁸ However, article 21(5) goes on to state that ‘nothing shall be taken to be inconsistent with this article which is allowed to be done under any other provision of this Constitution’.¹⁶⁹ Given that article 31(2)(a) states that ‘marriage between persons of the same sex is prohibited’, the prohibition of same-sex marriage and thus discrimination against LGBTQ+ people would not be deemed as unconstitutional.¹⁷⁰ This provision – article 31(2)(a) – was not an original part of the Constitution, ‘but “sneaked in” during the 2005 amendment of the Constitution which saw an omnibus amendment Bill, with many and varying provisions being introduced at once’.¹⁷¹ The proposal to remove presidential term limits was one such provision raised at this time and thus article 31(2)(a) arguably slipped under the radar as focus lay elsewhere.¹⁷² It is unfortunate that this was the case, though arguably even if more attention was given to this provision, it is likely – due to the largely queerphobic beliefs held in Uganda – that it would have nevertheless been approved. Therefore with the limited nature of the right to equality and freedom from discrimination and article 31(2)(a) prohibiting same-sex marriage, essentially, this Constitution permits discrimination against queer persons and therefore does not enshrine

¹⁶⁴ Jjuuko (n 163) 387.

¹⁶⁵ Marc Epprecht, *Sexuality and Social Justice in Africa: Rethinking Homophobia and Forging Resistance* (Zed Books 2013) 132.

¹⁶⁶ The Ugandan Constitution, 1995 (rev 2017), art 21.

¹⁶⁷ *ibid* art 21(1).

¹⁶⁸ *ibid* art 21(1).

¹⁶⁹ *ibid* art 21(5).

¹⁷⁰ *ibid* art 31(2)(a).

¹⁷¹ Jjuuko (n 163) 387.

¹⁷² *ibid*.

equal rights for all. Hence, Uganda fits into the constitutional model, conceptualised by Nicol and others, in that a clause prohibiting same-sex marriages is ‘expressly included in the constitution’.¹⁷³ This is ‘by far the most harmful model’¹⁷⁴ in that it sets a dangerous precedent for LGBTQ+ rights in Uganda because whilst equality for all is not supported by the Ugandan Constitution or national law more generally, it is unlikely that attitudes will be encouraged to change.

Strides made towards decriminalisation through Ugandan Courts

Although homosexuality remains criminalised in Uganda, there have been significant strides in recent years towards decriminalisation through the utilisation of the High Court. Whilst no cases disputing section 145 of the Penal Code Act 1950 have been brought to Ugandan courts, the successes of other cases related to LGBTQ+ rights bring hope that this could be a future possibility.¹⁷⁵

The case of *Victor Juliet Mukasa and Yvonne Oyo v Attorney General* in 2008, ‘filed by two “out of the closet” lesbians’ is one such example.¹⁷⁶ The two applicants accused the Attorney General and his staff of violating their right to freedom from torture, inhuman and degrading punishment, and rights to privacy and property.¹⁷⁷ These violations can be attributed to the forced entry of the second applicant’s home and their subsequent abduction by the police, the ‘sexual harassment and indecent assault’ they then experienced at the Kireka Police post, the denial of the use of toilet facilities and the raiding of the first applicant’s house.¹⁷⁸ Justice Stella Arach Amoko heard the case and treated it no different to any other she had been faced with.¹⁷⁹ The first respondent was found to have had her right to privacy – article 27(2) of the Ugandan Constitution – violated and was subsequently awarded three

¹⁷³ Nancy Nicol and others, *Envisioning Global LGBT Human Rights: (Neo)colonialism, Neoliberalism, Resistance and Hope* (University of London Press 2018) 64.

¹⁷⁴ *ibid.*

¹⁷⁵ *ibid* 393.

¹⁷⁶ *ibid* 393-94.

¹⁷⁷ *Victor Juliet Mukasa and Yvonne Oyo v Attorney General* (2008) AHRLR 248 (UGHC 2008); *ibid.*

¹⁷⁸ *ibid.*

¹⁷⁹ Jjuuko (n 163) 394.

million shillings.¹⁸⁰ Meanwhile, a violation of article 24 of the Ugandan Constitution – respect for human dignity and protection from inhuman treatment – was found in regards to the treatment of the second applicant and she was awarded ten million shillings in compensation.¹⁸¹

The actions of the agents also violated the principles of international human rights instruments such as the UDHR and Convention on the Elimination of Discrimination against Women (CEDAW), both of which Uganda is party to. Article 3 of CEDAW, which states ‘Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, and civil or any other field’, was violated, specifically article 3(c), the right to liberty and security of person, article 3(d), the right to equal protection under the law, and article 3(h), the right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.¹⁸² In addition, article 1 of the UDHR – ‘all human beings are born free and equal in dignity and rights’ – was violated.¹⁸³ Overall, the fact that Justice Stella Arach Amoko judged this case fairly has been perceived as a significant victory for LGBTQ+ people in Uganda fighting towards decriminalisation as fundamentally, ‘it recognised them as persons no different from any other group’.¹⁸⁴ This ruling, alongside others, brings promise for the future of LGBTQ+ rights and a Ugandan society within which queer people are deserving of equal human rights.

II) SOUTH AFRICA

In 1997, South Africa became the first country to adopt a constitution in which discrimination based on sexual orientation was ‘explicitly outlawed’.¹⁸⁵ This is stipulated in article 9(3) on equality – commonly dubbed the ‘Equality Clause’¹⁸⁶ – within the Bill of Rights in which

¹⁸⁰ *Victor Juliet Mukasa and Yvonne Oyo v Attorney General* (n 177).

¹⁸¹ *ibid.*

¹⁸² *ibid.*; Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW), art 3.

¹⁸³ *Victor Juliet Mukasa and Yvonne Oyo v Attorney General* (n 177); Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A (III) (UDHR), art 1.

¹⁸⁴ Jjuuko (n 163) 394.

¹⁸⁵ McNamarah (n 160) 529.

¹⁸⁶ Ashley Currier and Joella M Cruz, ‘Civil Society and Sexual Struggles in Africa’ in E Obadare (ed), *The Handbook of Civil Society in Africa* (Springer 2014) 339.

it declares that ‘The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including, race, *gender*, sex, pregnancy, marital status, ethnic or social origin, colour, *sexual orientation*, age, disability, religion, conscience, belief, culture, language and birth’.¹⁸⁷

With the significant queerphobia exhibited by the apartheid state, enshrining LGBTQ+ rights in the Constitution so soon after independence was a drastic measure. It has no doubt had a positive impact by setting precedent for the acknowledgement and support of LGBTQ+ rights, however, arguably this transition was too soon to be effective in that the post-apartheid state was not institutionally equipped and South African people were not ready to embrace LGBTQ+ rights.

The codification of LGBTQ+ rights contributed to the ‘new imaginary of the “rainbow nation”’, a phrase that encodes the intersection of multiracialism and gay rights, and queer liberation became a signifier of the newly promised progressiveness and equality of the post-apartheid state.¹⁸⁸ The creation of the Constitution was of a participatory nature, with South African people sharing their opinions on gay rights with the Constitutional Assembly.¹⁸⁹ This public debating of the idea of gay rights ‘as part of the new national imaginary (...) helped to establish a sense of a shared national project’.¹⁹⁰ As a result of this, one would infer that public support for gay rights at the time of the formation of the Constitution would mean that once LGBTQ+ rights became enshrined in the Constitution, they would be adequately respected and supported. Unfortunately, this was not necessarily the case, with the more prevalent reason for widespread support for gay rights due to a ‘wholesale rejection of the sexual politics of the apartheid regime’.¹⁹¹ This is credible reasoning for the support of rights for everyone, however, as it was more a reaction to the politics of apartheid, it meant that this ‘support’ was most often not ‘genuine’ with many who initially supported equal rights during the drafting of the Constitution reverting back to the belief that homosexuality is ‘antithetical’ to African culture and therefore ‘unacceptable’ shortly afterwards.¹⁹²

¹⁸⁷ The Constitution of the Republic of South Africa 1996, art 9(3) (emphasis added).

¹⁸⁸ Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) vii.

¹⁸⁹ *ibid* xxii.

¹⁹⁰ *ibid* vii.

¹⁹¹ *ibid* xxiii.

¹⁹² R Koraan and A Geduld, “‘Corrective Rape’ of Lesbians in the Era of Transformative Constitutionalism in South Africa” (2015) 18(5) Potchefstroom Electric Law Journal 1930, 1931.

In this way, South Africa can be seen as an example of ‘transformative constitutionalism’ – a term introduced by Karl Klare in his article ‘Legal Culture and Transformative Constitutionalism’.¹⁹³ Transformative constitutionalism is indicated through the South African transformation being ‘grounded in the law’ – namely through the equality clause in the Constitution.¹⁹⁴ The law is thus used as a tool ‘to shape the norms of society’.¹⁹⁵ Whilst there is no doubt that the law can set precedent for the improvement of attitudes towards the LGBTQ+ community and, fundamentally, protect their human rights, it has been questioned whether ‘South African legal framework adequately addresses the challenges of a heteronormative society in this era of transformative constitutionalism’.¹⁹⁶

As Pieterse has argued, the constitutional transformation of South Africa includes the ‘dismantling of the formal structures of apartheid, the eradication of social structures that reinforce inequality, and engagement with social vulnerability in all legislative, executive and judicial actions’.¹⁹⁷ With significant inequalities still prevalent in South Africa, namely racial, gender and sexuality inequalities, it is evident that the eradication of social structures established by apartheid has not been achieved. In particular, a violent patriarchal system as a legacy of apartheid still harrows South Africa, with ‘corrective’ rape commonplace and gender-based violence more generally endemic. Hence, whilst the introduction of the progressive Constitution in 1997 fostered hope and laid out the legal framework for a more inclusive future for South Africa, crucially it did not enable societal transformation or the dismantling of apartheid structures. Therefore, although the decriminalisation of homosexuality is a significant step in post-colonial nation states, it is by no means sufficient. Legal changes cannot be enforced unaccompanied by an overhaul of colonial institutions, working towards the transformation of social attitudes and providing concrete ways to protect the LGBTQ+ community outside of the law.

¹⁹³ Koraan and Geduld (n 192).

¹⁹⁴ *ibid.*

¹⁹⁵ *ibid.*

¹⁹⁶ *ibid.*

¹⁹⁷ *ibid* 1934.

3.2 POSTCOLONIAL NATION BUILDING AND QUEERPHOBIA

The 'Rainbow Nation' and queer identity

Following the enshrinement of LGBTQ+ rights in the 1996 South African Constitution, South Africa became heralded worldwide as a new progressive nation, often being referred to as the 'Rainbow Nation'. However, the reality for queer people in post-colonial South Africa was that they still faced frequent challenges to their human rights, with societal attitudes not adapting quickly enough to the rights consecrated in their newly liberal constitution.

As Müller argues, queer people in South Africa resultantly continued to occupy a 'paradoxical position'¹⁹⁸ in which queer identities became both a symbol of the new progressive nation and simultaneously felt 'alienated from the project of nation building'.¹⁹⁹ This can be clearly exemplified by the story of Eudy Simelane, an LGBTQ+ activist and South African footballer who became a 'poster child of the new "Rainbow Nation"'.²⁰⁰ Simelane was one of the first women in South Africa to come out as a lesbian and for this reason, she became a role model for many LGBTQ+ people and a symbol of the newly accepted queer identity in South Africa.²⁰¹ Unfortunately, in April 2008 Simelane was murdered as a result of her lesbian identity following a brutal attack in which she was 'gang-raped and stabbed repeatedly'.²⁰² This can be described as what is now termed 'corrective rape', defined as 'a brutal act of violence in which women (...) who are, or at least assumed to be, lesbians are raped to "cure" them of their homosexuality'.²⁰³ Corrective rape is an act of heteropatriarchal violence which is endemic in South Africa and prevalent in many other nations on the continent such as Uganda. Employing the position of a remarkable role model for queer people all over South Africa and a 'poster child of the new "Rainbow

¹⁹⁸ Brian Michael Müller, 'The Mark of the Mask: Queer Neo-Ethnographies and Double Consciousness in Post-Apartheid South Africa' (2019) 21(1) *The Journal of South African and American Studies* 85, 86.

¹⁹⁹ Ruth Morgan and Saskia Wieringa (eds), *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa* (Jacana Media 2005) 17.

²⁰⁰ Müller (n 198) 86-87.

²⁰¹ Nikki Halliwell, 'The Murder of Eudy Simelane' (*All Gay Long*, 7 March 2021) <www.allgaylong.com/blog/eudy-simelane/> accessed 31 May 2022.

²⁰² *ibid.*

²⁰³ Koraan and Geduld (n 192) 1937.

Nation”’, Simelane’s murder sent shockwaves across the continent and worldwide, signifying the ‘disjuncture between South Africa’s cultural exceptionalism and the daily lived reality of queer subjects in a country where homophobia and gender-based violence are rife’.²⁰⁴

Moreover, as previously discussed, the use of gay identity in the formation of a new South African ‘Rainbow Nation’ arguably came too soon, in that the lack of gradual progression meant that societal perceptions of queer people could not adapt soon enough. Whilst Munro asserts that for a while, ‘the idea of embracing gay rights made people feel modern, magnanimous, and uniquely South African’, these attitudes were seemingly only surface level, with queerphobia too deeply entrenched in South African culture to allow for such a dramatic shift in values.²⁰⁵ Hence, one can contend that this perceived support for LGBTQ+ rights was not authentic and that instead, South Africans got swept up in the idea of swift change and progression without realising that they did not have the infrastructure nor the mindset to truly facilitate it. As Munro argues:

One has to ask whether the queering of the standard family romance of nation is just a homonormative version of what Lee Edelman calls ‘reproductive futurity,’ in which the figure of the tongue gay as a symbol of the next, democratic generation serves an elite nationalist discourse that places people’s hopes in a utopian future that may never arrive.²⁰⁶

Thus, gay identity became a signifier of the ‘form that freedom might take’, fostering hope for South Africans.²⁰⁷ Yet, once little changed for the average South African, homosexuality once again became supposedly antithetical to African culture.

Postcolonial nation-building and queerphobia in Uganda

In the creation of a distinctly ‘Ugandan’ and ‘African’ identity in post-colonial Uganda, distanced from the West and subsequently Western influence, queer people have been excluded from nation-building and distinguished as ‘un-African’. This is partly due to the narrative that LGBTQ+ people are ‘agents of the perpetuation of Western imperialism in the black continent’, with the belief that homosexuality is a ‘Western

²⁰⁴ Müller (n 198) 87.

²⁰⁵ Munro (n 188) ix.

²⁰⁶ *ibid* xxiv.

²⁰⁷ *ibid* vii.

import' and that queer people in Uganda are actively trying to 'recruit' more people into the LGBTQ+ community.²⁰⁸ This view can be largely attributed to continuing bitterness towards the West for the persistent exploitation of the African continent.

As discussed previously, colonialism erased same-sex sexual histories from Uganda, replacing the pre-existing tolerance and embrace of same-sex relations with a culture of silence and stigmatisation. It is partly because of this discourse promoted by colonialism that the notion that homosexuality did not exist prior to colonialism is so prevalent. As a result of this discourse, queer people are 'seen as a threat to the very foundation of the nation's moral and social order'.²⁰⁹

²⁰⁸ Basile Ndjio, 'Sexuality and Nationalist Ideologies in Post-Colonial Cameroon' in Saskia Wieringa and Horacio Sívori (eds), *The Sexual History of the Global South: Sexual Politics in Africa, Asia and Latin America* (Zed Books 2013) 122.

²⁰⁹ *ibid* 122.

4.

POLITICS AND QUEERPHOBIC DISCOURSE

Queerphobia is frequently used in Africa as a political tool to deflect attention away from more pressing political and socio economic crises plaguing society.²¹⁰ As soon as politicians find themselves facing a 'legitimacy crisis', they turn to the repression of homosexuality both to gain popular support and distract from their weakening political power and lack of effective leadership.²¹¹ This is a technique used by many leaders across the continent and not just in the case studies of this thesis. For instance, shortly before running for re-election in 1995 President Mugabe of Zimbabwe condemned homosexuals as "worse than dogs and pigs" and suggested that homosexuality was part of Western imperialism'.²¹² The likes of Olusegun Obasanjo of Nigeria, Abdoulaye Wade of Senegal, Samel Nujoma of Namibia and Daniel arap Moi of Kenya have too been guilty of making bigoted comments against queer populations in the lead up to elections or during political crises.²¹³ As Tamale has argued, 'these rulers have become experts in the politics of distraction' and thus they manipulate sexual politics to mobilise significant support for their government in the face of otherwise pertinent concerns about their leadership.²¹⁴ Hence, as Tamale states:

²¹⁰ Sylvia Tamale, 'Confronting the Politics of Nonconforming Sexualities in Africa' (2013) 56(2) *African Studies Review* 31, 33.

²¹¹ Rita Schäfer and Eva Range, 'The Political Use of Homophobia: Human Rights and Persecution of LGBTI Activists in Africa' (International Policy Analysis, Friedrich Ebert Stiftung 2014) 1.

²¹² Tamale (n 210) 39.

²¹³ *ibid.*

²¹⁴ *ibid.*

Instead of blaming political mismanagement and corruption for high unemployment, the high cost of living, and poor health facilities, the population is encouraged to focus, *inter alia*, on red herrings such as the ‘vice of homosexuality’ and ‘the evil of prostitution’ which are fished out of the sea of morality particularly when electoral accountability is looming.²¹⁵

It must be recognised by African political leaders such as those mentioned above that although it may seem convenient to use queer people as scapegoats for their questionable politics, they are playing with peoples’ lives. In the face of existing oppression, LGBTQ+ people are already increasingly marginalised in Africa and thus the scapegoating of queer people by politicians only serves to intensify this, threatening their safety, and fundamentally, their lives. If queer rights are to be advanced, the weaponization of sexuality must end. Any perceived progressions in LGBTQ+ rights on the continent are only ever stifled by the continued manipulation of queerphobic discourse within politics, specifically through the frequent and increasing political speech espoused by weakened politicians against LGBTQ+ rights.

1) UGANDA

The Bahati Bill

The AHB – commonly referred to as the Bahati Bill due to MP David Bahati’s role in its creation – was proposed in October 2009 just one year before Uganda’s presidential elections.²¹⁶ If passed, the Bill would have made it an offence to not report homosexuals to the police through its ‘failure to disclosure’²¹⁷ clause as well as initiated the death penalty for what was deemed ‘aggravated homosexuality’.²¹⁸ Aggravated homosexuality was seen as a same-sex sexual encounter in the case of the ‘offender’ being HIV positive or in a position of authority, having

²¹⁵ Tamale (n 210).

²¹⁶ *ibid.*

²¹⁷ Joanna Sadgrove and others, ‘Morality Plays and Money Matters: Towards a Situated Understanding of the Politics of Homosexuality in Uganda’ (2012) 50(1) *The Journal of Modern African Studies* 103, 104.

²¹⁸ Elias Kifon Bongmba, ‘Homosexuality, *Ubuntu*, and Otherness in the African Church’ (2016) 4(1) *Religion and Violence in Africa* 15, 20.

manipulated the ‘victim’ into having sex, or the ‘victim’ being a minor or a disabled person.²¹⁹

As previously discussed, homosexuality was already outlawed under the Penal Code Act 1950, as was same-sex marriage in the Ugandan Constitution, and thus this Bill sought to further expand this legislation, posing increased threats to the LGBTQ+ community through grave repression. Due to the extremely threatening nature of the Bill for the entire LGBTQ+ community, and fundamentally the proposed introduction of the death penalty for ‘aggravated homosexuality’, it was described as ‘the most egregious piece of legislation to emerge out of post-independence Uganda’.²²⁰

Fortunately, the 2009 Bahati Bill did not pass, however, it was re-tabled in 2013 and enacted in 2014 as a result of Bahati’s consistent pursuit, having stated that he would not stop pushing the Bill until it was passed by Parliament.²²¹ Due to international criticism, however, the AHA did not issue the death penalty as punishment for ‘aggravated homosexuality’, but instead life imprisonment.²²² In an interview with SaharaTV, Bahati expressed his opinion that the Bill was ‘not extreme’ because ‘homosexuality is against our values’.²²³ When asked why he and his party were not focusing on other issues such as socioeconomic and political crises, he stated that ‘at the same time we have got to also handle it [homosexuality] because if the moral fabric of our society is shaking or it’s messed up then the rest is also messed up’.²²⁴ This situates ‘morality’ as the foundation of Ugandan society, and thus whilst ‘moral panic’ continues society will proceed to ‘shake’. This again links to the earlier point that politicians emphasise concerns surrounding ‘morality’ to distract from socio economic crises or a ‘legitimacy crisis’, essentially using LGBTQ+ people as scapegoats for everything ‘wrong’ in their nation.

Eventually, the Act was nullified by the courts due to a lack of

²¹⁹ R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 3.

²²⁰ *ibid* 2-3.

²²¹ N Kajoba, ‘Bahati vows to pursue anti-homosexuality bill’ *New Vision* (6 November 2012) 5.

²²² Ndimiso Daluxolo Ngidi and others, ‘Exploring Queerphobic Geographies in Southern Africa’ (2020) 34(2) *Agenda* 18.

²²³ SaharaTV, “This Law is Not Extreme. Homosexuality Is Against Our Values.” - David Bahati’ (*YouTube*, 4 March 2014) 1:19-1:24 <www.youtube.com/watch?v=WNBxm6iDZ0o> accessed 12 May 2022.

²²⁴ *ibid* 3:02-3:15.

quorum but it nevertheless degraded the conditions of queer people in Uganda for the foreseeable future.²²⁵ As Mwikiya has argued, this Bill was not only introduced to heighten the hatred towards and persecution of LGBTQ+ people, but also to leave the entirety of the Ugandan population ‘in a state of fear and vigilantism since the law fails to provide definition of the threat it was ostensibly meant to target: anyone can be a homosexual’, thus proving a persuasive tool of distraction for the Ugandan population from illegitimate and unfounded politics.²²⁶

In the face of the Bahati Bill, ‘Western media became saturated with short-sighted accounts that perpetuated stereotypes of African people as uncivilized, backward, and helpless’ with the supposed intention of raising awareness of the Bill and queer struggles in Uganda.²²⁷ Ní Mhaoileoin argues that by conveying LGBTQ+ issues in Uganda in this way, Western media did not understand or contextualise this development, instead presenting LGBTQ+ people in Africa as ‘inhabiting the European past’.²²⁸ In doing so, the West mirrored colonial depictions of Ugandan people, specifically those which justified colonists ‘civilising mission’. It is because of this that these Western narratives were counterproductive in that, in many ways despite increasing exposure to the issue of LGBTQ+ rights in Uganda, that same exposure often made matters worse by placing publicity in the hands of the wrong people and promoting racist, imperialist narratives. One of the most significant examples that can be highlighted to evidence this is that of the *Rolling Stone*, a previously minor tabloid, whose popularity and influence soared after featuring in publications worldwide such as the *New York Times* and the *Guardian*.²²⁹ These features followed a piece written in the *Rolling Stone* titled ‘KILL THEM! THEY ARE AFTER OUR KIDS’²³⁰ publicising the names, photographs, personal details and addresses of one hundred alleged homosexuals and urging for their hanging.²³¹ The editor of the tabloid, Giles Muhame, has been consistently interviewed

²²⁵ SaharaTV (n 223) 3:02-3:15.

²²⁶ Kenne Mwikiya, ‘Unnatural and Un-African: Contesting Queer-phobia by Africa’s Political Leadership’ (2014) 19 *Feminist Africa* 98, 102.

²²⁷ Hyeon-Jae Seo, ‘Origins and Consequences of Uganda’s Brutal Homophobia’ (2017) 38(3) *Harvard International Review* 44, 46.

²²⁸ Niamh Ní Mhaoileoin, ‘The Ironic Gay Spectator: The Impacts of Centring Western Subjects in International LGBT Rights Campaigns’ (2017) 22(1-2) *Sexualities* 148, 150.

²²⁹ *ibid* 158.

²³⁰ Kristen Cheney, ‘Locating Neocolonialism, “Tradition,” and Human Rights in Uganda’s “Gay Death Penalty”’ (2012) 55(2) *African Studies Review* 77, 91.

²³¹ Sadgrove and others (n 217) 111.

by Western journalists ‘attempting to showcase Ugandan homophobia’ and has resultantly gained minor celebrity status, only encouraging further queerphobic behaviour.²³² This heightened platform given to the *Rolling Stone* was ‘a product of the gullibility of western spectators, willing to use the rants of a small-time Kampala tabloid as proof of their preconceived notions of African homophobia’.²³³

In a similar way to these representations in the media, donor sanctions by the West also reinforced misconceptions and existing power dynamics between Africa and the West. This is evident by a statement made in October 2011 by numerous African social justice activists:

Donor sanctions are by their nature coercive and reinforce the disproportionate power dynamics between donor countries and recipients. They are often based on assumptions about African sexualities and the needs of African LGBTI people. They disregard the agency of African civil society movements and political leadership (...) Further, the sanctions sustain the division between LGBTI community and the broader civil society.²³⁴

Thus whilst international actors may believe that donor sanctions are a way to remedy human rights abuses, and they do often force political leaders such as Museveni to change their minds about repressive legislation, they are significantly retractive as a whole. As the social justice activists put so well above, donor sanctions only serve to reinforce white supremacy by worsening existing power dynamics between Africa and the West and trying to force Western beliefs on how African leaders should govern in countries such as Uganda, subsequently stripping political leaders of their agency. Whilst protecting LGBTQ+ rights is obviously a pressing issue, and countries who rely on a significant amount of aid such as Uganda are well manipulated by donor sanctions, that does not mean that this method is a sustainable or proactive way to go about protecting human rights. Fundamentally, when this method fuels existing narratives which alienate LGBTQ+ identity from African culture, using it only serves to increase hostility towards the queer community. Such a significant part of opposition to the LGBTQ+ community is because it is seen as a Western, imperialist project in which Western organisations fund the ‘promotion’ of homosexuality.

²³² Ní Mhaoileoin (n 228) 158.

²³³ *ibid* 158.

²³⁴ Statement of African Social Justice Activists (2011) in Tamale (n 210) 41.

Therefore, by withdrawing donor funds in the face of queerphobia, this point is categorically reinforced, situating queer people, yet again, as antithetical to African culture and thus ‘un-African’.

II) *SOUTH AFRICA*

As discussed in the previous chapter on nation-building, the South African government has failed to meet their obligations in respect to protecting the rights of LGBTQ+ people enshrined in the Constitution. Whilst there have been considerable landmarks for queer people in South Africa over the past two decades which have fostered promise for a more tolerant and inclusive society in future, a lack of political will has significantly held back full societal transformation. One particularly significant milestone was the passing of the Civil Union Act in 2006 which legalised same-sex marriages, making South Africa the first African nation to do so.²³⁵ The passage of this Act was clearly a landmark for the South African LGBTQ+ community and a huge step forward for human rights, however, despite its passage South African politicians continued to speak out against gay marriage. President Zuma himself during the year in which gay marriage was legalised – 2006 – was reported to have called gay marriage ‘a disgrace to the nation and to God’.²³⁶ Prior to the South African elections in April 2009, Zuma campaigned at the Pastor Ray McCauley’s Rhema ‘cult’ Church, what is known to be a ‘super-church’ in which bigoted views are promoted.²³⁷ The Rhema Church has faced accusations of staunch homophobia and thus it is extremely concerning that the President of South Africa was entertaining its members. One accusation was made by two men from Eastern Cape who stated that they were subject to ‘Satanic treatment’ as a result of their sexual preferences from the Rhema Church.²³⁸ One of the men, Qadi, said that he was travelling with Pastor Vuyozi Masiza-

²³⁵ Civil Union Act 2006.

²³⁶ Christina Engela, ‘Christian homophobes are spreading their hate in South Africa (*National Secular Society*)’ <www.secularism.org.uk/christian-homophobes-are-spreadi.html> accessed 21 May 2022.

²³⁷ *ibid.*

²³⁸ Buchule Raba, “‘Rhema Church Homophobic’ Says Gay Man’ *Sunday World* (10 May 2015).

Higa to attend a church event during which she went through his private WhatsApp messages and, after finding out he was speaking to another man, questioned his ‘lifestyle and personality’.²³⁹ He was then asked if he was ‘a witch or illuminati’ and if he was ‘sleeping with all the boys in the youth leadership’.²⁴⁰ Having been subject to clearly queerphobic behaviour by elders from the Rhema Church, Qadi was forced to leave the church and subsequently moved to Johannesburg.²⁴¹ Given that queer people have had evidently queerphobic experiences in the Rhema Church, and President Zuma is supposed to be leading a government which supports and protects LGBTQ+ rights, his involvement with the Rhema Church is certainly contradictory. It again leads us to question as to whether sexual politics is simply a political tool in the eyes of politicians, supported where convenient and opposed where votes can be won or in situations where anti-queer rhetoric would serve as a good political distraction. Whilst campaigning at the Rhema Church, Zuma gave a speech during which ‘he invited conservatives to “come talk to the government” about things that bother them, such as marriage equality and abortion’.²⁴² In saying this, Zuma illustrated his malleability on the subject of LGBTQ+ and reproductive rights, thus illustrating that he would quite happily espouse some more anti-gay rhetoric where he sees fit (whether he believes it or not) in order to win over right-wing bigoted voters. When topics like LGBTQ+ rights become so heavily politicised in this way, it is no longer about human rights and instead is about the maintenance of power. Having a leader that craves political power over anything else and thus does not really care about the policies they are implementing is a dangerous reality in which minorities could face increasing state repression at any point where it is of political convenience. It is in this way that legal reform alone does not truly entrench LGBTQ+ rights, with political will and societal transformation needing to accompany it if the rights of queer people are to be truly protected, respected and promoted. One hopes that with Zuma out of power and Cyril Ramaphosa leading the government – who has ‘a broadly positive record on LGBT rights’ and who played a significant role in the decision to extend equal rights enshrined in the Constitution to LGBTQ+ people – the tides are changing to fully

²³⁹ Raba (n 238).

²⁴⁰ *ibid.*

²⁴¹ *ibid.*

²⁴² Engela (n 236).

support LGBTQ+ rights both within and outside of the law will be accomplished.²⁴³

CONCLUSION

This section has attempted to give an overview of the impact of colonialism on LGBTQ+ rights in South Africa and Uganda by looking at diverse sexual relations and gender identities in the pre-colonial period, repression and binaries enforced during the colonial period, and the continuing legacies of Western interference in sexual politics in the post-colonial period. In conclusion, it is evident that whilst heterosexual marriage and procreation were of significant value during the pre-colonial period as they are today, same-sex relations could coexist and were even of ritual significance, sometimes increasing virility and fertility in the right conditions. Same-sex relations were therefore not repressed in the same way that they are today with fluid identities and sexualities of greater prevalence and more widely tolerated. It is clear that the penal codes introduced during the colonial period remain of significant impact with the Penal Code Act 1950 criminalising homosexuality still on the books in Uganda. Whilst one must be careful not to frame debates around the West and Western influence, it is clear that the impact of colonialism cannot be understated. That is not to say that other factors are not at play in the pervasive queerphobia on the continent today, but that colonialism no doubt had an impact. By looking at the constitutional basis of legislation concerning LGBTQ+ rights in Uganda and South Africa, the final chapter illustrated that whilst there are stark contrasts in the constitutions and subsequent laws of the two case studies, law reform alone is not enough to secure LGBTQ+ rights. Without a transformation in societal attitudes, political support and enthusiasm, and actions put in place to protect and promote the rights of queer people outside of the law, legal reform does little in reality for the daily struggles of queer people in South Africa. Thus, whilst Uganda and South Africa are in very different legal situations concerning

²⁴³ Nick Duffy, 'What Does South Africa's New President Cyril Ramaphosa Think About LGBT Rights?' (Pink News, 15 February 2018) <www.pinknews.co.uk/2018/02/15/south-africa-president-cyril-ramaphosa-lgbt-rights/> accessed 2 June 2022.

LGBTQ+ rights, the issues facing the two countries are fundamentally alike. Steps toward decriminalisation in Uganda are essential, but the model of South Africa must be used as an example that legal wins and reform alone is not enough. The full rights of LGBTQ+ people can therefore only be achieved once there is a full transformation of society, an overhaul of colonial structures and a decolonisation of the mind.

PART II: RELIGION

INTRODUCTION

This section will discuss the weaponization of religion by the West to justify the colonisation of African states including Uganda and South Africa and the subsequent violent enforcement of heteropatriarchal values which deemed homosexuality as against the order of nature and therefore as ‘immoral’.

The argument that Christianity was used by colonial powers to justify the subjugation of Africans, the violent oppression of LGBTQ+ people and, more generally, the maintenance of white supremacy will be discussed. The substance of Christian principles will not be criticised, but instead the way in which Christianity has been interpreted with a heteropatriarchal lens and weaponised by missionaries, religious leaders and politicians to justify continued queerphobia.

Interviews from the GALA will be utilised to amplify the voices of queer youth and to discuss the impact of religious queerphobia through their lived experiences. Newspaper articles will also be used to illustrate political speech relating to religious homophobia and the way it is written about within Ugandan media.

Secondly, the argument that African religion and spirituality can be used to support LGBTQ+ rights will be asserted, with the concept of *ubuntu* being discussed in more detail as a pillar of compassion, community and humanity, in support of equality and dignity for all. Through this discussion, an approach to increasing support for LGBTQ+ rights using African language and concepts, spirituality and culture will be urged in opposition to the excessive use of Western concepts and Western interference which will be expressed as detractory.

Moreover, it will be maintained that ways of breaking gender boundaries and of normalising greater sexual fluidity from within traditional African culture must be reclaimed to effectively reject the situation of queer people as antithetical to African culture. Crucially, the response to the vehemently repressive nature of African society to queer people must be African led if it is to be effective.

1.

THE RIGHT TO RELIGION AND LEGISLATION PERTAINING
TO LGBTQ+ RIGHTS

Whilst everyone has the right to express their religion freely, this right cannot be used to justify criminalising homosexuality. This is stated in Principle 21 of the Yogyakarta Principles:

Everyone has the right to freedom of thought, conscience and religion, regardless of sexual orientation or gender identity. These rights may not be invoked by the State to justify laws, policies or practices which deny equal protection of the law, or discriminate, on the basis of sexual orientation or identity.²⁴⁴

Although the Yogyakarta Principles are not binding, they provide universal guidance and ‘affirm binding international legal standards with which all States must comply’.²⁴⁵ Many nations, however, have transgressed Principle 21 of the Yogyakarta Principles, using religion as a basis for their anti-homosexuality legislation; claiming restrictions are necessary ‘to maintain public morals’ contrary to international human rights law.²⁴⁶

One example of this is the AHA which was passed in 2013 before being struck down by the Ugandan Court due to a lack of quorum in 2014. The Act was said to be formed based on ‘protection of traditional family values’ and ‘unadulterated African cultural, Islamic, and Christian heritage’.²⁴⁷ With ‘religious values’ being a large basis of the AHA it is

²⁴⁴ International Commission of Jurists (ICJ), Yogyakarta Principles, principle 21.

²⁴⁵ *ibid.*

²⁴⁶ OHCHR, ‘UN experts urge religious leaders to show respect and compassion for LGBT persons’ (OHCHR, 14 May 2021) <www.ohchr.org/en/press-releases/2021/05/un-experts-urge-religious-leaders-show-respect-and-compassion-lgbt-persons> accessed 8 June 2022.

²⁴⁷ Bishop Fred Sheldon Mwesigwa, ‘Adoption of Anti-Homosexuality Bill by MPs is citizens’ voice’ *Sunday Monitor* (26 January 2014) 25.

clear that the discrimination of one group is being based on the alleged protection of the religion of the other. This not only transgresses Principle 21 of the Yogyakarta Principles but also article 18(3) of the International Covenant on Civil and Political Rights which states that the right to freedom of thought, conscience and religion can be limited if necessary ‘to protect public safety, order, health, or morals or the fundamental rights and freedoms of others’.²⁴⁸

In a joint statement prior to the International Day against Homophobia, Transphobia, and Biphobia last year, Victor Madrigal-Broloz (the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity) stated:

Certain narratives create the false narrative that there is an inherent conflict between the right to religious freedom and the basic human rights of LGBT individuals. This is a manufactured idea that contributes to their exclusion from all sectors of social life, as well as the violence that is perpetrated against them.²⁴⁹

Stella Coyle builds on this idea, suggesting the rejection of homosexuality by religious conservatives ‘has been further facilitated by their success in reframing the issue as a clash of rights’.²⁵⁰ Coyle distinguishes the ways claims of discrimination are made in relation to sexual orientation by LGBTQ+ people contrasting to religious conservatives, explaining that complaints which LGBTQ+ people make on the grounds of sexual orientation or gender identity discrimination are made for ‘equal benefits or access, or an end to discrimination’.²⁵¹ Conversely, religion-based claims go after exemption so that religious people or organisations ‘do not have to abide by rules which apply to others’.²⁵² Thus, religious conservatives are claiming ‘the right to deny equal, inclusive treatment for queer people (...) where services are being offered to, or even on behalf of, the public’.²⁵³

²⁴⁸ International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 18(3).

²⁴⁹ OHCHR (n 246).

²⁵⁰ Stella Coyle, ‘The Queer, the Cross and the Closet: Religious Exceptions in Equality Law and State-Sponsored Homophobia’ (2021) 10(83) *Laws* 1.

²⁵¹ *ibid.*

²⁵² *ibid.*

²⁵³ Bruce MacDougall and Donn Short, ‘Religion-based Claims for Impinging on Queer Citizenship’ (2010) 33 *Dalhousie Law Journal* 133, 134.

The implication of this, as MacDougall and Donn argue, is that:

A concession to the religion arguments in these scenarios, all outside the context of actual religious worship and observance, would set a precedent whereby any person could, on the basis of a genuinely-held belief, religious or otherwise, demand an exception to non-discrimination norms in provision of services to the public.²⁵⁴

It is for this reason that the use of freedom of religion in defence of queerphobia is so damaging, in that it sets precedence for further violations of the rights of LGBTQ+ people. Furthermore, it promotes the argument that religion does not, and could never, support LGBTQ+ people. This not only results in greater queerphobia but the idea that LGBTQ+ people can never be supported and tolerated in society as their 'lifestyle' is antithetical to African culture and religion and more importantly, that religion is a monolith and interpretations of religious texts can never veer away from a heteropatriarchal lens. As the majority of the population of sub-Saharan Africa hold religious beliefs, this therefore removes all hope of progression in societal views of queer people and the advancement of LGBTQ+ rights.

²⁵⁴ MacDougall and Short (n 253).

2.

THE ARRIVAL OF MISSIONARIES AND QUEERPHOBIC ATTITUDES

‘The arrival of missionaries and the subsequent influence of Christianity introduced the belief that same-sex relations were an [un]forgivable sin in the eyes of God to societies where same-sex relations were institutionalised or entrenched.’²⁵⁵

As discussed in the previous part, during the pre-colonial period societies in Uganda and South Africa were largely subject to and tolerant of a diverse range of sexual and gender identities. This was documented by European Christian missionaries as early as the 16th century, recognising ‘the relaxed attitudes polytheistic African religions had towards queerness’.²⁵⁶ Whilst missionaries came to South Africa and Uganda en masse at the beginning of the colonial period, bringing with them their ‘moral values’, and whilst the history of religion in sub-Saharan Africa did not begin with ‘the advent of Christianity’ or the arrival and presence of European missionaries,²⁵⁷ Christianity too existed in sub-Saharan Africa prior to colonialism with the first Christian communities emerging in Ethiopia as early as the fourth century.²⁵⁸

‘Missionaries felt that Africans needed to be “cleansed” with Christianity, and they did so forcibly; this is the root of white supremacy’s

²⁵⁵ Ruth Morgan and Saskia Wieringa (eds), *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa* (Jacana Media 2005) 17.

²⁵⁶ ‘Why homophobia in Uganda is an issue of colonialism Feb 7 is “homophobia” outdated? The root of the problem an impeachment is not a lynching’ (University Wire, 2019), 1 <<https://nuigalway.idm.oclc.org/login?url=https://www.proquest.com/wire-feeds/why-homophobia-uganda-is-issue-colonialism-feb-7/docview/2315614972/se-2?accountid=12899>> accessed 11 June 2022.

²⁵⁷ Sibusio Masondo, ‘Ironies of Christian Presence in Southern Africa’ (2018) 31(2) *Journal for the Study of Religion* 209, 210.

²⁵⁸ Maxim Ananyev and Michael Poyker, ‘Christian Missions and Anti-Gay Attitudes in Africa’ (NICEP Working Paper 2020) 7.

hold on Africa.²⁵⁹ These early missionaries aided colonial authorities by working with them to criminalise homosexuality on the basis of ‘Africa’s barbarianism’.²⁶⁰ Missionaries further justified the subjugation of Africans through their view that ‘Africans were devoid of morality, religion, and political constitution’ and arguably this view can be partly attributed to the existence of diverse sexual relationships and gender identities on the continent which did not complement Western binaries, and thus needed to be manipulated.²⁶¹

This idea can be viewed as having shaped contemporary debates on gender and sexuality in which the concept of ‘public morality’ is spoken of as something that needs to be protected through the policing of homosexuality. Hence, it is not the religion of Christianity itself, but its application by colonial missionaries to justify the subjugation of Africans, the upholding of White supremacy, and the entrenching of heteropatriarchal values deeming homosexuality as ‘unnatural’ and ‘morally wrong’, serving to promote queerphobic attitudes as ‘African’.

D) SOUTH AFRICA

Through the apartheid state and the Dutch Reformed Church, homosexuality was fabricated ‘as a sin, a disease, and an impediment to white reproduction, in the context of intense stigma about sex across racial lines’.²⁶² As part of the racialised foundation of apartheid, Blackness became highly defined in sexual terms with sexual ‘disorder’ that is ‘bestial’ and ‘non-gendered’ viewed as a general marker of racial difference along with implied homosexuality.²⁶³ Apartheid and queerphobic politics became deeply intertwined in that resisters to the apartheid regime were identified and denounced as the result of sexual ‘deviance’.²⁶⁴ Hence ‘homosexual sex was (...) not simply

²⁵⁹ Ananyev and Poyker (n 258).

²⁶⁰ Kapya Kaoma, ‘The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa’ (2014) 2(3) *Critical Research on Religion* 227, 236.

²⁶¹ Masondo (n 257) 212.

²⁶² Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) xxiii.

²⁶³ Azille Coetzee, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 104.

²⁶⁴ *ibid* 103.

deemed immoral but also seen as undermining the white race' and thus legislation was viewed as necessary to prevent it.²⁶⁵

All homosexuality was condemned but interracial homosexuality in particular became heavily policed through the Immorality Act and Sexual Offences Act due to the obsession of the apartheid state with racial mixing.²⁶⁶ The use of the phrase 'immoral' within the title of the 'Immorality' Act itself demonstrates the influence of religion in the creation of apartheid legislation as religious beliefs generally dictate what is deemed immoral for many, especially in sub-Saharan Africa, and thus the term is most frequently used in relation to a religious discussion. Thus, through Christianity and apartheid, heteropatriarchal norms were promoted through legislation and social norms which policed queer bodies and agency, and homosexuality was violently repressed through anti-Blackness, strongly contributing to upholding white supremacy.

Christianity as a tool for resistance to apartheid

In *The Stolen Bible: From Tool of Imperialism to African Icon*, West argues that although the Bible was initially brought to Southern Africa 'as a part of a project of imperialism and trade, and of conversion and civilisation, [and] of colonisation and conquest', it has since been appropriated by African people, become 'both a problem and a solution' for African communities and has 'been embodied by ordinary African narratives'.²⁶⁷ Van Klinken and Chitando similarly assert that the fact that Christianity was largely involved in the process of colonisation has not prevented Christian texts, beliefs, symbols, and practices from being immersed into African religious practices and from 'Christianity captur[ing] the African imagination'.²⁶⁸

This contributed to the formation of African theology which Justin Ukpong defines as '[t]he conscious engagement of European Christian thinking and African religious thought in serious dialogue for the

²⁶⁵ Coetzee (263).

²⁶⁶ William J Spurlin, *Imperialism Within the Margins: Queer Representation and the Politics of Culture in Southern Africa* (Palgrave 2007) 5.

²⁶⁷ Gerald O West, *The Stolen Bible: From Tool of Imperialism to African Icon* (Brill Academic Publishers 2016), 2.

²⁶⁸ Adriaan Van Klinken and Ezra Chitando, *Reimagining Christianity and Sexual Diversity in Africa* (Hurst 2021) 18.

purpose of integrating Christianity into the life and culture of African people'.²⁶⁹

South African Black theology arose in the context 'of intensifying Black political and cultural resistance against apartheid and racial capitalism' and therefore it was used in the fight against the apartheid system.²⁷⁰ Thus, the Bible cannot be simply viewed as a 'tool of imperialism' as it is much more than that. It was a 'site of struggle' for Black South Africans used in the fight for liberalisation from apartheid;²⁷¹ it is 'both an intrinsic instrument of domination and oppression as well as a potentially powerful resource for liberation'.²⁷² As a result of this, it is clear that African theology can be utilised as an implement to fight against oppression, and, in this sense, is a valuable tool in the fight against queerphobia. Hence, African theology, spirituality and culture are key to the fight against the oppression of LGBTQ+ people.

The impact of Christianity: Queer South African youth speak out

The impact of Christianity on the repression of LGBTQ+ individuals in South Africa can be demonstrated through the voices of queer youth in South Africa who have lived through constant queerphobia in both apartheid and independent South Africa. In an attempt to 'expand the historical record to provide an inclusive (...) record in which the voices of same-sex identified South Africans [can] be heard', the GALA carried out numerous interviews between 2003 and 2006 as part of the *Balancing Act* collection.²⁷³ These interviews give an insight into what it was like living both through apartheid as a young queer person and in early post-colonial South Africa. This section will focus on the topic of religion and repression, which was discussed frequently throughout the interviews. There were lots of similarities between all of the interviews with a sense of a lack of belonging, emotional abuse, disownment and need for repentance most commonly discussed as a

²⁶⁹ Justin S Ukpong, 'The Emergence of African Theologies' (1984) 45(3) *Theological Studies* 501.

²⁷⁰ West (n 267) 319.

²⁷¹ *ibid* 561.

²⁷² *ibid* 3.

²⁷³ Anthony Manion and Ruth Morgan, 'The Gay and Lesbian Archives: Documenting Same-Sexuality in an African Context' (2006) 67(2,3) *African Feminisms* 29, 30.

result of religious attitudes whether that be in terms of them having a religious upbringing or societal condemnation that they faced as a result of ‘religious’ attitudes. Three distinct reactions to coming out can be distinguished within these interviews: rejection, denial and abuse with some interviewees facing a combination of two or three. To first address rejection, all of the interviewees in this category faced rejection by family, friends or society for ‘religious’ justifications in opposition to homosexuality. Within the interview with AJ, who identifies as a lesbian, she discusses her upbringing, explaining that she grew up in a largely Christian environment.²⁷⁴ She explains that she was made to believe that in the biblical sense, her ‘homosexuality was not the norm’ and that as a result of this she was largely made to feel rejected by both her family and her religion, who insisted that her sexuality went against their values.²⁷⁵ Similarly, in the interview with Bradley, a gay man, a comparable story is presented. Talking about his family concerning their views on homosexuality, he states ‘they think its something weird, absolutely wrong, against religion, [and] against everything that God speaks about’.²⁷⁶ Again, like AJ, Bradley was made to feel fierce rejection by his family and his religion, both of which viewed his sexual orientation as ‘absolutely wrong’, and something that did not fit into their society.²⁷⁷ Similarly, Sandile explained that his family told him that being gay was a sin and that he was evil,²⁷⁸ legitimising the argument that homosexuality is an ‘unnatural vice’ with an ‘evil purpose’.²⁷⁹

Moving onto the second factor which is denial, Jason Baker expressed in his interview that when he came out to his parents, they were not accepting at all and were, and continue to be, largely in denial.²⁸⁰ In his interview, Jason speaks of the extreme condemnation he has faced and continues to face from his family as a result of his sexuality.²⁸¹ He states that his parents wanted him to ‘go and speak to a Christian counselor because [he] must turn back now, you know while there’s still time’, insinuating the idea that queerness is something that can be

²⁷⁴ Interview with AJ (2003) GALA AM3163_A1.1.

²⁷⁵ *ibid* 3.

²⁷⁶ Interview with Bradley (2003) GALA AM3163_A1.5, 16.

²⁷⁷ *ibid*.

²⁷⁸ Interview with Sandile (2003) GALA AM3163_A1.22, 3.

²⁷⁹ R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 53.

²⁸⁰ Interview with Jason Baker (2003) GALA AM3163_A1.9, 5.

²⁸¹ *ibid*.

reversed through ‘conversion therapy’.²⁸² The fact that they believed that speaking to a Christian counsellor would allow him to ‘turn back’ could be a further manifestation of their denial and lack of acceptance of his sexuality or a genuine belief that he could be ‘cured’. Tumi Ndweni also speaks about going to her pastor to discuss her sexuality, but instead of being offered meaningful counsel, being told to ‘fast, pray hard, whatever’ with the belief that repentance could cure her of her ‘wrongful’ sexuality.²⁸³ As Makhosi – a traditional African spiritual healer – states, conversion practices ‘delay the growth of the society as African people (...) [they are] detrimental to society, to one’s health. It’s killing society and destroying one’s self esteem’.²⁸⁴ Crucially, conversion practices prevent queer people from being able to live their lives freely in their identity, instead leading to trauma, self-hate, depression and withdrawal from societal life, thus this is a particularly concerning aspect of the impact of homophobic interpretations of religion, emphasising the importance of more inclusive and tolerant interpretations.

Jason’s story can additionally be classed as one in which he experienced emotional abuse, not only through the suggestion of ‘conversion therapy’ but also through the emotional abuse he endured from his mother and sister around the house.²⁸⁵ He recalls that they would put notes on mirrors all around the house with ‘verses from all these different books in the Bible saying how being gay is wrong, you must turn back now and give your life to the Lord. Turn Satan away and get this demon out of you because that’s all being gay is, it’s a demon inside of you’.²⁸⁶ By doing this, Jason’s family prevented him escaping the turmoil that he was already facing outside of the home, by consistently perpetuating the idea that his sexual identity is ‘wrong’ and ‘demonic’, thus constituting emotional abuse. In conclusion, these interviews carried out by GALA show the real trauma that has been faced by youth growing up during the apartheid and post-colonial periods in South Africa as a result of religious homophobia. They reaffirm the urgent need to decolonise

²⁸² Interview with Jason Baker (n 280) 6.

²⁸³ Interview with Tumi Ndweni (2003) GALA AM3163_A1.27, 5.

²⁸⁴ Dianah Chiyangwa, DeLovie Kwagala and Bongani Siziba, “‘Mavanga’: The Invisible Scars of LGBTQ+ Community in South Africa” (International Women’s Media Foundation, 25 February 2022) <www.iwfm.org/reporting/mavanga-the-invisible-scars-of-lgbtq-community-in-south-africa/> accessed 21 May 2022.

²⁸⁵ Interview with Jason Baker (n 280) 6-7.

²⁸⁶ Interview with Tumi Ndweni (n 283) 19.

interpretations of Christianity within South African societies to quash the misinterpretation of homosexuality as a 'sin' and to prevent queer youth from experiencing further rejection, denial, abuse, and trauma.

Christianity, censorship and homophobia in Uganda

Despite the resurgence of missionaries travelling to Uganda in recent decades, missionary presence in Uganda dates back to the pre-colonial period with Christian missionaries entering pre-colonial Buganda for the first time in the late 19th century.²⁸⁷ As Jones states, 'in colonial and post-colonial Uganda, organized religion has [always] played a critical role in national politics (...) [The only difference now is that] religious institutions appear more significantly in the present than in the past'.²⁸⁸

Historically, Catholics and Anglicans have been very involved in the emergence and distribution of mass media, having brought the first printing presses to Uganda, created the first newspapers in Luganda and been largely responsible for the creation of mass literacy and readership.²⁸⁹ Crucially and of more relevance today, Catholics have a number of radio and TV outlets in Kampala, a monthly bulletin called the Catholic News Report, and a monthly magazine.²⁹⁰ These media outlets aim to promote Catholic principles and in particular instil 'Catholic values' among young people, including 'traditional Catholic family values', and thus often a staunch opposition to homosexuality. Moreover, Protestants, particularly Evangelicals, have a number of publications which are again widely received and serve to further ingrain Christian 'morality' into social values. Additionally, we have increasingly seen the notion that 'churches are themselves newsworthy', with journalists often enthusiastic to interview leaders, again adding to the publicity and platform provided to Christian leaders who often promulgate hatred for the LGBTQ+ community rather than inclusiveness and tolerance.²⁹¹ All of these platforms only serve to increase the influence of religion on

²⁸⁷ Kevin Ward, 'The Role of the Anglican and Catholic Churches in Uganda in Public Discourse on Homosexuality and Ethics' (2015) 9(1) *Journal of Eastern African Studies* 127,129.

²⁸⁸ B Jones, 'The Church in the Village, the Village in the Church: Pentecostalism in Teso, Uganda' (2005) 45(178) *Cahiers d'Études Africaines*, 497-517 Cited in T Msibi, 'Not Crossing the Line: Masculinities and homophobic violence in South Africa' (2009) 80 *Agenda: Empowering Women for Gender Equity* 50-59.

²⁸⁹ Ward (n 287) 131.

²⁹⁰ *ibid.*

²⁹¹ *ibid.*

sexual politics in Uganda, including the likelihood of greater censorship of mass media in an appeal to adhere to Christian values and ‘morality’. One example of this is the censorship of *The Vagina Monologues* ‘by the forces of Christian conservatism’.²⁹² It was branded as ‘pornographic’ and ‘anti-male’ by church groups and the subsequent censorship demanded the script to be altered to delete references to lesbianism and the use of the word ‘vagina’ from the title.²⁹³ An activist for a Ugandan women’s group, Mukasa, has suggested that expressing sexuality is a significant part of Ugandan culture and thus ‘this right-wing Christian fundamentalism’ which condemns expression of this sort and ‘calls itself African is actually very un-African indeed’.²⁹⁴ The editor of *Kwani?*, the Kenyan literary journal, Binyavanga Wainana, similarly criticises the use of censorship stating ‘[t]here’s an idea that seems to be prevalent among the older generation of African leaders, almost that their people are blank vessels. That globalisation and western influences are waiting at the door for “you stupid people” to be changed’.²⁹⁵

Similarly, the hold that Christianity has over media can also be exemplified by the case of Radio Simba who allowed ‘self-confessed homosexuals to feature in its talk show *Lutindo*’.²⁹⁶ Although the radio station was widely condemned for its actions it defended the LGBTQ+ community stating that it ‘strives to give opportunity to the underprivileged to speak out’.²⁹⁷ Unfortunately, the Ugandan court ruled that the programme hosted by Radio Simba was ‘contrary to public morality and not compliant with existing law’.²⁹⁸ Again, this is censorship, and clearly has religious and political motivation. Censorship of this nature only serves to promote increased discrimination towards the LGBTQ+ community including soaring stigmatisation and hate crimes as a result. The censoring of the film *The Dinner Club* in 2017 following ‘the denial of classification’ by the Media Council of Uganda is yet another example.²⁹⁹ The council justified this censorship by asserting that the film ‘depicts and glorifies homosexuality’ exemplified by a

²⁹² Jeevan Vasagar, ‘Don’t mention the V-word: Uganda bans Monologues’ (*The Guardian*, 2005) <www.theguardian.com/world/2005/feb/20/arts.artsnews> accessed 9 March 2022.

²⁹³ *ibid.*

²⁹⁴ *ibid.*

²⁹⁵ *ibid.*

²⁹⁶ Joshua Kyalimpa, ‘UHRC Article’, GALA B2.2.2, 1.

²⁹⁷ *ibid.*

²⁹⁸ *ibid.* 2.

²⁹⁹ ARTICLE 19, ‘Uganda: Media Council bans screening of film for “glorifying homosexuality”’ (*ARTICLE 19*, 23 May 2017) <www.article19.org/resources/uganda-media-council-bans-screening-of-film-for-glorifying-homosexuality/> accessed 27 April 2022.

scene in which a gay man calls another a ‘hot chick’.³⁰⁰ ARTICLE 19 has deemed this censorship as a ‘violation of all international standards on freedom of expression’ which must be guaranteed indiscriminately and ‘limit the grounds on which expression can be restricted based on “morals”’.³⁰¹ Under article 29, the Ugandan Constitution guarantees the right to freedom of speech and expression, and thus this decision is a violation and therefore is theoretically unconstitutional, yet this decision was not rescinded.³⁰² This case and that of Radio Simba illustrates how easy it has been in Uganda to wrongly use the right to religion as a justification for discrimination against LGBTQ+ people and for restricting freedom of expression in relation to any mention of homosexuality. The idea that the representation of queer people and queer expression will ‘indoctrinate’ young people into ‘joining homosexuality’ is absurd as a queer person will always be queer whether they see positive representation or not. A lack of positive representation or representation at all for that matter only serves to contribute to negative stereotypes, stigmatisation, intolerance and violence towards queer people. Thus, Wainana’s argument that African leaders often think their people are ‘blank vessels’ is extremely convincing in that they seem to think any mention, education or representation of homosexuality will result in the entire population becoming queer and thus use this as a motivation for increasing censorship and anti-homosexuality legislation.³⁰³ Therefore, it is evident how Christianity has manifested in Uganda as a homophobic force, illustrated in this section by the prevalence of censorship within the media which refrains from permitting the mere mention of homosexuality.

³⁰⁰ ARTICLE 19 (n 299).

³⁰¹ *ibid.*

³⁰² *ibid.*

³⁰³ Vasagar (n 292).

3.

THE POLITICISATION OF CHRISTIANITY AND LGBTQ+ RIGHTS

In recent years, Christianity and LGBTQ+ rights have become increasingly politicised in Uganda and South Africa. Some have acknowledged that politicised queerphobia has “some roots in traditional African culture” but claim that it was Western imperialism and missionary activity that really brought it to the fore and gave it legal force’.³⁰⁴ This can be clearly demonstrated by the fact that ‘homophobia is wheeled out by African politicians (and taken up by church leaders) in attempts to deflect from socio-economic matters’ during the lead-up to elections or during a crisis.³⁰⁵ It is essentially used as a political tool to deflect away from the failure of both state and church leaders, absolving them of responsibility and blaming LGBTQ+ people for everything and anything, similarly to how American conservatives ‘blame gays for their declining influence in the global North’.³⁰⁶

The significant power and influence wielded by Evangelical and Pentecostal Christian leaders in countries across sub-Saharan Africa have arguably markedly contributed to the increased politicisation of LGBTQ+ rights ‘fueling public debates with strongly-loaded anti-gay rhetoric’.³⁰⁷

³⁰⁴ M Epprecht, ‘Black Skin, “Cowboy” Masculinity: A Genealogy of Homophobia in the African Nationalist Movement in Zimbabwe to 1983’ (2005) 7(3) *Culture, Health and Sexuality* 253-66 (262) Cited in Patrick R Ireland, ‘A Macro-Level Analysis of the Scope, Causes, and Consequences of Homophobia in Africa’ (2013) 56(2) *African Studies Review* 47, 56.

³⁰⁵ Gerald West and others, ‘When Faith Does Violence: Reimagining Engagement Between Churches and LGBTI Groups on Homophobia in Africa’ (2016) 72(1) *Hervormde Teologiese Studies* 1, 5.

³⁰⁶ Kapya Kaoma, ‘The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa’ (2014) 2(3) *Critical Research on Religion* 227, 239.

³⁰⁷ Adriaan Van Klinken, ‘Changing the Narrative of Sexuality in African Christianity: Bishop Christopher Senyonjo’s LGBT advocacy’ (2020) 26(1) *Theology & Sexuality* 1.

Van Klinken argues this, suggesting that the mobilisation of these African Christian groups and their contribution to the increased politicisation of LGBTQ+ rights is ‘part of postcolonial identity politics and in response to the growing recognition of same-sex relationships and LGBT identities in the West’.³⁰⁸ This again, then, emphasises the determination of African Christian groups and political leaders to distance themselves from Western liberal sexual politics and to therefore maintain the narrative of homosexuality as ‘moral degeneracy’ and hence, the need for restrictive legislation to protect the morality of African society and culture. Kapya Kaoma describes this as ‘protective homophobia’ defined as ‘[t]he attempt to justify the opposition to sexual diversity on the premise of protecting African cultural identity, children, and religion (Christianity or Islam) from the assumed assault of the Western “global gay agenda”’.³⁰⁹

In ‘appealing to the defense of traditional values’ the queerphobic movement considers its actions as ‘protecting’ Christian and African ‘sexual norms’.³¹⁰ In reality, it is in fact damaging them by promoting hatred and intolerance in the name of African Christianity, opposing the plea for LGBTQ+ equality by the West and denouncing it as un-African, yet supporting the Western penal codes that were introduced during colonialism through their continued implementation today. This can be conceptualised through the notion of postcolonial pre-disposition. ‘Both religious and cultural predispositions influence postcolonial pre-disposition – the attempt to explain negative African experiences from the mistrust of the global North.’³¹¹ This concept can be clearly demonstrated by the opinions expressed by Cecilia Atim Ogwal, the leader of Uganda’s delegation to the Pan African Parliament (PAP). She has frequently publicly condemned homosexuality, for instance stating ‘practices that are against African cultures are now classified as human rights. I am forced [by Western countries] to accept homosexuality’.³¹² Through this statement, Ogwal has cemented the view that homosexuality is a ‘foreign’, Western phenomenon – similarly to other sub-Saharan African political and religious leaders – and that its acceptance is being

³⁰⁸ Van Klinken (n307) 1.

³⁰⁹ Kapya Kaoma, *Christianity, Globalization, and Protective Homophobia: Democratic Contestation of Sexuality in Sub-Saharan Africa* (Palgrave Macmillan 2018) viii.

³¹⁰ *ibid.* viii.

³¹¹ *ibid.* viii.

³¹² Mohammed G Katamba, ‘Ogwal asks African MPs to reject homosexuality’ *The Observer* (25-27 May 2012) 3.

enforced on Uganda by the West, compromising Uganda's values and sovereignty. In this way, Ogwal attributes this 'negative experience' to the West thus illustrating the notion of postcolonial pre-disposition.³¹³ The highly politicised nature of LGBTQ+ rights and Christianity in Uganda and South Africa can therefore definitely be partly attributed to postcolonial pre-disposition – as African Christians and political leaders continue to promote homophobia in opposition to the West.

Moreover, the resurgence in Pentecostal and Evangelical movements, in particular, can again be seen as a contributing factor to the increasingly politicised nature of sexual politics in sub-Saharan Africa. Mainly coming from the US – where they are unable to have as much influence as they desire – Evangelicals and Pentecostals are bringing US 'cultural wars' to Africa and making a political statement.³¹⁴ Semugoma and others argue that 'it is ironic that discrimination that would be illegal in a developed country should be promoted elsewhere'.³¹⁵ It is indeed ironic, however, this forms part of the reasoning as to why Evangelicals are targeting Uganda specifically with their sexual politics. It is because they have lost the legal battles in their own countries to continue promoting discrimination that they are enforcing their values elsewhere where they might have a greater impact.

Furthermore, Grossman argues that 'Renewalist groups (...) vehemently reject the liberal notion that religion can be separated from law and politics'.³¹⁶ Because they cannot separate religion, law and politics, it is evident why they feel the need to constantly involve themselves in matters which they otherwise should not be partaking in, such as law-making. Charismatics, Evangelicals and Pentecostals, according to Grossman, fundamentally 'share the view that influencing all spheres of the secular world is a Christian mandate' although there may be 'doctrinal disagreements'.³¹⁷ This idea of 'influencing all spheres' demonstrates how they allow their religious beliefs to impact every action they take, including in roles in which they should be otherwise impartial. As a consequence of this viewpoint, it is clear that

³¹³ Kaoma, *Christianity, Globalization, and Protective Homophobia* (n 309) viii.

³¹⁴ P Semugoma and others, 'The Irony of Homophobia in Africa' (2012) 380(9839) *The Lancet* 312.

³¹⁵ *ibid.*

³¹⁶ Guy Grossman, 'Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa' (2015) 77(2) *The Journal of Politics* 337, 343.

³¹⁷ *ibid.*

these Christian denominations are not willing to separate their personal religious views from law and politics and thus their religious beliefs are infringing on their political views and actions. This can be exemplified by Ogwal's (the leader of Uganda's delegation to the PAP) 'religious' beliefs about homosexuality such as that it is 'considered witch-craft' and the weight she places on these beliefs in the justification for stricter legislation on homosexuality.³¹⁸ Grossman's explanation makes clear that politicians from these Renewalist groups see it as their 'Christian mandate' to make political decisions based on their religious views to maintain 'public morality'. Hence, it is evident why the resurgence in Reformist groups has contributed to increased politicisation of LGBTQ+ rights, in that these groups are unable to separate religion from politics and thus their 'religious' views that homosexuality is 'immoral' filters through to legislative decisions, such as the Bahati Bill, which according to Bishop Fred Sheldon Mwesigwa was 'constructed on protection of the traditional family values as understood from the unadulterated African cultural, Islamic and Christian heritage'.³¹⁹

D) EVANGELICAL INFLUENCE

Evangelicalism in Uganda

American evangelicals have frequently blamed their dwindling influence in the global North on queer people.³²⁰ Since US evangelicals continue to lose battles on the home front including the legalisation of same-sex marriage in 2012 and the ordination of female and queer bishops, they are increasingly turning to the African continent where they believe they can be of greater influence. Being described as the 'Pearl of Africa' by US evangelicals, Uganda has frequently been targeted by religious missionaries who have turned to the African continent to project their traditional 'family' and 'moral' values, including instigating increasing hate and violence towards the LGBTQ+ community. US evangelicals have therefore shifted their focus to the African continent

³¹⁸ Katamba (n 312) 3.

³¹⁹ Bishop Fred Sheldon Mwesigwa, 'Adoption of Anti-Homosexuality Bill by MPs is citizens' voice' *Sunday Monitor* (26 January 2014) 25.

³²⁰ Kaoma (n 306) 239.

‘to remain relevant to global Christianity’, particularly Uganda or ‘The Pearl of Africa’, where they can carry out a ‘civilising mission’, imposing their ‘morals’ and preaching against the ‘sin’ that is homosexuality.³²¹

Arguably, although the influence of US evangelicals on social and political attitudes towards the queer community cannot be denied, the argument that they are solely responsible for the increasing hostility towards queer people by both Ugandan communities and the government ‘evacuates the agency of Ugandans or interprets their agency reductively as being manipulated or instrumentalised by external actors’.³²² It also disregards the long history of Christianity in Uganda – with missionaries arriving before colonisation – and its influence on cultural values which is longstanding. Moreover, the assertion that evangelical missionaries are to blame alone feeds into negative discourses surrounding the African continent. This can be exemplified by the American film ‘God Loves Uganda’ which was released in 2013. As Ward argues, although the film successfully demonstrates the ignorance of young American missionaries towards ‘Uganda’s cultural and religious sensibilities’ and the role of white-saviourism, it – albeit most likely unintentionally – feeds into the view held by many conservatives of Uganda as a ‘tabula rasa, easily co-opted into an international anti-gay agenda (...) [with] few religious resources of its own to combat the “conspiracy”’.³²³ From watching this film alone, one would not understand that ‘Christian ethical debate in the public sphere has played a central role in Uganda’s life for a century or more’, almost half of the population are Catholic rather than Evangelicals, and that some forms of Evangelicalism have roots in Ugandan history pre-dating American involvement.³²⁴ To attribute queerphobic attitudes and legislation in Uganda to US evangelicals alone is therefore an extreme over-simplification and reductionary argument to the agency and culture of Ugandan people. Hence, it will be argued that although the impact of the resurgence of evangelical and Pentecostal movements should not be understated, a multitude of factors are at play and when considering queerphobia in Uganda one must consider these all side by side.

³²¹ Kaoma (n 306) 232.

³²² R Rao, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020) 33.

³²³ Kevin Ward, ‘The Role of the Anglican and Catholic Churches in Uganda in Public Discourse on Homosexuality and Ethics’ (2015) 9(1) *Journal of Eastern African Studies* 128.

³²⁴ *ibid.*

Evangelicalism and the Anti-Homosexuality Bill

Prominent evangelical missionaries such as Scott Lively are known to ‘whisper in the ears of Ugandan political leaders, and preach to the common people that America doesn’t work because it allows queer people to live freely’.³²⁵ This is evident through the Seminar on Exposing the Homosexuals’ Agenda which was sponsored by the Uganda-based Family Life Network, fronted by three Americans leading the anti-gay evangelical movement including Lively, and broadcasted to televisions all over Uganda, inciting hatred and violence towards the queer community.³²⁶ Lively is an evangelical pastor, founder of Abiding Truth Ministries and Defend the Family International, more famously known for co-authoring *The Pink Swastika* which claims that ‘homosexuals were responsible for the Nazi Holocaust’.³²⁷ Having boasted that his ‘campaign was like a nuclear bomb against the “gay” agenda in Uganda’, Lively had clear intentions in coming to Uganda, that being to promote intolerance and hatred toward the LGBTQ+ community.³²⁸ With Lively consistently making such ridiculous, unfounded claims about the queer community, it is unsurprising that he has failed to be of any real success in his own country, and has therefore decided to share his discriminatory opinions wherever anyone will listen to them. Disappointingly, Ugandan politicians lent a listening ear to Lively’s homophobic slander as it complemented their quest for the restoration and re-enforcement of ‘African values’ through the condemnation of homosexuality. In his CSIS report, Downie also emphasises the role of Lively and that of evangelical preachers ‘in the export of American bigotry in the report’s assessment of what accounted for the rise of homophobia in Uganda’ and the subsequent attempts to introduce repressive legislation.³²⁹ As a

³²⁵ Val Kalende, ‘Africa: Homophobia is a Legacy of Colonialism’ (*The Guardian*, 30 April 2014) <www.theguardian.com/world/2014/apr/30/africa-homophobia-legacy-colonialism> accessed 22 March 2022.

³²⁶ Erin L Durban, ‘Whither Homophobia? Rethinking a Bad Object for Queer Studies from the Black Global South’ (2021) 8(1) QED 49, 57.

³²⁷ Rao (n 322) 3.

³²⁸ Kaoma, (n 306) 236.

³²⁹ R Downie, *Africa in the Wider World* (Lanham, MD: Rowman and Littlefield 2014) cited in Kalemba Kizito, ‘Bequeathed Legacies: Colonialism and State Led Homophobia in Uganda’ (2017) 15(3/4) Surveillance & Society 567, 569.

result, it was shortly after this seminar that MP David Bahati introduced the famous AHB into Parliament, calling for the death penalty in cases of ‘aggravated homosexuality’ and, more widely, the condemnation and policing of queer people and bodies.

Evangelicalism and politics in South Africa

Similarly to Uganda, South Africa has also faced intervention by evangelical churches in matters of queer rights and sexual politics. Christina Engela attributes ‘the fundamentalist assault on equality, tolerance and Constitutional protection of human rights’ in South Africa predominantly to evangelical churches whom she believes have spread intolerance and hatred.³³⁰ Engela lists the Christian Action Network (CAN) and the International Church Council Project (ICCP) as two of the main and most influential offenders, both of which are affiliated with right-wing Christian groups in America.³³¹ The Christian Action Network is headquartered in Cape Town and led by ‘Dr’ Peter Hammond, who is heavily involved in fundamentalist US religious groups including the ICCP. CAN has been able to exert significant democratic influence through its close involvement with political parties including the African Christian Democratic Party (ACDP), known for ‘vehemently [opposing] gay rights since its founding in 1993’.³³² Engela argues that through their election manifesto, it is evident that the ACDP has the intention to campaign in favour of the removal of marriage equality from the South African Constitution – ‘at the very least’ – suggesting they will go to any length to restrict the human and civil rights of the LGBTQ+ community in South Africa ‘at every single available opportunity’.³³³

³³⁰ Christina Engela, ‘Christian homophobes are spreading their hate in South Africa (National Secular Society) <www.secularism.org.uk/christian-homophobes-are-spreadi.html> accessed 21 May 2022.

³³¹ *ibid.*

³³² *ibid.*

³³³ *ibid.*

4.

SHIFTING THE NARRATIVE: AFRICAN CHRISTIANITY AND
SUPPORT FOR QUEER RIGHTS

Although Christian leaders across Africa have been largely associated with vehement queerphobia, and the majority of religious believers have veered on the side of condemning homosexuality, that is not to say that Christianity is homogenous and static. Some Christian people in South Africa and Uganda support queer rights, with religious leaders publicly fighting against homophobia, and queer people who position themselves as Christians despite the perhaps perceived contradictory nature of those two identities. The existence of Christian LGBTQ+ advocacy groups, including House of Rainbow Fellowship, Affirming and Inclusive Ministries in South Africa and the United Coalition of Affirming Africans and Christian leaders who have advocated for LGBTQ+ rights despite the inevitable condemnation they receive brings hope of a future where Christianity and homosexuality can coexist peacefully and where religious texts are no longer weaponised in a crusade against homosexuality.³³⁴

*Religious leaders advocating for LGBTQ+ rights*I) *DESMOND TUTU*

One of the most prominent examples of a Christian leader who fought for queer rights is Archbishop Desmond Tutu. He famously compared anti-LGBTQ+ legislation and violence to laws and violence

³³⁴ Adriaan Van Klinken, 'Changing the Narrative of Sexuality in African Christianity: Bishop Christopher Senyonjo's LGBT advocacy' (2020) 26(1) *Theology & Sexuality* 2.

under apartheid and continually advocated for the full recognition of the human rights of LGBTQ+ people.³³⁵ Stating that he would ‘rather go to hell than a homophobic heaven’, Tutu made headlines worldwide whilst facing widespread condemnation by fellow Anglican leaders and politicians on the continent.³³⁶ Robert Mugabe stated that Tutu’s ‘pro-gay stance’ was a ‘disgrace’ and subsequently called for Tutu’s resignation.³³⁷ Similarly, Emmanuel Chukwuma – an Anglican bishop from Nigeria – vilified Tutu as ‘spiritually dead’.³³⁸ These reactions to Tutu’s public support for LGBTQ+ rights alone illustrate the highly controversial and debated nature of the provision of queer rights within both the Anglican Church and the wider Christian community in sub-Saharan Africa. As van Klinken and Chitando express in their book *Reimagining Christianity and Sexual Diversity in Africa*:

It has been described as a tragedy that Tutu’s Anglican Church, and many other South African churches which fought successfully against apartheid, have failed to overcome ‘another fundamental and equally oppressive division: one that divides straight people from gay and lesbian people’ after liberation in the 1990s.³³⁹

Ubuntu

Ubuntu, often translated as ‘I am because you are’ or ‘a person through other people’, was popularised by Tutu with his thinking often described as ‘ubuntu theology’.³⁴⁰ Ubuntu is an ‘indigenous southern African concept’ and therefore by using it, Tutu applies African theology which is ‘firmly grounded in African cultural concepts and world views’.³⁴¹ The word has been largely associated with values including compassion, openness and generosity by Tutu and he uses

³³⁵ Brody Levesque, ‘Archbishop Desmond Tutu, a key ally for LGBTQ+ equality dies at 90’ (*los angeles blade*, 26 December 2021) <www.losangelesblade.com/2021/12/26/archbishop-desmond-tutu-a-key-ally-for-lgbtq-equality-dies-at-90/> accessed 23 April 2022

³³⁶ Adriaan Van Klinken and Ezra Chitando, *Reimagining Christianity and Sexual Diversity in Africa* (Hurst 2021) 31.

³³⁷ *ibid.*

³³⁸ *ibid.*

³³⁹ *ibid.* 32.

³⁴⁰ *ibid.* 39.

³⁴¹ *ibid.* 31.

this concept to defend LGBTQ+ rights.³⁴² Tutu connects ubuntu to his understanding of creation, believing that human beings present the image of God as a collective rather than an individual and thus ‘what dehumanises you, inexorably dehumanises me’.³⁴³ Thus, to dehumanise queer people is not just an action which inflicts violence on the oppressed individual, but on the whole community. Whilst Tutu has not explicitly made links between the concept of ubuntu and queer rights, it is evident that his ubuntu theology has shaped his views on sexuality and gender. Although Tutu’s understanding of ubuntu is arguably more liberal than that of others – with his belief that ‘to be human is to be free’ – there is no doubt that as a concept ubuntu can be utilised in support of LGBTQ+ rights, tolerance, compassion and acceptance.³⁴⁴ As van Klinken and Chitando have argued, ubuntu as a ‘philosophy of community’ could be the beginning of a new outlook for African Christianity, in which indigenous African philosophy can be applied and interpreted to offer acceptance of sexual diversity ‘as an alternative to Western, highly individualised accounts’ of LGBTQ+ rights.³⁴⁵ With much of the controversy surrounding the issue of LGBTQ+ rights being due to the perspective that homosexuality is a Western phenomenon and is, therefore ‘un-African’, crucially, a true shift in views on LGBTQ+ rights must come from African concepts, African language and African spirituality. Western justifications for acceptance will only work against grassroots movements for the equality of queer people in Africa, through the subsequent accusation that LGBTQ+ movements are simply trying to boost a Western agenda and the notion that Africa must be freed from Western influence and more explicitly ‘from this dreadful Western disease’.³⁴⁶

II) BISHOP CHRISTOPHER SENYONJO

Christopher Senyonjo, who was a bishop from 1974 to 1998 in West Buganda, was a staunch supporter of LGBTQ+ rights throughout his

³⁴² Van Klinken and Chitando (n 336) 31.

³⁴³ *ibid* 38-39.

³⁴⁴ *ibid* 41.

³⁴⁵ *ibid*.

³⁴⁶ Thabo Msibi, ‘The Lies We Have Been Told: On (Homo) Sexuality in Africa’ (2011) 58(1) *Africa Today* 55, 62.

career – with his service ‘aimed at ministering to the marginalized in society’³⁴⁷ – but became particularly vocal following his retirement in 1998 during which ‘homosexuality surfaced as a major issue at the Lambeth Conference’.³⁴⁸ In the early 2000s, Senyonjo began to provide counselling for LGBTQ+ people who had become subject to hatred, suspicion and violence following the controversy which inevitably succeeded the 1998 Lambeth Conference.³⁴⁹ As a result of his formidable support for queer people and advocacy for LGBTQ+ rights, unfortunately, in 2006 Senyonjo was stripped of all his entitlements as an ordained minister and retired bishop.³⁵⁰ He features in the film *Call me Kuchu* in which he is shown to counsel and support members of the LGBTQ+ community in Kampala and filmed speaking at the funeral he conducted for David Kato – who was murdered as a result of his LGBTQ+ status and activism in January 2011 – ‘powerfully and prophetically’³⁵¹ whilst other Anglican clergy attended to denounce homosexuality and refused to allow for his Christian burial.³⁵² The contradicting actions of Senyonjo and the other Anglican clergy who attended Kato’s funeral illustrate that African Christianity is far from a monolith and that the issue of LGBTQ+ rights is very divisive. Interpretations of Christian principles are varied and the fact that some prominent Anglicans such as Senyonjo and Tutu have publicly supported LGBTQ+ rights demonstrates that liberal interpretations of African Christianity and spirituality in support of queer rights are possible. Senyonjo’s LGBTQ+ activism, like Desmond Tutu’s, supports ‘the possibility of a manifestation of Christian faith that affirms the dignity of all human beings, and that allows for multiple forms of loving relationships’.³⁵³

³⁴⁷ Van Klinken (n 334) 2.

³⁴⁸ Kevin Ward, ‘Bishop Senyonjo and the Church of Uganda’ (2020) 26(1) *Theology & Sexuality* 21, 23.

³⁴⁹ *ibid* 25.

³⁵⁰ Van Klinken (n 334) 3.

³⁵¹ *ibid* 3.

³⁵² Ward, ‘Bishop Senyonjo’ (n 348) 25.

³⁵³ Van Klinken (n 334) 3.

5.

RELIGION AS A SANCTUARY

Although religion can arguably be a prevalent source of anguish for the LGBTQ+ community in Uganda and South Africa, with the subject of LGBTQ+ rights often being a controversial one, it can also be a ‘source of comfort and strength’ offering queer people ‘a theological foundation from which to claim their identities and rights’.³⁵⁴ Moreover, many LGBTQ+ individuals express Christian faith and very few see a contradiction between this identity and their LGBTQ+ status, illustrating that they do not interpret Christianity as a homophobic religion.³⁵⁵ Interviews carried out by van Klinken in Zambia demonstrate this as interviewees contended that ‘God created them as gay men in God’s own image and that God, as a loving creator, loves them too’.³⁵⁶ Similarly, in many of the interviews carried out as part of ‘The Balancing Act Collection’ by the GALA, the idea of religion as comforting and therefore as a sanctuary was frequently expressed. For instance, in the interview with Kagiso, a gay man who describes his religion as Roman Catholic, he shares that within Catholicism, ‘everything is accepted’.³⁵⁷ He goes on to say: ‘we are a gift of God; we are a gift to this world; and we’re here to stay’.³⁵⁸ This interview, along with many others, demonstrates that Christianity can be interpreted as accepting, and is accepting towards queer people when not interpreted

³⁵⁴ John Marnell, ‘LGBT migrants in South Africa: religion can be a blessing, and a curse’ (*The Conversation*, 4 November 2021) <<https://theconversation.com/lgbt-migrants-in-south-africa-religion-can-be-a-blessing-and-a-curse-169758>> accessed 19 April 2022.

³⁵⁵ *ibid.*

³⁵⁶ Joseph Hellweg, ‘Same-Gender Desire, Religion and Homophobia: Challenges, Complexities, and Progress for LGBTIQ Liberation in Africa’ (2015) 83(4) *Journal of the American Academy of Religion* 887, 889.

³⁵⁷ Interview with Kagiso (2003), GALA AM3163_A1.13, 11.

³⁵⁸ *ibid.* 14.

with a heteropatriarchal and therefore indiscriminatory lens. Once queer people such as Kagiso realise this, Christianity can become a sanctuary for them, promoting their own acceptance of their identity and self-worth. Sandile's story is a testimony to this. He grew up in a Christian family and was consistently told by his family that being gay is a sin and that he's 'evil'.³⁵⁹ It was because of this upbringing that Sandile did not feel it was possible to be both gay and Christian. After attending SOHACA Soweto HIV-Aids, a counselling association in Soweto, and meeting other people like him he finally started 'to understand and accept [himself] as a gay person'.³⁶⁰ He was then exposed to a chapter in the Bible discussing love (Corinthians 13:4) which made him feel accepted and loved by God, rather than vilified.³⁶¹ He explains that this chapter 'says that love comes from God, and when you read about that love (...) [you will] find out that God really loves us, despite of our sin; despite of everything'.³⁶² Sandile explains the extremely comforting nature of this chapter, in that 'knowing that there is someone out there, God, that will never desert [him] (...) keeps [him] strong'.³⁶³ It is in this way that religion, when not manipulated in favour of hatred and intolerance, can have a positive impact on the lives of queer people, providing them with courage, strength and acceptance in a society in which they more often face censure rather than tolerance.

CONCLUSION

In conclusion, although Christianity was used as a tool of control by imperialists to enforce a heteropatriarchal binary and thus promote intolerance and hatred towards the LGBTQ+ community, it has since been adopted by sub-Saharan Africa and become intertwined with the practices and beliefs of many different cultures and religions. Whilst the negative effects on LGBTQ+ rights are clear, such as more restrictive legislation due to religious justifications by political leaders and largely queerphobic societies, it must be remembered that Christianity is

³⁵⁹ Interview with Sandile (2003) GALA AM3163_A1.22, 2-3.

³⁶⁰ *ibid* 8.

³⁶¹ *ibid*.

³⁶² *ibid* 12.

³⁶³ *ibid* 22.

not a monolith. It is because of this that LGBTQ+ rights are such a controversial issue within Christianity because there are so many different interpretations of Biblical texts and principles and therefore stances on this topic hugely vary. Whilst many religious leaders including Bishop Ssempe have vilified queer people and condemned their lifestyle, others including Desmond Tutu and Bishop Senyonjo have consistently advocated for the community and worked with queer people to work towards both greater self-acceptance and acceptance by the community. Tutu in particular has illustrated that cultural concepts such as *Ubuntu* support the ideals of community, compassion and equality and thus support the provision of equal human rights for LGBTQ+ peoples. It is therefore clear that queer people are not antithetical to African culture as African principles themselves stand in support of equality. Ultimately, African cultural principles such as *Ubuntu*, African spirituality and African language must be used for the advancement of LGBTQ+ rights in sub-Saharan Africa. Whilst African language and principles are used, it can be advanced that queerness is not 'un-African' and the advancement of queer rights is not another product of Western imperialism.

PHOEBE ELEANOR SHEPPARD

PART III: PATRIARCHY

INTRODUCTION

Part III will explore the impact of patriarchy and heteropatriarchal structures on the realisation of LGBTQ+ rights. The establishment of patriarchal structures and the sex binary, the use of ‘corrective’ rape as a patriarchal ‘solution’ to homosexuality and the use of forced gender reassignment surgery to ‘cure’ homosexuality will be investigated through the use of legislation, interviews and photographs. It will be advanced that without the dismantlement of patriarchal structures, a transformation in societal views and the introduction of hate crimes as a criminal offence, LGBTQ+ rights will remain inadequately protected in Uganda and South Africa.

1.

THE ESTABLISHMENT OF PATRIARCHAL STRUCTURES AND
THE SEX BINARY

The origins of the sex binary can be firmly traced back to imperialism during which Western categorisation was enforced on indigenous communities as part of their ‘civilising mission’. Sexual differences were used to develop the idea of ‘race’ itself and in turn served to dehumanise Black people whilst simultaneously fortifying white supremacy.³⁶⁴ Colonised women were demarcated from white women by being ‘sexually marked as female without the characteristics of femininity’.³⁶⁵ Thus, essentially, indigenous women were stripped of their womanhood, instead being perceived as ‘without gender’.³⁶⁶ In the same way, indigenous men were not depicted as characteristic of manhood. They were rather portrayed ‘as animals, uncontrollably sexual and wild’ and thus as Coetzee argues, within the imperial model of sex and gender ‘being white means inhabiting a masculine or feminine identity according to the rules of binary heterosexual patriarchy, and being black means failing to do so’.³⁶⁷ Hence, to qualify as a woman or a man and thus fit into the sex and gender binary created by imperialists, being white was a prerequisite. It was in this way that colonial powers dehumanised and alienated indigenous populations, reinforcing their own believed ‘superiority’ in favour of a white supremacist heteropatriarchal order.

The story of Sara Baartman, the so-called ‘Hottentot Venus’,

³⁶⁴ Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) xiv.

³⁶⁵ M Lugones, ‘Toward a decolonial feminism’, *Hypatia* 25(4) (2007) 742-759 cited in Coetzee A, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 202-03.

³⁶⁶ *ibid.*

³⁶⁷ Azille Coetzee, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 96-97.

exemplifies the way in which imperialists over-sexualised, dehumanised and subjugated Black bodies in order to strengthen their claim of superiority and, by default, power. Baartman, a Khoikhoi woman, became a ‘human exhibit of racial and sexual difference’ in Europe in the early 19th-century after she travelled from Cape Town in 1810.³⁶⁸ It was because of what was described as the ‘Hottentot apron’ – referring to an enlarged labia minora and steatopygia (‘large accumulation of fat in the female posterior’) – that Baartman’s body became a symbol of sexualised racial difference and inferiority.³⁶⁹ After being sold into slavery at around 20 years old, Baartman died before turning 40 due to poor health as a result of being overworked and poorly treated.³⁷⁰ Following her passing Baartman’s years of being exhibited unfortunately did not end, with her dissected body and skeleton being displayed at the Musée de l’Homme until the late 1970s.³⁷¹ It was after the exhibition of Baartman’s body that Georges Cuvier and others truly pronounced Black Africans as one of “‘the most inferior races” in existence’, with Baartman constituting ‘a missing link between animality and humanity’ for much of the French nobility.³⁷² The exhibition of Baartman’s body therefore contributed to the perception that Black African populations were inherently sexual and that they subsequently desperately needed to be disciplined and policed through heteronormativity and by extension, patriarchy. Baartman’s remains were finally returned to South Africa following a successful campaign by the government in the 1990s.³⁷³ Her body came to symbolise, as Munro argues:

the postcolonial politics of stigma: imperial shaming at the intersection of race, sexuality, and gender and the corresponding emergence of desire for postcolonial ‘dignity,’ which is too often formulated through the politics of a reconstituted heteronormative ‘respectability’ – the rules of middle-class whiteness, once again.³⁷⁴

³⁶⁸ Munro (n 364) xv.

³⁶⁹ Andrew Lyons, ‘The Two Lives of Sara Baartman: Gender, “Race,” Politics and the Historiography of Mis/Representation’ (2018) 60 *Anthropologica* 327.

³⁷⁰ Shweta Krishnan, ‘Freak Shows: Looking At Human Bodies On Exhibit’ (*In Plainspeak*, 15 June 2021) <www.tarshi.net/inplainspeak/freak-shows-looking-at-human-bodies-on-exhibit/> accessed 15 June 2022.

³⁷¹ *ibid.*

³⁷² Fabiano Gontijo, ‘Sexual and Gender Diversity, National State and Biopolitics in the Global South: Lessons from Africa’ (2021) 46(2) *Anuário Antropológico* 97, 100.

³⁷³ Munro (n 364) xv.

³⁷⁴ *ibid* xvi.

Thus, in reclaiming her remains, the South African government attempted to restore 'dignity' to Baartman, the Khoikhoi people and, more generally, to the nation.

2.

'CORRECTIVE' RAPE AS A PATRIARCHAL 'SOLUTION' TO HOMOSEXUALITY

Whilst the term 'corrective' rape was initially used specifically to define the rape of lesbians by straight men in order to 'cure' them of their homosexuality, it has since evolved to refer to the rape of any non-conforming group in regards to gender or sexual orientation where the intention of the perpetrator is to 'correct' the individual.³⁷⁵ The term became popularised following the murder of Eudy Simelane, a national South African football player, equality activist and out lesbian. As Doan-Minh argues, 'corrective' rape is a 'punishment for being gay and for violating traditional gender presentation' and thus a punishment for threatening masculinity and by extension, patriarchy.³⁷⁶ The justification for 'corrective' rape largely ties with the notion that lesbians specifically are not 'real' women, and thus this act is perpetuated to 'show them' how to be a real woman and essentially 'put them in their place', reinforcing 'patriarchal male domination'.³⁷⁷ The same justification for 'corrective' rape – to reinforce existing heteropatriarchal power structures – is afforded to transgender men, transgender women, non-binary people, bisexual women, gay men and other marginalised gender and sexual identities. In South Africa, heterosexual men have regarded lesbianism as a threat to their masculinity and consequently have correlated it with a diminution of their power in society.³⁷⁸ It is a disturbing reality for

³⁷⁵ Sarah Doan-Minh, 'Corrective Rape: An Extreme Manifestation of Discrimination and the State's Complicity in Sexual Violence' (2019) 30(1) *Hastings Women's Law Journal* 167.

³⁷⁶ *ibid.*

³⁷⁷ Maudri Wheal and Lea Mwambene, 'Realisation or Oversight of a Constitutional Mandate? Corrective Rape of Black African Lesbians in South Africa' (2015) 15(1) *African Human Rights Law Journal* 58, 60.

³⁷⁸ R Koraan and A Geduld, "'Corrective Rape' of Lesbians in the Era of Transformative Constitutionalism in South Africa' (2015) 18(5) *Potchefstroom Electric Law Journal* 1930, 1937.

LGBTQ+ people in both South Africa and Uganda and is an extremely pressing issue in that it not only violates bodily autonomy and queer identity, but also contributes to the belief that queer bodies are there to be violated and are something that is wrong and in need of ‘correction’. The larger implication of ‘corrective’ rape is that queer people are unable to feel safe in their communities and cannot present in the way they want to – instead being forced to act in a way that can be considered ‘passing’ so that they are less likely to be a target of violence, therefore illustrating the lack of ‘true societal equality’.³⁷⁹

Those with intersecting identities are particularly at risk of ‘corrective’ rape. Black lesbians in particular have been identified as of increased vulnerability to these attacks due to the intersection of their racial identity and sexual identity. As a result, Black lesbians are twice as likely to be subject to sexual assault and other sexual offences in South Africa.³⁸⁰ As Crenshaw argues, ‘because the intersectional experience is greater than the sum of racism and sexism, any analysis that does not take intersectionality into account cannot sufficiently address the particular manner in which Black women are subordinated’.³⁸¹ Being oppressed for being Black, a woman and a lesbian certainly represents an intersection of identities, all of which contribute to one’s increased subordination in comparison with other groups and this must be acknowledged. For instance, due to white privilege, a white lesbian would not share the same level of oppression or the same experiences as a Black lesbian. Because of this reality, in response ‘to the question “what’s race got to do with rape?”’, South African feminist scholar Pumla Gqola answers unequivocally: “everything”’.³⁸² Therefore, essentially, sexual violence and oppression are strongly intertwined with racial oppression, and thus if one belongs to sexual, gender and racial minorities, realistically they will be subject to far more violence than an individual only belonging to one minority group. Hence, Black lesbians remain the majority in cases of ‘corrective’ rape, with attacks carried out

³⁷⁹ Doan-Minh (n 375) 169.

³⁸⁰ Lucy Graham, “‘Then You Are a Man, My Son’: Kipling and the Zuma Rape Trial’ (2016) 36(2) *Comparative Studies of South Asia, Africa and the Middle East* 263, 271.

³⁸¹ Kimberle Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’ (1989) 8(1) *University of Chicago Legal Forum* 139, 140.

³⁸² Azille Coetzee, ‘Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology’ (2021) 129 *Feminist Review* 93, 94.

not only due to queerphobic discourses but also those surrounding the sexualisation of Black women and their subsequent perceived sexual availability, making them more vulnerable to rape. Another factor to consider is that lesbians of 'butch' identity are the most at risk of attack out of this sub-group due to their appearance and role being viewed as a threat to both masculinity and heteronormativity.³⁸³ Thus, those presenting more masculine are seen as a greater threat to masculinity in that they are perceived to be 'trying to be a man' and therefore are more vulnerable to attacks with perpetrators attempting to 'put them in their place' and reinforce their inferiority in society through the emphasis of male domination.

The pervasiveness of 'corrective' rape is illustrated within the interviews from the Queer Youth Speak Out project in which many of the interviewees mention their own experiences of 'corrective' rape or that of friends and family, demonstrating how widely it affects the queer community. For instance, in their interview, Nunu stated that 'people are raping us because they want to fix us', reproducing the notion that perpetrators believe that they can 'cure' homosexuality through 'corrective' rape.³⁸⁴ This narrative is perpetuated in Matha's account of their friend's attack in which they state that their lesbian friend was beaten up by four boys at her school for her sexual orientation.³⁸⁵ Matha states that they 'beat her up and once they were beating her up, they told her that she should stop what she is doing, because it's a disgrace to the world and them, their community'.³⁸⁶ Again, this emphasises the idea that homosexuality is 'unnatural' and must be eliminated from Africa because it is antithetical to African culture and the belief that 'corrective' rape is an effective mechanism to 'fix' it. Matha goes on to explain that after calling the police four times, they failed to show.³⁸⁷ This demonstrates that despite the Equality Clause in South Africa's Constitution which supposedly enshrines the equal rights of LGBTQ+ people, these rights are not protected in reality. South African police do not take these hate crimes seriously, often victim-blaming or in this case, simply failing to show. This demonstrates a lack of protection within the

³⁸³ Wheal and Mwambene (n 377) 58.

³⁸⁴ Interview with Nunu (2003) GALA AM3163_A1.21, 29.

³⁸⁵ Interview with Matha (2003) GALA AM3163_A1.18, 13-14.

³⁸⁶ *ibid* 14.

³⁸⁷ *ibid* 14.

criminal justice system and indicates why ‘corrective’ rapes are drastically underreported, because individuals do not feel safe coming forward, believe that they will not be taken seriously, or feel that whether they decide to report it or not, their attackers will evade prosecution. Within their interview, Yanda also speaks about the ‘corrective’ rape of lesbians, explaining that many victims often keep their rape a secret, refusing to speak of it until it ‘really eats them away’.³⁸⁸ Yanda puts this down to a lack of remorse from the police and therefore the fact that often in coming forward, victims are making themselves more susceptible to further danger, rather than protecting themselves through the capability of achieving justice.

The need for ‘corrective’ rape to become a hate crime

There have been repeated calls for ‘corrective’ rape to be made a hate crime in South Africa as it remains an endemic issue in which only the rape itself and not the homophobia that led to it is addressed when sentencing a perpetrator. Through the Criminal Law Amendment Act, whilst acts of rape and sexual violation are criminalised, there is no clause criminalising hate crimes as a ‘substantial criminal offence’ and therefore no intensified sentencing exists for rapes where they are not just a sexual offence, but a hate crime also.³⁸⁹ As a result, ‘corrective’ rapes are prosecuted simply as sexual offences, ignoring the sole reason for their perpetuation and thus the significant dimension of hatred, intolerance and patriarchal control. Whilst the South African Constitution enshrines equal rights for LGBTQ+ people, a lack of additional protective legislation concerning ‘corrective’ rape and other hate crimes prevents the full realisation of these rights, and thus the equality clause in the Constitution is unable to act effectively. Consequently, the introduction of an amendment criminalising hate crimes is pertinent to the protection and safety of LGBTQ+ people.

The Zuma trial is a significant case when discussing ‘corrective rape’, heteropatriarchal structures and the implications that a lack of legislative protection against hate crimes ensues.³⁹⁰ The ex-president

³⁸⁸ Interview with Bonggi and Yanda (2003) GALA AM3163_A1.4.

³⁸⁹ Koraan and Geduld (n 378) 1937.

³⁹⁰ *S v Zuma and Others* [2006] CC358/05 [20 September 2006] ZAKZHC 22

and then deputy-president Jacob Zuma faced rape charges in December 2005 in Johannesburg High Court after allegedly raping an HIV-positive lesbian, given the name Khwezi by her supporters.³⁹¹ Khwezi is an AIDS activist and out lesbian who Zuma knowingly allegedly raped whilst she was HIV positive.³⁹² Zuma supposedly did ‘not think what he was doing was rape’ and thus the question has been raised as to whether this incident can be classified as ‘corrective’ rape.³⁹³ Considering Khwezi’s sexual orientation and HIV status, it is highly unlikely that she would consensually have sexual intercourse with a straight man, especially without a condom. The fact that Zuma knew of these facts and still allegedly raped her arguably signifies that this was a case of ‘corrective’ rape with him believing that he could ‘turn’ her. As Munro argues, Zuma’s ‘traditional’ Zulu masculinity certainly had a part to play in this ‘tap[ping] into a matrix of homophobia, patriarchy, and populism’ that has arisen in opposition to the progression of LGBTQ+ rights.³⁹⁴ He no doubt felt that Khwezi’s sexuality threatened his dominant masculinity and wanted to ‘put her in her place’ like many perpetrators of ‘corrective’ rape consistently proclaim. Zuma implored Zulu culture and tradition for his defence, speaking Zulu when addressing the court despite being able to speak English fluently, and stating that Khwezi was aroused and ‘that “in the Zulu culture you do not just leave a woman in that situation because she may even have you arrested and say that you are a rapist”’.³⁹⁵ This employment of Zulu culture in Zuma’s defence clearly reinforces the idea that masculine dominance and female submissiveness are synonymous with African culture and fundamentally that homosexuality is ‘un-African’. The case concluded with the dismissal of Zuma’s charges with Judge van der Merwe stating that it was Zuma’s story rather than the complainant’s that should be believed.³⁹⁶ Following the verdict, Khwezi was forced to seek asylum in the Netherlands for her safety, and Zuma campaigned to become the new leader of the ANC, succeeding and becoming president following

³⁹¹ Graham (n 380) 263-64.

³⁹² *ibid* 264.

³⁹³ *ibid* 269.

³⁹⁴ Brenna M Munro, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012) xviii.

³⁹⁵ Graham (n 380) 268.

³⁹⁶ *ibid* 264.

the 2009 general elections.³⁹⁷ The fact that Zuma was able to become president after his involvement in such a controversial trial demonstrates how entrenched heteropatriarchal structures are in contemporary South African society. Judge van der Merwe was additionally granted a promotion which afforded him significant influence following this case in 2010, becoming deputy judge president of the Gauteng High Court.³⁹⁸ Having himself refused to even recognise Khwezi's true sexual orientation during the case, instead referring to her as 'bisexual', it is clear that rather than being an impartial judge as he should be, he brought his queerphobic views into the courtroom. This makes it particularly concerning that he was able to ascend in rank within the judicial system despite essentially ignoring the Equality Clause in the South African Constitution, inevitably setting precedent for further queerphobic case decisions and therefore signalling a regression in LGBTQ+ rights.

Defying heteropatriarchy through the lens of DeLovie's photography

DeLovie Kwagala is the first known Ugandan non-binary queer photographer and social activist.³⁹⁹ They are currently based in Johannesburg, South Africa and use their photography to explore the themes of gender, sexuality, identity, belonging and social injustices.⁴⁰⁰ Through their work, they aspire to 'provoke questioning and defiance of the stereotypical narratives that are embedded in our minds, especially about beauty and gender identity antithetical to patriarchal beliefs'.⁴⁰¹ Their work increases visibility without victimising or fetishising their subjects and captures queer joy whilst recognising the everyday struggles that they face as a form of resistance to heteropatriarchy.⁴⁰² Their project 'I am Womxn' encapsulates the impact of patriarchy whilst exploring the:

³⁹⁷ Graham (n 380).

³⁹⁸ *ibid.*

³⁹⁹ DeLovie Kwagala, 'Biography' (*DeLovie Photography*) <<https://deloviephotography.com/about-me>> accessed 1 April 2022.

⁴⁰⁰ *ibid.*

⁴⁰¹ *ibid.*

⁴⁰² International Women's Media Foundation, 'DeLovie Kwagala' (*International Women's Media Foundation*) <www.iwmf.org/community/delovie-kwagala/> accessed 10 May 2022.

empowerment and unity that has been and is being built through sisterhoods and feminism, creating safe spaces and movements for us, by us, teaching each other about boundaries, emphasising consent, encouraging one another to take up space, suppressing the fear of silence and embracing vulnerability as well as entwining the majestic black femxle body, celebrating it with authority, pride, beauty and ownership, all of us in the acknowledgement [of] the journey of womanhood as we breakthrough from the patriarchal grip.⁴⁰³

The photographs taken by DeLovie are therefore ‘an affirmation that all of us stand collectively’ in defiance of the patriarchy.⁴⁰⁴



Figure 2

Figure 2 is one photograph that features as part of DeLovie’s ‘I am Womxn’ project. It is particularly powerful in that its subject is a young

⁴⁰³ DeLovie Kwagala, ‘I am Womxn’ (*DeLovie Photography*) <<https://deloviephotography.com/projects/i-am-womxn>> accessed 1 July 2022.

⁴⁰⁴ Scholarship Careers, ‘“I am Womxn”: A Photographer Celebrates Power and Pride Beyond the Patriarchy’ (*Scholarship Careers*, 2022) <<https://scholarshipcareers.com/i-am-womxn-a-photographer-celebrates-power-and-pride-beyond-the-patriarchy/>> accessed 3 July 2022.

child and photographer, named Favour Marvanne. Favour states, ‘My mum says girls can be whatever they want, so I’m a superhero and also Princess Ivah! I’m very strong; I can jump so high. I have muscles too!’. Favour’s statement supports the dismantlement of gender norms by emphasising that girls can be whoever they want and do not need to define themselves by or reduce themselves to the gendered norms imposed upon them. Crucially, with a very young population in South Africa and Uganda, youth are the future and therefore more flexible views on gender amongst young people will no doubt positively impact perceptions on gender within society in the future. A more inclusive and less rigid view of gender could foster acceptance of gender non-conforming people within the LGBTQ+ community, thus positively affecting their treatment within Uganda and South Africa. Moreover, the fact that gender has such a bearing on constructions of sexuality in Uganda and South Africa accentuates the importance of dismantling gender norms within society. Gender and sexuality are intrinsically linked, and thus true acceptance and protection of sexual minorities cannot be achieved without de-gendering society first. Whilst discourses on sexuality remain inherently gendered, the achievement of more flexible perceptions of gender will certainly impact the entirety of the LGBTQ+ community for the better. Thus, the evolving views and experiences that Favour represents are cause for hope in the queer community that negative perceptions of LGBTQ+ people can be replaced.

DeLovie’s project ‘The Quingdom - In Transition’ also challenges the heteropatriarchy by displaying gender non-conforming individuals and transgender people expressing themselves and projecting queer joy. The image below (figure 3) is one photograph from this project, representing queer expression through gender fluidity. The subject of the photo is Jesse who proclaims:

to be visibly queer is a political statement in itself. To say I am queer and I am here and I am not going anywhere. To realise that fear is the driving force of their hate but to be fearless anyway, and to love anyway, is the poetic justice of daily-lived queer experiences. I chant for safer spaces.⁴⁰⁵

Thus, this photograph alongside Jesse’s words illustrates that in a heteropatriarchal oppressive system in which queer identity is consistently denied and repressed, simply existing as a queer person is

⁴⁰⁵ DeLovie Kwagala, ‘The Quingdom - In Transition’ (*where the leaves fall*) <<https://wheretheleavesfall.com/explore/pictures/the-quingdom-in-transition/>> accessed 4 June 2022.

resistance. Not only does this photograph taken by DeLovie illuminate a strong message of resistance, but also one of perseverance, togetherness and hope. In suggesting that fear is ‘the driving force of their hate’, perhaps Jesse wanted to illustrate through this photograph that their identity is not something to be ashamed or afraid of and thus to promote greater tolerance and acceptance of queer people. Photographs such as these counter the frequent claim that homosexuality is fundamentally ‘un-African’, centring queer subjects in a purely African context. Although representation is not everything and increased visibility can contribute towards the increased vulnerability of gender and sexual minorities, it can also promote tolerance through the normalisation of diverse identities and serve as a celebration of that diversity.



Figure 3

Figure 4 is another example of photography from DeLovie’s ‘Quingdom - In Transition’ project, again being a manifestation of queer

expression including gender fluidity. The caption for this photograph is a quote from the subject, Authentically Plastic, in which they express their refusal to compromise their identity in the face of hatred, repression and embedded heteropatriarchal structures.



Figure 4

‘Gender fluidity and authenticity means never having to sacrifice any of the multiple versions of oneself to make other people comfortable or less anxious. It is not my duty to make myself easily digestible. Embrace Variety - Reject Sameness.’⁴⁰⁶

The motto of ‘Embrace Variety - Reject Sameness’, coined by Authentically Plastic, encompasses the motivation of those fighting back against gendered norms enforced by political leaders and wider society. In the face of deeply embedded heteropatriarchal values, this attitude exemplifies the need to embrace one’s identity rather than to repress it, avoiding giving into the norms and structures forcibly imposed upon them. Stating that ‘it is not [their] duty to make [themselves]

⁴⁰⁶ DeLovie Kwagala, ‘The Quingdom - In Transition’ (*PhMuseum*) <<https://phmuseum.com/delovickwagala/story/the-quingdom-in-transition-cb0058955e>> accessed 30 June 2022.

easily digestible', Authentically Plastic captures the immense pressure placed on queer people to adhere to heteronormative ideals, not only to please the wider society, but also to better ensure their safety. By making this point, Authentically Plastic refuses to bargain with imposed heteropatriarchal norms, instead existing to defy them and to better normalise and promote the acceptance of queer bodies and identities.

Figure 5, pictured below, is yet another powerful manifestation of queer visibility centring the subject named Raldy. Whilst the photograph alone is dynamic, the words that accompany it drastically enhance the power of the image.

We found palaces in the dark ruins, pulled silk from rag heaps.
 We are not of the empire. We are glorious outliers.
 Vagabonds.
 Witches.
 Thrown into the root and became a vast oasis.
 We are not of the empire.⁴⁰⁷

The repetition of 'we are not of the empire' fights the frequently repeated notion that homosexuality is a Western import, brought from the West during the colonial period, and is thus an 'un-African' phenomenon. The statement 'we are glorious outliers' embraces and promotes difference, suggesting that queer identity is something that should be accepted and celebrated rather than repressed. This image and its accompanying text therefore reject the narrative that homosexuality is 'un-African', attempt to normalise it, and argue that difference is a foundation of African life, not uniformity and therefore to be different is 'glorious' not shameful.

⁴⁰⁷ Kwagala, 'The Quingdom - In Transition' (n 406).



Figure 5

In conclusion, DeLovie's photography brings visibility to the queer community, challenging pervasive heteropatriarchal structures and looking to redefine what is truly 'African'. Whilst their work is evidence of queer joy, resistance and social activism, it is also exemplary of the heteropatriarchal dynamics discussed throughout this thesis which continue to confine LGBTQ+ people in sub-Saharan Africa today. DeLovie's projects, nevertheless, serve to advance the LGBTQ+ movement reframing the discussion around real queer subjects, debunking misinterpretations and allowing queer people to appear in photographs how they wish to be presented, sharing their unique stories and therefore restoring agency to LGBTQ+ people who, in wider society, most often have it denied.

3.

HETEROPATRIARCHY AND FORCED GENDER
REASSIGNMENT SURGERY/HORMONE TREATMENT

Queerphobia, ‘conversion’ therapy and ‘corrective’ rape and/or treatment unequivocally at their core revolve around gender and thus heteropatriarchal norms, rather than solely around sexuality in itself. As discussed in the previous chapter, the vast majority of queerphobia is centred around the perceived threat to masculinity and therefore patriarchal structures that queer identity poses. The justification for ‘corrective’ rape by perpetrators alone illustrates this – usually being that they need to ‘show them how to be real women’.⁴⁰⁸ The notion that a queer woman is not a ‘real’ woman demonstrates that womanhood in South Africa and Uganda is largely tied to being heterosexual. There seems to be a lack of understanding that one can identify as a woman, with no desire to be a man, and still be attracted to other women. Queer identity is thus viewed as implicitly gendered with gay men such as Stanley – who was interviewed as part of the Queer Youth Speak Out project – often told that they are ‘trying to be a girl’ simply due to their attraction to the same gender, and similarly with lesbians also being told that they are trying to be a man.⁴⁰⁹ In their interview, Tumi Ndweni also referenced this misconception, stating that ‘there is a huge difference between a trans-gendered and a lesbian’, exemplifying how widespread the idea that sexuality is intrinsically gendered is.⁴¹⁰

This gendered view of sexuality is also historically prevalent, with forced gender reassignment surgeries taking place during apartheid as a ‘corrective’ treatment for homosexuality. The example of the

⁴⁰⁸ Maudri Wheal and Lea Mwambene, ‘Realisation or Oversight of a Constitutional Mandate? Corrective Rape of Black African Lesbians in South Africa’ (2015) 15(1) African Human Rights Law Journal 58, 60.

⁴⁰⁹ Interview with Stanley (2003), GALA AM3163_A1.25, 9.

⁴¹⁰ Interview with Tumi Ndweni (2003) GALA AM3163_A1.27, 20.

South African Defence Force (SADF) can be used to evidence this, having been involved with serious abuses of human rights with the justification of ‘curing’ homosexual conscripts.⁴¹¹ Not only did the SADF subject homosexual conscripts to electroshock therapy in an attempt to ‘cure’ their homosexuality through the Aversion Project, but when this inevitably failed, they subjected these individuals to forced gender reassignment surgery.⁴¹² The rationale behind this was that all ‘male homosexuals were sissies, female homosexuals were tomboys’, and forced gender reassignment surgery would cure them of their homosexuality by ‘allowing them to fulfil their projected role in the opposite sex’.⁴¹³ It has been reported that within 18 years in South Africa, over 900 forced sex reassignment surgeries were carried out.⁴¹⁴ All of these surgeries took place without consent, were largely subsidised by the state and after they were carried out, soldiers were given new identity papers and discharged from service.⁴¹⁵ This rate of forced gender reassignment surgery was so high that South Africa became a world leader in this specific medical field. At first look this would appear a positive fact, but of course, we know these were not gender affirming surgeries but forced, non-consensual gender reassignment surgeries, and are an example of the brutal physically abusive ‘conversion’ practises that LGBTQ+ people have been, and often continue to be, subject to in South Africa and Uganda. These surgeries can be situated in the wider context of apartheid, a system introduced crucially to control bodies. It was thus the pressure to have bodies that conformed to assigned gender roles, and enforced heterosexuality, that drove this barbaric ‘corrective’ treatment.⁴¹⁶

A different rationale with the same core belief (that homosexuality is gendered) involving hormonal treatment has been advanced. Whilst reassigning one’s gender was perceived to ‘cure’ homosexuality by

⁴¹¹ Robert M Kaplan, ‘Treatment of Homosexuality During Apartheid: More Investigation Is Needed Into The Shameful Way Homosexuality Was Treated’ (2004) 329(7480) British Medical Association 1415.

⁴¹² A Tapalaga, ‘Forced Gender Reassignment Procedures During the Apartheid Era’ (*History of Yesterday*, 7 September 2022) <<https://historyofyesterday.com/forced-gender-reassignment-procedures-during-the-apartheid-era/>> accessed 2 July 2022.

⁴¹³ Kaplan (n 411) 1416.

⁴¹⁴ Tapalaga (n 412).

⁴¹⁵ *ibid.*

⁴¹⁶ Marc Epprecht, *Sexuality and Social Justice in Africa: Rethinking Homophobia and Forging Resistance* (Zed Books 2013) 131.

pushing one to be the opposite gender to that they are attracted to, another way was making one 'more' of a woman or 'more' of a man through hormonal treatment. The cause of homosexuality was often put down to hormonal imbalances in contrast to not inhabiting the traditional characteristics of the gender one was assigned to at birth. Thus, the rationale for this belief was that by receiving hormonal treatment (either more testosterone if a man or more oestrogen if a woman), one would better inhabit their assigned gender identity meaning that a lesbian, for example, would become more feminine, and as a result, would no longer be attracted to women. Hence, increased femininity was associated with becoming or inhabiting a heterosexual identity. This method was identified in the interviews carried out as part of the Queer Youth Speak Out project. This can be illustrated by the interview with Sivu whose mother wanted to give her oestrogen shots to cure her lesbianism.⁴¹⁷ Her mother conceptualised her lesbianism by putting it down to the fact that she 'didn't have enough female hormones' and therefore was too 'manly'.⁴¹⁸ She believed that by giving her oestrogen shots, she would become more feminine and no longer have an attraction to women.⁴¹⁹ This association between femininity and being heterosexual is a fundamental misunderstanding of sexuality, with it being solely framed around gender. It creates the assumption that it is not conceivable for a woman to be attracted to women and to embrace their womanhood, having no desire to be a man. This largely invalidates queer relationships, and sapphic relationships in particular, deeming them inconceivable. As argued previously, this can be linked to the idea that women do not possess sexual agency, could never initiate relations and the manifestation that a relationship is not 'real' until a man is involved. This therefore ties back to heteropatriarchal structures which ensue male domination and female subordination and serve to invalidate queer relationships and identities.

⁴¹⁷ Interview with Sivu (2003), GALA AM4163_A1.24.

⁴¹⁸ *ibid.*

⁴¹⁹ *ibid.*

CONCLUSION

In conclusion, Part III has attempted to explain the role that heteropatriarchy has played in the construction and preservation of queerphobic narratives in both South Africa and Uganda. The formation of patriarchal structures, the implicitly gendered nature of conceptualisations of sexuality in Uganda and South Africa, the prevalence and justification of ‘corrective’ rape and the use of forced gender reassignment surgery to ‘cure’ homosexuality have been explored. The need for hate crimes such as ‘corrective’ rape to be made a criminal offence has been expressed with the assertion that without criminalisation, the Equality Clause within the South African Constitution protecting the rights of LGBTQ+ people cannot be fully realised. The argument that queerphobia is grounded on fears over masculinities being threatened and, more generally, patriarchal power dynamics being undermined, rather than homosexuality alone has been presented. Thus, it can be asserted that without the dismantling of patriarchal societal, criminal and legal structures, queerphobia cannot be overcome. Discrimination on the grounds of gender, sexuality and race are therefore all interlinked, and essentially one cannot be overcome without also addressing the other. Those with intersectional identities such as Black lesbians will continue to be the main targets of queerphobic and misogynistic aggression until patriarchal systems are dismantled and LGBTQ+ rights are better protected through the criminalisation of ‘corrective’ rape as a hate crime and the establishment of adequate protection outside of the law.

IMPERIALIST QUEERPHOBIA

CONCLUSION

In conclusion, this thesis has attempted to provide a succinct overview of the way in which colonialism, religion and patriarchy have coalesced in contributing to increasingly queerphobic attitudes in South Africa and Uganda through the presentation of three core rationales. The first is the contention that homosexuality is an ‘un-African’ phenomenon imported from the West which is morally corrupting Africa and must be eradicated to protect and preserve African culture. The second is that homosexuality goes against Christianity – the dominant religion in South Africa and Uganda – and therefore is regarded as a ‘sin’ that is punished and legislated against by African leaders placing their religious views at the forefront of legislative decision making. The third and final core rationale is that queer relationships and identities exist outside of the heteropatriarchal binary and thus present a threat to masculinity which must be eradicated through heavily policing queer bodies and enforcing violence upon them in the name of ‘enlightenment’, and in turn invalidating their identities. Through these three justifications for queerphobia, African politicians, religious leaders and society have substantiated the continued subjugation of queer people and the denial of their full and equal human rights.

The first rationale for queerphobia – that homosexuality is ‘un-African’ and a ‘Western disease’ – has had widespread implications for the LGBTQ+ rights movement. This assertion is not only incorrect, given the only possible claim of import can be the use of the term ‘homosexuality’ and its application to queer people that were already in existence, but it has also largely detracted from the advocacy of LGBTQ+ rights activists. The work of LGBTQ+ rights movements has been misconstrued as an extension of Western imperialism, and thus the fact that they could be African led and based on African cultural beliefs

such as *ubuntu* is incomprehensible. This rationale exists alongside post-colonial politics of resistance in which African leaders have enforced state-led queerphobia as a technique to restore sovereignty. This is because human rights have been conceptualised as a Western phenomenon and a neo-imperialist project, and thus in order to assert their power as independent post-colonial leaders, African politicians have leveraged queerphobia to position themselves as distanced from the West, using it to reinforce a uniquely African identity.

Tackling queerphobia

As a result of the justifications for queerphobia in sub-Saharan Africa, it is essential that an African led approach is taken to tackle it. Western interference is only counterproductive as it feeds into the ‘Western import’ narrative, posing further risks to queer people by risking the further curtailment of their rights and increasingly violent repression. As queerphobia has been used to forge a ‘uniquely’ African identity, resistant to neo-imperialism, increasing Western interference would most likely only contribute to leaders becoming even more fundamentalist, further endangering LGBTQ+ rights. Thus, instead of Western terms, ideas and conceptualizations of sexuality being imposed on the African continent in an attempt to progress queer rights, African concepts, language and spirituality must be used to delegitimize the claim that homosexuality is ‘un-African’ and hence to work towards greater tolerance, acceptance and protection of LGBTQ+ rights.

Additionally, whilst Christianity remains the dominant religion in South Africa and Uganda more reformist interpretations of religious texts must be encouraged. As Christianity and, more generally, spirituality, has become extremely embedded within African culture and identity, the hope of moving away from religion is virtually non-existent. Resultantly, LGBTQ+ activists should utilise religion to their advantage, spreading reformist interpretations of religious texts and thus moving towards the eradication of the idea that homosexuality is a ‘sin’. Hence, similarly to how religion was used as a tool of resistance during apartheid, it should be leveraged to promote increased societal acceptance of LGBTQ+ rights.

Furthermore, with sexuality being inherently gendered in Uganda and South Africa, progress must be first made towards dismantling the

gendered binary that has resulted from patriarchal structures before true equality can be achieved. Again, this could most likely be best achieved through education, with children and adults alike being taught that gender is simply a social construct and non-binary identities becoming better understood and more normalised. DeLovie Kwagala has worked towards this with their photographs illustrating varying gender expressions and identities. Hence, the use of art such as this in a more mainstreamed fashion could be an effective way to go about changing societal perceptions on gender.

Moreover, with the decriminalisation of homosexuality in South Africa not preventing increasing violence towards queer people such as through 'corrective' rape which remains endemic, it is clear that whilst legal reform represents progress in LGBTQ+ rights, alone it does not fully protect them. Thus even though Ugandan activists are trying to progress queer rights through the legal route such as by bringing cases to court and these victories do represent hope for decriminalisation in future, the acknowledgement that this alone will not ensure LGBTQ+ rights through looking at the South African model must be recognised. Therefore, the decriminalisation of homosexuality unaccompanied by full societal transformation is evidently not enough. As we have seen in South Africa, despite laws theoretically enshrining equality for all, without full societal transformation, hate crimes will pervade as will anti-gay political speech, and the justices will fail to act with neutrality and the equality clause in mind, instead bringing their queerphobic attitudes into the courtroom. Hence, the protection and promotion of LGBTQ+ rights must go beyond the law, with community initiatives and education programmes sponsored by the government and politicians keeping their 'religious' views out of legislative decision making.

Future research

Future research must focus on formulating an achievable framework to be utilised by LGBTQ+ movements in sub-Saharan Africa in advancing LGBTQ+ rights. A sustainable way that Western actors can contribute to the advancement of LGBTQ+ rights is therefore by supporting the formulation of a framework for an African-led grassroots approach rather than directly interfering in African sexual politics and promulgating the idea that homosexuality is yet another

neo-imperialist project. Crucially, it must be recognised that Western subjects should never be centred in this movement and that any contributions must be genuine rather than paternalistic. Whilst further regressions in LGBTQ+ rights do bear weight on all nation states in the long term with anti-gay legislative decisions setting a precedent for further restrictions, they do not *directly* impact the Western subject in the short term, and thus the response to these decisions must always focus on aiding the African subject to achieve protection of their rights rather than placing emphasis on the rights already enshrined by Western subjects elsewhere or framing better protection of LGBTQ+ rights in the West as a mark of 'superiority'. Fundamentally, activists and media from the West must first educate themselves on the historical, religious, and cultural context of homophobia in Africa before commenting on the subject. Misjudged and misinformed statements on instances of queerphobia only serve to abet imperial depictions of the 'dark African continent' and prejudiced portrayals of African people, detracting from the LGBTQ+ movement at large.

BIBLIOGRAPHY

BOOKS AND ARTICLES

- Ananyev M and Poyker M, 'Christian Missions and Anti-Gay Attitudes in Africa' (NICEP Working Paper 2020) 1
- Barton M, 'Wrestling With Imperial Patriarchy' (2012) 21(1) *Feminist Theology* 7
- Bertolt B, 'The Invention of Homophobia in Africa' (2019) 5(3) *Journal of Advances in Social Sciences and Humanities* 651
- Bongmba EK, 'Homosexuality, *Ubuntu*, and Otherness in the African Church' (2016) 4(1) *Religion and Violence in Africa* 15
- Bryan A, "Security Begins With You": Compulsory Heterosexuality, Registers of Gender and Sexuality and Transgender Women Getting by in Kampala, Uganda' (2021) 4(1) *Technology and Society* 1
- Bryder L, 'Sex, Race, and Colonialism: An Historiographical Review' (1998) 20(4) *The International History Review* 806
- Cheney K, 'Locating Neocolonialism, "Tradition," and Human Rights in Uganda's "Gay Death Penalty"' (2012) 55(2) *African Studies Review* 77
- Coetzee A, 'Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology' (2021) 129 *Feminist Review* 93
- Couti J and Grant JC, 'Man Up! Masculinity and (Homo)sexuality in René Depestre's Transatlantic World' (2019) 8(150) *Humanities* 1
- Coyle S, 'The Queer, the Cross and the Closet: Religious Exceptions in Equality Law and State-Sponsored Homophobia' (2021) 10(83) *Laws* 1
- Crenshaw K, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' (1989) 8(1) *University of Chicago Legal Forum* 139
- Currier A and Cruz JM, 'Civil Society and Sexual Struggles in Africa' in Obadare E (ed), *The Handbook of Civil Society in Africa* (Springer 2014)
- Deumert A and Mabandla N, 'A *luta continua*- black queer visibilities and philosophies of hospitality in a South African rural town' (2017) 21(3) *Journal of Sociolinguistics* 416
- Doan-Minh S, 'Corrective Rape: An Extreme Manifestation of Discrimination and the State's Complicity in Sexual Violence' (2019) 30(1) *Hastings Women's Law Journal* 167
- Downie R, *Africa in the Wider World* (Lanham, MD: Rowman and Littlefield 2014) cited in Kalemba Kizito, 'Bequeathed Legacies: Colonialism and State Led Homophobia in Uganda' (2017) 15(3/4) *Surveillance & Society* 567, 569
- Dreier SK, Long JD and Winkler SJ, 'African, Religious, and Tolerant? How Religious Diversity Shapes Attitudes Toward Sexual Minorities in Africa' (2020) 13 *Politics and Religion* 273
- Du Pisani K, 'Shifting Sexual Morality? Changing Views on Homosexuality in Afrikaner Society During the 1960s' (2012) 57(2) *Historia* 182
- Durban EL, 'Whither Homophobia? Rethinking a Bad Object for Queer Studies from the Black Global South' (2021) 8(1) *QED* 49

- Epprecht M, ‘“Bisexuality” And The Politics Of Normal In African Ethnography’ (2006) 48 *Anthropologica* 187
- ‘Black Skin, “Cowboy” Masculinity: A Genealogy of Homophobia in the African Nationalist Movement in Zimbabwe to 1983’ (2005) 7(3) *Culture, Health and Sexuality* 253-66 (262) Cited in Patrick R Ireland, ‘A Macro-Level Analysis of the Scope, Causes, and Consequences of Homophobia in Africa’ (2013) 56(2) *African Studies Review* 47, 56
- *Sexuality and Social Justice in Africa: Rethinking Homophobia and Forging Resistance* (Zed Books 2013)
- *Unspoken Facts: A History of Homosexualities in Africa* (GALZ 2008)
- Essien K and Aderinto S, ‘“Cutting the Head of the Roaring Monster”: Homosexuality and Repression in Africa’ (2009) 30(3) *African Study Monographs* 121
- Page JD, *A History of Africa* (Routledge 1995)
- Fullerton-Smith J ‘Off the Page: Nadine Gordimer (1988)’. Interview. Bazin and Seymour 299-305. Cited in N Gordimer, ‘Dark Times, Interior Worlds, and the Obscurities of Difference’ (1994) 35(2) *Contemporary Literature* 252, 267.
- Gontijo F, ‘Sexual and Gender Diversity, National State and Biopolitics in the Global South: Lessons from Africa’ (2021) 46(2) *Anuário Antropológico* 97
- Graham L. ‘“Then You Are a Man, My Son”: Kipling and the Zuma Rape Trial’ (2016) 36(2) *Comparative Studies of South Asia, Africa and the Middle East* 263
- Grossman G, ‘Renewalist Christianity and the Political Saliency of LGBTs: Theory and Evidence from Sub-Saharan Africa’ (2015) 77(2) *The Journal of Politics* 337
- Gunkel H, *The Cultural Politics of Female Sexuality in South Africa* (3rd edn, Routledge 2010)
- Hellweg J, ‘Same-Gender Desire, Religion and Homophobia: Challenges, Complexities, and Progress for LGBTIQ Liberation in Africa’ (2015) 83(4) *Journal of the American Academy of Religion* 887
- Ireland PR, ‘A Macro-Level Analysis of the Scope, Causes, and Consequences of Homophobia in Africa’ (2013) 56(2) *African Studies Review* 47
- Jacobsen D, ‘Review: The Stolen Bible: From Tool of Imperialism to African Icon’ (2017) 54(6) *Voice* 879
- Janssen, DJ, ‘How Religiosity Shapes Rejection of Homosexuality Across the Globe’ (2018) 66(14) *Journal of Homosexuality* 1974
- Jjuuko A, ‘The Incremental Approach: Uganda’s Struggle for the Decriminalisation of Homosexuality’ in Lennox C and Waites M, *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth* (University of London Press 2013)
- Johnson P, ‘Homosexuality and the African Charter on Human and Peoples’ Rights: What Can Be Learned from the History of the European Convention on Human Rights?’ (2013) 40(2) *Journal of Law and Society* 249

- Jones B, 'The Church in the Village, the Village in the Church: Pentecostalism in Teso, Uganda' (2005) 45(178) *Cahiers d'Etudes Africaines*, 497-517 Cited in T Msibi, 'Not Crossing the Line: Masculinities and homophobic violence in South Africa' (2009) 80 *Agenda: Empowering Women for Gender Equity* 50
- Jones T, 'South African Contributions to LGBTI Education Issues' (2019) 19(4) *Sexuality, Society and Learning* 455
- Kaoma K, *Christianity, Globalization, and Protective Homophobia: Democratic Contestation of Sexuality in Sub-Saharan Africa* (Palgrave Macmillan 2018)
- Kaoma K, 'The Paradox and Tension of Moral Claims: Evangelical Christianity, the Politicization and Globalization of Sexual Politics in Sub-Saharan Africa' (2014) 2(3) *Critical Research on Religion* 227
- Kaplan RM, 'Treatment of Homosexuality During Apartheid: More Investigation Is Needed Into The Shameful Way Homosexuality Was Treated' (2004) 329(7480) *British Medical Association* 1415
- Kizito K, 'Bequeathed Legacies: Colonialism and State Led Homophobia in Uganda' (2017) 15(3/4) *Surveillance & Society* 567
- Koraan R and Geduld A, "'Corrective Rape" of Lesbians in the Era of Transformative Constitutionalism in South Africa' (2015) 18(5) *Potchefstroom Electric Law Journal* 1930
- Lennox C and Waites M, *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth* (University of London Press 2013)
- Lugones M, 'Toward a decolonial feminism. *Hypatia* 25(4) (2007) 742-759 cited in Coetzee A, 'Afrikaner Nationalism and the Light Side of the Colonial/Modern Gender System: Understanding White Patriarchy as Colonial Race Technology' (2021) 129 *Feminist Review* 93, 202-203
- Lyons AP, 'The Two Lives of Sara Baartman: Gender, "Race," Politics and the Historiography of Mis/Representation' (2018) 60 *Anthropologica* 327
- MacDougall B and Short D, 'Religion-based Claims for Impinging on Queer Citizenship' (2010) 33 *Dalhousie Law Journal* 133
- Makia DE, 'To Be Gay and African: Addressing the Gross Human Rights Violations of Homosexuals in Cameroon and Uganda, and Legislative Remedies for Their Mistreatment' (2019) 3(7) *William & Mary Journal of Race, Gender, and Social Justice* 681
- Manion A and Morgan R, 'The Gay and Lesbian Archives: Documenting Same-Sexuality in an African Context' (2006) 67(2,3) *African Feminisms* 29
- Masondo S, 'Ironies of Christian Presence in Southern Africa' (2018) 31(2) *Journal for the Study of Religion* 209
- Mawerenga JH, *The Homosexuality Debate in Malawi* (Mzuni Press 2018)
- McNamara CT, 'Silent, Spoken, Written, and Enforced: The Role of Law in the Construction of the Post-Colonial Queerphobic State' (2018) 51 *Cornell International Law Journal* 495
- Mehra B. and others, 'An Exploratory Journal of Cultural Visual Literacy of "Non-Conforming" Gender Representations from Pre-Colonial Sub-Saharan Africa' (2019) 3 *Open Information Science* 1
- Migraine-George T and Currier A, 'Querying Queer African Archives: Methods and Movements' (2016) 44(3/4) *Women's Studies Quarterly* 190

- Morgan R and Wieringa S, *Tommy Boys, Lesbian Men, and Ancestral Wives: Female Same-Sex Practices in Africa* (Jacana Media 2006)
- Msibi T, 'Not Crossing the Line: Masculinities and homophobic violence in South Africa' (2009) 80 *Agenda: Empowering Women for Gender Equity* 50
- 'The Lies We Have Been Told: On (Homo) Sexuality in Africa' (2011) 58(1) *Africa Today* 55
- Müller BM, 'The Mark of the Mask: Queer Neo-Ethnographies and Double Consciousness in Post-Apartheid South Africa' (2019) 21(1) *The Journal of South African and American Studies* 85
- Munro BM, *South Africa and the Dream of Love to Come: Queer Sexuality and the Struggle For Freedom* (University of Minnesota Press 2012)
- Musisi N, 'Gender and Sexuality in African History: A Personal Reflection' (2014) 55(3) *The Journal of African History* 303
- Mwikya K, 'Unnatural and Un-African: Contesting Queer-phobia by Africa's Political Leadership' (2014) 19 *Feminist Africa* 98
- M'Baye B, 'The Origins of Senegalese Homophobia: Discourses on Homosexuals and Transgender People in Colonial and Postcolonial Senegal' (2013) 56(2) *African Studies Review* 109
- Nagadya M and Wieringa S, "'Some Say I Am Hermaphrodite Just Because I Put on Trousers": Lesbians and Tommy Boys in Kampala, Uganda' in Morgan R and Wieringa S (eds), *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa* (Jacana Media 2005)
- Ndjio B, 'Sexuality and Nationalist Ideologies in Post-Colonial Cameroon' in Wieringa S and Sívori H (eds), *The Sexual History of the Global South: Sexual Politics in Africa, Asia and Latin America* (Zed Books 2013)
- Ngidi ND and others, 'Exploring Queerphobic Geographies in Southern Africa' (2020) 34(2) *Agenda* 18
- Nicol N and others, *Envisioning Global LGBT Human Rights: (Neo)colonialism, Neoliberalism, Resistance and Hope* (University of London Press 2018)
- Ní Mhaoileoin N, 'The Ironic Gay Spectator: The Impacts of Centring Western Subjects in International LGBT Rights Campaigns' (2017) 22(1-2) *Sexualities* 148
- Nyanzi S, 'Dismantling Reified African Culture Through Localised Homosexualities in Uganda' (2013) 15(7) *Culture, Health & Sexuality* 952
- Obadare E, *The Handbook of Civil Society in Africa* (Springer 2014)
- Poulain A, 'Self-portrait as Epistemic Disobedience: Zanele Muholi's *Somnyama Ngonyama*' (2020) 8(2) *The French Journal of Media Studies* 1
- Rao R, *Out of Time: The Queer Politics of Postcoloniality* (OUP 2020)
- Rizk BJ, 'Review: The Patriarchy Problem: Sexism, Homophobia, and the Many Faces of Transgression to Normative Representations of Difference' (2007) 42(2) *Latin American Research Review* 238
- Rodriguez SM, 'Homophobic Nationalism: The Development of Sodomy Legislation in Uganda' (2017) 16 *Comparative Sociology* 393
- Roland Danil L, 'Queerphobic Immunopolitics in the Case of HIV/AIDS: Political Economy, the Dark Legacy of British Colonialism, and Queerphobia in Sub-Saharan Africa' (2020) 25(2) *Sexuality & Culture* 377

- Sadgrove J and others, 'Morality Plays and Money Matters: Towards a Situated Understanding of the Politics of Homosexuality in Uganda' (2012) 50(1) *The Journal of Modern African Studies* 103
- Sanders AJGM, 'Homosexuality and the Law: A Gay Revolution in South Africa?' (1997) 41(1) *Journal of African Law* 100
- Schmidt B, 'Christianity as a Double-Edged Sword in Colonial Africa' (2015) *Africana Studies Student Research Conference* 1
- Schäfer R and Range E, 'The Political Use of Homophobia: Human Rights and Persecution of LGBTI Activists in Africa' (International Policy Analysis, Friedrich Ebert Stiftung 2014)
- Semugoma P and others, 'The Irony of Homophobia in Africa' (2012) 380(9839) *The Lancet* 312
- Seo HJ, 'Origins and Consequences of Uganda's Brutal Homophobia' (2017) 38(3) *Harvard International Review* 44
- Spurlin WJ, *Imperialism Within the Margins: Queer Representation and the Politics of Culture in Southern Africa* (Palgrave 2007)
- Tamale S, 'Confronting the Politics of Nonconforming Sexualities in Africa' (2013) 56(2) *African Studies Review* 31
- Thomas G, *The Sexual Demon of Colonial Power: Pan-African Embodiment and Erotic Schemes of Empire* (Indiana UP 2007)
- Thoreson RR, 'Somewhere over the Rainbow Nation: Gay, Lesbian and Bisexual Activism in South Africa' (2008) 34(3) *Journal of South African Studies* 679
- 'Troubling the Waters of a "Wave of Homophobia": Political Economies of Anti-Queer Animus in Sub-Saharan Africa' (2014) 17(1/2) *Sexualities* 23
- Ukpong JS, 'The Emergence of African Theologies' (1984) 45(3) *Theological Studies* 501
- Van Klinken A, 'Changing the Narrative of Sexuality in African Christianity: Bishop Christopher Senyonjo's LGBT advocacy' (2020) 26(1) *Theology & Sexuality* 1
- and Chitando E, *Reimagining Christianity and Sexual Diversity in Africa* (Hurst 2021)
- Ward K, 'The Role of the Anglican and Catholic Churches in Uganda in Public Discourse on Homosexuality and Ethics' (2015) 9(1) *Journal of Eastern African Studies* 127
- 'Bishop Senyonjo and the Church of Uganda' (2020) 26(1) *Theology & Sexuality* 21
- Wa Tushabe T, 'Sexual Rights in Uganda and the Struggle for Meaning in Community' (2017) 21(2) *Journal of Lesbian Studies* 169
- West G and others, 'When Faith Does Violence: Reimagining Engagement Between Churches and LGBTI Groups on Homophobia in Africa' (2016) 72(1) *Hervormde Teologiese Studies* 1
- West GO, *The Stolen Bible: From Tool of Imperialism to African Icon* (Brill Academic Publishers 2016)
- Wheal M and Mwambene L, 'Realisation or Oversight of a Constitutional Mandate? Corrective Rape of Black African Lesbians in South Africa' (2015) 15(1) *African Human Rights Law Journal* 58

IMPERIALIST QUEERPHOBIA

- Wieringa S and Sívori H, *The Sexual History of the Global South: Sexual Politics in Africa, Asia and Latin America* (Zed Books 2013)
- Yu C, 'Rising Scholar: An Examination of the Institutionally Oppressed White Savior Complex in Uganda Through Western Documentaries' (undated) 97(2) *International Social Science Review* 1

OFFICIAL DOCUMENTS

- 275 Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (adopted 28th April-12th May 2014) ACHPR/Res.275(LV)
- Civil Union Act 2006 (South Africa)
- International Commission of Jurists, 'Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity' (March 2007) < http://yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf > accessed 1 May 2022
- Penal Code Act 1950 (Uganda)
- The Constitution of the Republic of South Africa 1996
- The Equal Opportunities Commission Act 2007
- The Ugandan Constitution 1995 (rev 2017)
- The Yogyakarta Principles <<https://yogyakartaprinciples.org/>> accessed 12 June 2022

CASE LAW

- S v Zuma and Others* [2006] CC358/05 [20 September 2006] ZAKZHC 22
- Victor Juliet Mukasa and Yvonne Oyo v Attorney General* (2008) AHRLR 248 (UGHC 2008)

INTERNET SOURCES

- 'The Philosophy of Colonialism: Civilization, Christianity, and Commerce' (*Violence in Twentieth Century Africa*) <<https://scholarblogs.emory.edu/violencein africa/sample-page/the-philosophy-of-colonialism-civilization-christianity-and-commerce/#:~:text=Christianity%20was%20one%20justification%20that,educate%20and%20reform%20African%20culture.>> accessed 8 May 2022

- ‘Why homophobia in Uganda is an issue of colonialism Feb 7 is “homophobia” outdated? The root of the problem an impeachment is not a lynching’ (*University Wire*, 2019) <<https://nuigalway.idm.oclc.org/login?url=https://www.proquest.com/wire-feeds/why-homophobia-uganda-is-issue-colonialism-feb-7/docview/2315614972/se-2?accountid=12899>> accessed 11 June 2022
- Ananyev M, ‘Homophobia and Colonial Christian Missions in Sub-Saharan Africa’ (*Broadstreet*, 13 August 2021) <<https://broadstreet.blog/2021/08/13/homophobia-and-colonial-christian-missions-in-sub-saharan-africa/>> accessed 2 June 2022
- Aperture Magazine, ‘Zanele Muholi’s Faces & Phases: A Conversation with the Johannesburg-Based Photographer About Photography and Activism, Her Latest Series, Black Beauties, and her influences’ (*Aperture Magazine*, 21 April 2015) <<https://aperture.org/editorial/magazine-zanele-muholis-faces-phases/>> accessed 19 April 2022
- ARTICLE 19, ‘Uganda: Media Council bans screening of film for “glorifying homosexuality”’ (ARTICLE 19, 23 May 2017) <www.article19.org/resources/uganda-media-council-bans-screening-of-film-for-glorifying-homosexuality/> accessed 27 April 2022
- Campbell J, ‘South African Court Delivers Blow to Religious Defense of Hate Speech’ (*Council on Foreign Relations*, 20 June 2018) <www.cfr.org/blog/south-african-court-delivers-blow-religious-defense-hate-speech> accessed 22 May 2022
- Candia S, ‘Otafiire warns on homosexuality Bill’ *New Vision* (16 February 2012) 4 <www.parliament.go.ug/cmis/browser?id=4fb91a8f-d47f-4046-b8d7-d2b808027cba%3B1.0> accessed 5 May 2022
- CGTN Africa, ‘Museveni Hits Back at the West over Anti-Gay Law’ (*YouTube*, 21 February 2014) <www.youtube.com/watch?v=s7MALJzvFZk> accessed 21 May 2022
- Chiyangwa D, Kwagala D and Siziba B, “Mavanga”: The Invisible Scars of LGBTQ+ Community in South Africa’ (*International Women’s Media Foundation*, 25 February 2022) <www.iwmf.org/reporting/mavanga-the-invisible-scars-of-lgbtq-community-in-south-africa/> accessed 21 May 2022
- CNN, ‘Uganda President: “Homosexuals are disgusting”’ (*YouTube*, 18 April 2016) <www.youtube.com/watch?v=Yzu4WgUOWUM> accessed 6 May 2022
- Duffy N, ‘What Does South Africa’s New President Cyril Ramaphosa Think About LGBT Rights?’ (*Pink News*, 15 February 2018) <www.pinknews.co.uk/2018/02/15/south-africa-president-cyril-ramaphosa-lgbt-rights/> accessed 2 June 2022
- Elnaiem M, ‘The “Deviant” African Genders That Colonialism Condemned’ (*JSTOR Daily*, 29 April 2021) <<https://daily.jstor.org/the-deviant-african-genders-that-colonialism-condemned/>> accessed 2 June 2022
- Engela C, ‘Christian homophobes are spreading their hate in South Africa’ (*National Secular Society*) <www.secularism.org.uk/christian-homophobes-are-spreadi.html> accessed 21 May 2022

- Halliwell N, 'The Murder of Eudy Simelane' (*All Gay Long*, 7 March 2021) <www.allgaylong.com/blog/eudy-simelane/> accessed 31 May 2022
- Human Dignity Trust, 'Uganda' (*Human Dignity Trust*) <www.humandignitytrust.org/country-profile/uganda/> accessed 8 June 2022
- ICJ, 'Chapter ten: Freedom of Religion and Non-Discrimination' (*ICJ*) <www.icj.org/sogi-casebook-introduction/chapter-ten-freedom-of-religion-and-non-discrimination/> accessed 9 June 2022
- International Women's Media Foundation, 'DeLovie Kwagala' (*International Women's Media Foundation*) <www.iwmf.org/community/delovie-kwagala/> accessed 10 May 2022
- Kajoba N, 'Bahati vows to pursue anti-homosexuality bill' *New Vision* (6 November 2012) 5 <<https://www.parliament.go.ug/cmisis/browser?id=164aa968-f00e-4088-8822-c32184fd64%3B1.0>> accessed 5 May 2022
- Kalende V, 'Africa: Homophobia is a Legacy of Colonialism' (*The Guardian*, 30 April 2014) <www.theguardian.com/world/2014/apr/30/africa-homophobia-legacy-colonialism> accessed 22 March 2022
- Karugaba M and Sekanjako H, 'NRM MPs seek expert opinion on homosexuality, agree to discuss the matter in Kyankwanzi' *New Vision* (27 January 2004) 5 <www.parliament.go.ug/documents/hansards> accessed 5 May 2022
- Katamba MG, 'Ogwal asks African MPs to reject homosexuality' *The Observer* (25-27 May 2012) 3 <<https://www.parliament.go.ug/cmisis/browser?id=748ff9a2-0167-48d0-8203-fe4e93b11c83%3B1.0>> accessed 5 May 2022
- Kwagala D, 'I am Womxn' (*DeLovie Photography*) <<https://deloviephotography.com/projects/i-am-womxn>> accessed 1 July 2022
- Kiggundu E, 'Gay law: Kazibwe warns Museveni' *The Observer* (12-13 March 2014) 3 <<https://www.observer.ug/component/content/article?id=30585:-gay-law-kazibwe-warns-museveni>> accessed 5 May 2022
- Kiyonga D, '10 challenge anti-homosexuality law' *The Observer* (12-13 March 2014) 3 <<https://allafrica.com/stories/201403121311.html>> accessed 5 May 2022
- Krishnan S, 'Freak Shows: Looking At Human Bodies On Exhibit' (*In Plainspeak*, 15 June 2021) <www.tarshi.net/inplainspeak/freak-shows-looking-at-human-bodies-on-exhibit/> accessed 15 June 2022
- Kwagala, D, 'Biography' (*DeLovie Photography*) <<https://deloviephotography.com/about-me>> accessed 1 April 2022
- 'The Quingdom - In Transition' (*PhMuseum*) <<https://phmuseum.com/deloviekwagala/story/the-quingdom-in-transition-cb0058955e>> accessed 30 June 2022
- 'The Quingdom - In Transition' (*where the leaves fall*) <<https://wheretheleavesfall.com/explore/pictures/the-quingdom-in-transition/>> accessed 4 June 2022
- Latigo MO, 'Anti-homosexuality law: choice is not in science' *The Observer* (24-25 February 2014) 7 <<https://www.parliament.go.ug/cmisis/browser?id=c35ef55f-86f5-459b-9dc2-0ec4ec62a50b%3B1.0>> accessed 5 May 2022

- Laverack P, 'Criminalising Homosexuality and Understanding the Right to Manifest Religion' (*Human Dignity Trust* 2015) <www.humandignitytrust.org/wp-content/uploads/resources/9.-Criminalisation-Freedom-of-Religion.pdf> accessed 8 June 2022
- Levesque B, 'Archbishop Desmond Tutu, a key ally for LGBTQ+ equality dies at 90' (*Los Angeles Blade*, 26 December 2021) <www.losangelesblade.com/2021/12/26/archbishop-desmond-tutu-a-key-ally-for-lgbtq-equality-dies-at-90/> accessed 23 April 2022
- Male A, 'Homosexuality bill, a Christmas gift from our parliament' *The Observer* (30-31 December 2013) 18 <<https://www.parliament.go.ug/cmis/browser?id=e1132a20-c242-445e-822d-c42af39c15a8%3B1.0>> accessed 5 May 2022
- Marnell J, 'LGBT migrants in South Africa: religion can be a blessing, and a curse' (*The Conversation*, 4 November 2021) <<https://theconversation.com/lgbt-migrants-in-south-africa-religion-can-be-a-blessing-and-a-curse-169758>> accessed 19 April 2022
- Meydan.tv, "A Patriarchal Society Can Not See Homosexuals as Men" (*Meydan.tv*, 15 December 2016) <www.meydan.tv/en/article/a-patriarchal-society-can-not-see-homosexuals-as-men/> accessed 5 June 2022
- McEwen H, 'South African radical-Right groups are mobilising against anti-LGBTQ+ campaigns' (*Open Democracy*, 6 July 2021) <www.opendemocracy.net/en/countering-radical-right/south-african-radical-right-groups-are-mobilising-against-anti-lgbtq-campaigns/> accessed 1 June 2022
- McKaiser E, 'Homosexuality un-African? The Claim is an Historical Embarrassment' (*The Guardian*, 2 October 2012) <www.theguardian.com/world/2012/oct/02/homosexuality-unafrican-claim-historical-embarrassment> accessed 10 March 2022
- Mhaka T, 'Homophobia: Africa's Moral Blind Spot' (*Aljazeera*, 6 May 2022) <www.aljazeera.com/opinions/2022/5/6/homophobia-africas-moral-blind-spot> accessed 10 May 2022
- Mills S, 'The World's Worst Place to Be Gay?' (*BBC*, 13 May 2011) <www.bbc.co.uk/programmes/b00yrt1c> accessed 21 May 2022
- Morgan M, 'The Commonwealth, Colonialism and the Legacy of Homophobia' (*Gal-dem*, 8 May 2018) <<https://gal-dem.com/the-commonwealth-colonialism-and-the-legacy-of-homophobia/>> accessed 21 March 2022
- Mugambwa J, 'DeLovie Kwagala: Telling Uganda's queer stories' (*DW*, 9 January 2021) <www.dw.com/en/delovie-kwagala-telling-ugandas-queer-stories/av-57603953> accessed 15 May 2022
- Mugerwa Y, 'Museveni blocks Anti-Homosexuality Bill' *Daily Monitor* (17 January 2013) 5 <www.parliament.go.ug/cmis/browser?id=3c7d1c86-aa1b-4b8c-9751-2e4ea4cfcfa1%3B1.0> accessed 5 May 2022
- ICJ, 'Mukasa and Oyo v. Attorney General, High Court of Uganda at Kampala (22 December 2008)' (*ICJ*) <<https://www.icj.org/sogicasebook/mukasa-and-oyo-v-attorney-general-high-court-of-uganda-at-kampala-22-december-2008/>> accessed 2 June 2022

- International Justice Resource Centre, 'African Commission Bows to Political Pressure, Withdraws NGO's Observer Status' (*International Justice Resource Centre*, 28 August 2018) <<https://ijrcenter.org/2018/08/28/achpr-strips-the-coalition-of-african-lesbians-of-its-observer-status/>> accessed 8 June 2022
- Mwesigwa FS, 'Adoption of Anti-Homosexuality Bill by MPs is citizens' voice' *Sunday Monitor* (26 January 2014) 25 < www.parliament.go.ug/cmis/browser?id=ce5e4c1f-adf1-4421-baed-584eff17e039%3B1.0> accessed 5 May 2022
- NTV Uganda, 'Museveni lashes out at the west over homosexuality' (*YouTube*, 2 August 2018) <www.youtube.com/watch?v=3VlrmXTIUdM> accessed 21 May 2022
- OHCHR, 'UN experts urge religious leaders to show respect and compassion for LGBT persons' (*OHCHR*, 14 May 2021) <www.ohchr.org/en/press-releases/2021/05/un-experts-urge-religious-leaders-show-respect-and-compassion-lgbt-persons> accessed 8 June 2022
- Oganga J, 'Christianity In Africa Is Not A Colonizer Religion' (*Religion Unplugged*, 14 April 2021) <<https://religionunplugged.com/news/2021/4/14/christianity-in-africa-is-not-a-colonizer-religion>> accessed 15 May 2022
- O'Hagan S, 'Zanele Muholi's queer South Africa: "I do not dare shoot at night. It is not safe"' (*The Guardian*, 2 November 2020) <www.theguardian.com/artanddesign/2020/nov/02/zanele-muholi-interview-queer-photographer-lgbtq-south-africa-tate> accessed 29 May 2022
- Raba B, "'Rhema Church Homophobic" Says Gay Man' *Sunday World* (10 May 2015) <<https://www.pressreader.com/south-africa/sunday-world/8839/20150510/282054800601295>> accessed 5 May 2022
- Rosen Z, 'My Favorite Photographs N°12: Kelebogile Ntladi' (*Africa is a Country*, 2013) <<https://africasacountry.com/2013/02/my-favorite-photographs-n12-kelebogile-ntladi/>> accessed 1 May 2022
- SaharaTV, 'Bishop Desmond Tutu, and Others, Honored at Shared Interest's 20th Gala in New York' (*YouTube*, 7 March 2014) <www.youtube.com/watch?v=MNJFttGgV2U> accessed 14 May 2022
- "'This Law is Not Extreme. Homosexuality Is Against Our Values.'" - David Bahati' (*YouTube*, 21 March 2014) <www.youtube.com/watch?v=WNBxm6iDZ0o> accessed 12 May 2022
- Scholarship Careers, "'I am Womxn": A Photographer Celebrates Power and Pride Beyond the Patriarchy' (*Scholarship Careers*, 2022) <<https://scholarshipcareers.com/i-am-womxn-a-photographer-celebrates-power-and-pride-beyond-the-patriarchy/>> accessed 3 July 2022
- Schwiegershausen E, 'Faces and Phases: See Zanele Muholi's Powerful Portraits of the LGBTI Experience in South Africa' (*The Cut*, 7 January 2015) <www.thecut.com/2015/01/powerful-portraits-of-queer-life-in-south-africa.html> accessed 19 April 2022
- Skidmore D, 'Lambeth struggles over homosexuality in emotional plenary session' (*ACNS*, 7 August 1998) <www.anglicannews.org/news/1998/08/lambeth-struggles-over-homosexuality-in-emotional-plenary-session.aspx> accessed 1 June 2022

- Sowemimo A, 'How Britain's Exported Homophobia Continues to Drive Health Inequalities Amongst LGBTQI Communities' (*gal-dem*, 15 April 2019) <<https://gal-dem.com/how-britains-exported-homophobia-continues-to-drive-health-inequalities-amongst-lgbtqi-communities/>> accessed 12 March 2022
- Tapalaga WK, 'A Backward Step by Uganda's Gay-Bashing Government' (*National Post*, 25 February 2014) <<https://nationalpost.com/opinion/wayne-k-spear-a-backward-step-by-ugandas-gay-bashing-government>> accessed 15 May 2022
- Ssengendo A, 'Museveni to reconsider anti-homosexuality Bill' *New Vision* (27 December 2013) 5 <www.parliament.go.ug/cmis/browser?id=8e8961dc-0bcb-4169-85b5-917ead18bd6e%3B1.0> accessed 5 May 2022
- Tapalaga, A, 'Forced Gender Reassignment Procedures During the Apartheid Era' (*History of Yesterday*, 7 December 2022) <<https://historyofyesterday.com/forced-gender-reassignment-procedures-during-the-apartheid-era/>> accessed 2 July 2022
- United Nations, 'Use of religious beliefs to justify rights violations must be outlawed says UN expert' (*UN News*, 2 March 2020) <<https://news.un.org/en/story/2020/03/1058411>> accessed 6 June 2022
- Vasagar J, 'Don't mention the V-word: Uganda bans Monologues' (*The Guardian*, 20 February 2005) <www.theguardian.com/world/2005/feb/20/arts.artsnews> accessed 9 March 2022
- Viljoen F, 'Africa's rights commission can – and should – do more for sexual minorities' (*The Conversation*, 8 May 2019) <<https://theconversation.com/africas-rights-commission-can-and-should-do-more-for-sexual-minorities-116601>> accessed 4 June 2022
- Voule C, 'African Commission adopts landmark resolution on LGBT rights' (*International Service for Human Rights*, 22 May 2014) <<https://ishr.ch/latest-updates/african-commission-adopts-landmark-resolution-lgbt-rights/>> accessed 3 June 2022
- Williamson H, 'Misogyny and Homophobia: Patriarchy, Gender Policing, and the Male Gaze' (*openDemocracy*, 29 July 2015) <www.opendemocracy.net/en/5050/misogyny-and-homophobia-patriarchy-gender-policing-and-male-gaze/> accessed 7 June 2022
- Winston K, "'Christian America' dwindling, including white evangelicals, study shows' (*RNS*, 6 September 2017) <<https://religionnews.com/2017/09/06/embargoed-christian-america-dwindling-including-white-evangelicals-study-shows/>> accessed 13 May 2022

PHOEBE ELEANOR SHEPPARD

INTERVIEWS

Gay and Lesbian Archives (GALA), South Africa. 2003-2006. GALA's Balancing Act Project Files, AM3163. Balancing Act Collection : South African Gay and Lesbian Youth Speak Out.

- AM3163_A1.1 – Interview with AJ
- AM3163_A1.3 – Interview with Andrew Mons
- AM3163_A1.4 – Interview with Bongzi and Yanda
- AM3163_A1.5 – Interview with Bradley
- AM3163_A1.8 – Interview with John Meleste (pseudonym David)
- AM3163_A1.9 – Interview with Jason Baker
- AM3163_A1.10 – Interview with Joel
- AM3163_A1.11 – Interview with Lauren
- AM3163_A1.12 – Interview with Linda Hlatshwayo
- AM3163_A1.13 – Interview with Kagiso
- AM3163_A1.15 – Interview with 'Kay'/Etta Chang
- AM3163_A1.16 – Interview with Kamohelo Malinga
- AM3163_A1.18 – Interview with Matha
- AM3163_A1.19 – Interview with Matsheko Kekana
- AM3163_A1.20 – Interview with Muntu
- AM3163_A1.21 – Interview with Nunu
- AM3163_A1.22 – Interview with Sandile
- AM3163_A1.24 – Interview with Sivu
- AM3163_A1.25 – Interview with Stanley
- AM3163_A1.27 – Interview with Tumi Ndweni
- AM3163_A1.28 – Interview with Avanda

OTHER SOURCES

- Kyalimpa J, 'UHRC Article', Gay and Lesbian Archives (GALA), South Africa, B2.2.2, 1
- Sexual Minorities Uganda (SMUG), 'Expanded Criminalisation of Homosexuality in Uganda: A Flawed Narrative- Empirical evidence and strategic alternatives from an African perspective' (SMUG 2014)

Monastery of San Nicolò
Riviera San Nicolò, 26
I-30126 Venice Lido (Italy)

www.gchumanrights.org

Global Campus Europe.

The European Master's Programme in Human Rights and Democratisation (EMA)

EMA is a one-year intensive master's programme with participation of 41 prestigious universities representing all EU Member States. It is based on an action- and policy-oriented approach to learning and combines legal, political, historical, anthropological, and philosophical perspectives on the study of human rights and democracy with targeted skill-building activities. As a measure of its success, EMA has served as a model of inspiration for the establishment of EU-sponsored master's programmes in several other regions of the world, all of which are being coordinated and cooperate in the framework of the Global Campus of Human Rights.

The Global Campus Europe - EMA Awarded Theses

Each year the EMA Council of Directors selects five theses, which stand out not only for their formal academic qualities but also for the originality of topic, innovative character of methodology and approach, potential usefulness in raising awareness about neglected issues and capacity for contributing to the promotion of the values underlying human rights and democracy.

The present thesis - ***Imperialist Queerphobia. The Curtailment of LGBTQ+ Rights in Uganda and South Africa as a Product of Colonialism, Religion, and Patriarchy*** written by **Phoebe Eleanor Sheppard** and supervised by Ekaterina Yahyauoi, National University of Ireland, Galway - was submitted in partial fulfillment of the requirements for the European Master's Programme in Human Rights and Democratisation (EMA), coordinated by Global Campus Europe.

