

## Project Report<sup>1</sup>, December 2015

### Europe, Let's Speak Out for LGBTI Rights in Africa

#### PREFACE<sup>2</sup>

The adoption of the so-called 'EU Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons' in 2013 was a good occasion to organise a week-long encounter in Brussels with LGBTI activists.<sup>3</sup> The purpose was to reflect on the implementation of these guidelines during their first year. Moreover, the project aimed to raise awareness of these new guidelines, which were adopted as a reaction to the ongoing discrimination and criminalisation of LGBTI people worldwide. The project conducted in December 2014 focused on Sub-Saharan Africa, as a response to the recent developments in Uganda and The Gambia, amongst others. It aimed to provide a space for African LGBTI activists to share their concerns and work experiences amongst each other and with representatives of European Union (EU) institutions' and other Brussels-based stakeholders. Furthermore, it provided a platform to determine the difficulties that EU institutions, especially the EU delegations on the ground, could face while trying to support LGBTI people's human rights. The week-long encounter also aimed to draft clear recommendations from the African activists to EU institutions on how to better ensure the respect, protection, and promotion of LGBTI people's human rights in the African continent.

This publication reflects, without directly referencing, on the statements articulated and views expressed by the participants, and attempts to summarise the outcome of the project 'Europe, Let's Speak Out for LGBTI Rights in Africa', organised by the Heinrich Böll Stiftung European Union Office (hbs EU Office), Education International<sup>4</sup>, Ulrike Lunacek, Member of the European Parliament (MEP), and the Intergroup on LGBTI Rights of the European Parliament (EP)<sup>5</sup>, in December 2014 in Brussels. As part of this week-long project, a conference, hosted by the MEPs Ulrike Lunacek (Greens/ EFA) and Seb Dance (S&D), both members of the Intergroup on LGBTI Rights, took place in the EP on December 3<sup>rd</sup> 2014. It was met with a positive response by other MEPs, human rights activists, as well as LGBTI activists from the African diaspora in Belgium.

Since each of the organising parties is highly committed to the promotion and protection of LGBTI people's human rights, the project can be seen as the continuation of the series of events which

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<sup>1</sup> Statements included in various parts of the publication taken from the conference 'Europe, Let's Speak Out for LGBTI Rights in Africa' on December 3<sup>rd</sup> 2014 at the EP: Ella David-ette, Eric Gitari, Silvio Gonzato, Elizabeth Khaxas, Olumide Femi Makanjuola, Kasha Jacqueline Nabagesera, Funeka Soldaat

<sup>2</sup> This project report was written by Carlotta Weber and edited by Patricia Jiménez and Laura de Socarráz-Novoa

<sup>3</sup> For a more detailed explanation on these guidelines as well as the role of different EU institutions please see Section 'What can (or should) European Union institutions do or do not?' in this report.

<sup>4</sup> For more information on Education International please see: <http://www.ei-ie.org/>.

<sup>5</sup> For more information on the Intergroup please see: <http://www.lgbt-ep.eu/>

were and will be staged within the framework of achieving equality for everyone. The Heinrich Böll Stiftung (hbs) takes and has always taken a firm stand regarding the equality of sexual minorities and the respect of gender diversity, which will be highlighted later, in Chapter III. Its offices in Sub-Saharan Africa are continuously working to support human rights activists and organisations on the ground and are also, depending on the scope allowed by local legislation, contributing to the empowerment of LGBTI rights.<sup>6</sup> The regional hbs offices in the Continent cooperate to create publications specifically dealing with issues relating to gender and sexuality within the framework of human rights.<sup>7</sup>

As the largest federation of unions worldwide, Education International (EI) has to be sensitive to LGBTI issues. They represent unions from countries where LGBTI individuals are criminalised, and hence, the topic has to be treated very carefully. In 1998, the EI's World Congress adopted the resolution 'Protection of the rights of lesbian and gay education personnel', which requires the application and evaluation of these rights among member organisations. The Education International Pan European Structure is officially committed to the defence of LGBTI rights and the entire organisation is working to formulate recommendations and policies to further improve the situation of LGBTI individuals working in the field of education. For example, they continuously monitor current developments and every three years (since 2001) conduct the so-called 'Global Survey on GLBT teaching personnel'<sup>8</sup> as a way to re-evaluate the situation of LGBTI individuals who work in this field.

Ever since she started her political career, Ulrike Lunacek was committed to LGBTI persons' human rights and was the first openly lesbian woman to hold a mandate of Austria's National Council. In her position as member and Vice-President of the European Parliament, as well as, Co-President of the EP's Intergroup on LGBTI Rights, she has hosted several conferences<sup>9</sup> and always strives to further the EU's legislation on this topic.<sup>10</sup>

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<sup>6</sup> See, for example, our office for Southern Africa, located in Cape Town: <http://za.boell.org/categories/gender-sexual-diversity>

<sup>7</sup> See for example: [http://www.boell.de/sites/default/files/assets/boell.de/images/download\\_de/Perspectives\\_4-10.pdf](http://www.boell.de/sites/default/files/assets/boell.de/images/download_de/Perspectives_4-10.pdf)

<sup>8</sup> On Education International's policies regarding sexual diversity please see: [http://www.ei-ie.org/en/websections/content\\_detail/3276](http://www.ei-ie.org/en/websections/content_detail/3276)

<sup>9</sup> See, for example: <http://www.greens-efa.eu/lgbt-rights-europe-let-s-move-on-11315.html>

<sup>10</sup> <http://www.ulrike-lunacek.eu/category/menschenrechte/>

### **The project's outreach**

The temporal and financial framework of the project did, of course, not allow for the coordination of a project representative of the entire African continent. Instead, the Heinrich Böll Stiftung offices in Sub-Saharan Africa proposed individuals, who were already known as excellent cooperation partners and experienced human rights activists. The participants of the project were from Uganda, Namibia, Nigeria, South Africa and Kenya. As aforementioned, the LGBTI movement in the African Continent is far from being homogenous, hence the opinions the activists expressed in Brussels are not representative of the situation in specific countries and certainly not in the continent as a whole. However, they provided insight into the experience they have on the ground, the challenges they face – also in regard to their cooperation with EU institutions – and, the success of their relentless daily endeavours.

### **LGBT, LGBTI, LGBTIQ, LGBTIQ+ or SOGI? – BRINGING ORDER TO THE ALPHABET SOUP**

Just as people are different in regards to their gender identity and sexual orientation, the terminology that exists when speaking about these issues comprises a whole variety of labels: Lesbian, Gay, Bisexual and Trans\* (LGBT) used to be most common acronym, but it has been replaced by the term LGBTI, as the awareness of Inter\* persons grew. Furthermore, a “Q” for Questioning and/or Queer (LGBTIQ) and/or a plus (LGBTIQ+) can be added to include anyone who cannot identify with the other descriptions. A more general and inclusive term is Sexual Orientation and Gender Identity (SOGI), which is used particularly in countries where using words such as LGBTI and Queer in public discourse can have negative implications and consequences. One has to take into consideration that the aforementioned terms originated from Western conceptualisations of gender and sexuality and are, therefore, not always useful or fruitful for discussion, precisely when engaging with the issues from an African context and perspective. As observed in many African countries where criminalisation is threatening anyone who does not meet the standards or stereotypes of heteronormativity prescribed by society, government officials speak of sexual and gender diversity as something invented and imported by the West. However, the opposite is the case. As this paper will discuss in further detail, same-sex relationships and the notion of gender fluidity existed in Africa long before colonisation, for they were considered a normal part of the culture of different ethnic groups. The colonial powers, particularly the United Kingdom, introduced the practice of criminalising same-sex acts. In addition, the concept of heterosexuality as the only natural way of living was imposed on the oppressed peoples. Missionaries preaching conservative Christian ideas

supported these political and systemic changes by importing new cultural values and suppressing African religious practices and beliefs.

The term LGBTI will be used consistently throughout this report, as it is the one used by EU institutions, as well as, by most of the hbs offices around the world. Nevertheless, it is important to keep in mind while reading that using this term is not an attempt to assert a claim of accurateness and completeness, but rather to facilitate the understanding of a highly complex topic for the sake of comprehensibility and expression.

In fact, it is nearly impossible to find only one term to describe a group of people that is far from being homogenous, as well as, one term to embrace all the richness of something so personal as sexuality and gender identity. However, while debating which 'label' might be the most adequate, one seems to forget that, after all, what is being discussed is something fundamental in a human being. Consequently, being able to live and express one's own sexuality and gender identity without experiencing discrimination or violence is a fundamental human right.

#### **THE NEVER-ENDING STRUGGLE FOR EQUALITY**

The hbs is committed to gender equality and the enjoyment of human rights by everyone, regardless of one's sexual orientation and gender identity. The hbs has organised a wide range of events and has put forth numerous publications aiming to educate and enlighten the public about human rights and gender equality and to raise awareness of the discrimination and violence still faced by many around the globe, due to their sexual orientation and gender identity.

A look at the worldwide legal situation of LGBTI persons and those whose sexuality and gender identity do not align with mainstream conventions, gives the impression that this is and will always be a never-ending struggle. Currently, being an openly lesbian, gay, bisexual, in some countries also trans\* or inter\*, individual or someone who partakes in same-sex activities and relationships, is seen as a criminal offence in seventy-eight states and four entities around the world, and faces the death penalty in at least five countries.<sup>11</sup> In contrast, many countries lack specific legislation, meaning no law exists which declares same-sex acts illegal. However, in most cases LGBTI persons are not referred to at all within the constitutional and legislative framework, thus they are not protected by legislation and are exposed to legal uncertainty. Therefore, they are often excluded from society and left unprotected and vulnerable to state and non-state persecution.

In the last few years, a negative trend has become evident, not only in the African continent, but around the globe. Increasing homophobia, in many cases even promulgated by the state itself,

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<sup>11</sup> See ILGA World map on Lesbian and Gay rights, May 2014:  
[http://old.ilga.org/Statehomophobia/ILGA\\_Map\\_2014\\_ENG.pdf](http://old.ilga.org/Statehomophobia/ILGA_Map_2014_ENG.pdf)

challenges human rights defenders worldwide. The case of the 'Anti-Propaganda law' in Russia caused a lot of attention, especially with the Sochi Olympics<sup>12</sup> so near at hand, and in the heart of the EU, in France, hundreds of thousands citizens took to the streets in early 2013, to show their disapproval of planned legalisation on same-sex marriage. In the past year, the Ugandan Parliament failed to introduce harsher legislation only due to a procedural mistake, and in October, The Gambia introduced legal amendments criminalising homosexuality and declaring it punishable by life imprisonment<sup>13</sup>. Meanwhile, countries like Kenya are debating about whether or not to introduce discriminatory laws. Human rights organisations worldwide are indignant about the fact that these newly introduced laws not only affect the LGBTI individuals themselves, but in many cases, the people who support, aid or even just have contact with LGBTI people are criminalised as well and are pressured to report other individuals. This can lead to further isolation of LGBTI individuals, as they are often cast out by their families and friends and denied access to public services. As the examples above show, homophobia and discrimination are not at all 'an African phenomenon' but firmly rooted in most societies. For that reason, on-going support of and cooperation with LGBTI groups and NGOs is essential. This holds true because often LGBTI persons do not have very vocal lobby groups and organisations are forced to work illegally as a consequence of the laws of the country in question. Moreover, the persons in question are often excluded from social and political life and lack, as mentioned before, legal protection.

Nevertheless, Sub-Saharan Africa remains the 'problem child', with South Africa as the only country with laws in favour of LGBTI persons' human rights. In Sub-Saharan Africa, seventeen states have no specific legislation and thirty-six states criminalise same-sex activities and relationships as well as LGBTI individuals themselves. In some countries, these laws focus on men who have sex with men, but do not explicitly address Lesbian, Trans\* or Inter\* persons. The degrees of punishment vary greatly depending on the penal code<sup>14</sup>. For instance, one can be sentenced to death in countries and regions where Shari 'a law is applied, such as Mauretania, Sudan and twelve of the northern federal states of Nigeria.<sup>15</sup> Many member states of the EU monitor these events, essentially because they feel responsible, in their role as former colonial powers, for initially introducing these laws. The speed at which the criminalisation of LGBTI people has spread across the globe and the drive shown by some of the political leaders, when it comes to drafting anti-LGBTI legislation, are indeed signals that prompt one to take action and to take a stand for human rights.

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<sup>12</sup> <http://eu.boell.org/en/2014/01/31/under-pressure-lgbt-rights-russia>

<sup>13</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15318&LangID=E>

<sup>14</sup> See Pan Africa ILGA Lesbian and Gay Rights in Africa Map, May 2013:  
[http://old.ilga.org/Statehomophobia/ILGA\\_Africa\\_map\\_2013\\_A4.pdf](http://old.ilga.org/Statehomophobia/ILGA_Africa_map_2013_A4.pdf)

<sup>15</sup> See: <http://library.fes.de/pdf-files/iez/10610.pdf> (p.3), March 2014.

In their struggle, LGBTI movements are often accused of demanding 'special rights'. However, equality can only be achieved when everyone realises that LGBTI rights must be seen in the overall context as basic human rights. In fact, the violation of LGBTI rights is accompanied by or is tantamount to the violation of rights, such as the right to have access to education or health services or simply the right not to be discriminated against. This long-term struggle for equality calls for long-term strategies. It cannot be faced effectively if not done through the framework of a broad coalition of human rights organisations and advocates. Every day, more mainstream civil society organisations all over the world are realising that the struggle for LGBTI rights is just as well their own struggle. The Women's Rights Movement is a good example of the success of the holistic approach used within a human rights framework.

### **THE 'AFRICAN CASE' – EXPERIENCES AND ACTIONS TAKEN ON THE GROUND**

The following chapter summarises the experiences illustrated and statements articulated by the participating activists during several meetings and events, such as the conference 'Europe, Let's Speak Out for LGBTI Rights in Africa' at the EP. The two panels of this conference were named, 'State-sanctioned Homophobia in African Contexts' and 'Conservatism and Political Expediency – Unholy Bedfellows?', as these were determined as the two main conditions fostering the criminalisation and discrimination of LGBTI individuals in Africa. Firstly, human rights violations against LGBTI individuals are very often state-sanctioned, i.e. accompanied or intensified by discriminatory laws and public statements of politicians. Secondly, conservative religious and cultural patterns are used to support the aforementioned state-sanctioned homophobia in an attempt to legitimate it. Moreover, conservatism also works as an end in itself, cementing patriarchy or the supremacy of a religious group or institution. It will become clear though, that the two aspects of state-sanctioned homophobia and conservatism cannot be really looked at separately. Therefore, the following chapter will be subdivided into paragraphs dealing with bad governance, education, and patriarchy, while outlining the influence of conservative movements and of state institutions or often times their interconnection.

When state-sanctioned homophobia is addressed, a question arises: Why could this trend of increasing criminalisation of LGBTI persons and homophobia, driven by the state, be stated over the last two decades? The watershed event for the African LGBTI community as a whole was Robert Mugabe's hate speech in 1995, when he referred to homosexuals as 'worse than pigs and dogs'. Subsequently, heads of neighbouring states adopted this kind of rhetoric. The following paragraphs will try to explain why this increase in homophobic rhetoric is happening at the moment and in whose interest?

## **Historical perspectives**

Countries, not only but especially on the African continent, are introducing or tightening discriminatory laws, and thereby institutionalising the persecution of LGBTI individuals. In many cases, African states just appropriated laws criminalising homosexuality that already had been introduced by the colonial powers. In some countries, this legislation was taken over after independence and was even furthered, such as in Uganda, where the laws inherited from the British colonisers were intensified by imposing life imprisonment for homosexuality and enhanced to punish 'homosexual propaganda'. In Kenya, an anti-homosexuality bill being considered could send foreigners to jail for involvement in same-sex activities. So, to discuss state-sanctioned homophobia in an African context also means to take historical perspectives into consideration and to acknowledge that this legislation is not coming out of the blue. This understanding plays a crucial role when one wants to comprehend the logic behind the current developments. The African states were mapped, named, and created by the colonisers with an understanding that there was a need for homogenisation. Initially, they imposed laws and values that were alien to the people, but over time, these Victorian values were replicated and internalised. Consequently, criminalisation of LGBTI people was inherited from colonial rule. To understand state-sanctioned homophobia in an African context, one must first understand the interaction of these laws and values, which were forced upon African societies by colonial powers.

Ironically, many political and religious leaders are currently spreading a totally different story, than the one African historiography tells. Not the criminalising laws, but gender and sexual diversity are referred to as imported by (neo-) colonialism, which they claim to be 'Un-African' and are discredited as a Western 'gay agenda'. The factor that the terminology 'LGBTI' is indeed a Western concept does not help human rights activists and organisations on the ground to fight the myth of a gay recruitment movement coming from the West. The contrary, however, is true: gender fluidity and homosexual practices have existed in different ethnic groups on the continent for centuries, but it seems to have been forgotten. Among the Herero, for example, it was common that after the birth of identical twins, one of the siblings was raised as a member of the opposite sex. In some tribes in the northern parts of Namibia, girls could take on the male sex after their first menstruation and become warriors. The alienation of large parts of the population from African history and ancient traditions, due to colonisation, is continually abused by state officials. Therefore, African activists see the need to overcome the state elites' narrative supremacy.

## **The human rights situation of African LGBTI people**

Homophobia and discrimination against anyone who is not in accordance with the societal standards regarding sexual orientation and gender identity, is deeply institutionalised and infiltrates every part of daily life. The following paragraph tries to show, in more detail, the actual impacts on the life of LGBTI people in specific African countries.

To understand the environment in which human rights organisations in Sub-Saharan Africa work and to learn about their struggles, one must also know that many countries gained independence only a short time ago and lack a tradition of state structures as present in Western countries. Only after centuries of wars, did the idea of universal human rights prevail on the European continent and; in many respects, is still a struggle. Therefore, it is important to bear in mind that the African movement for gender equality and sexual diversity is very young. Despite the current problems, the movement is improving its level of organisation and interconnection rapidly and thereby its visibility.

Uganda and Nigeria can be considered pioneers, in a negative sense of the word, regarding the adoption of discriminatory LGBTI laws on the African continent. In 2006, when an anti-homosexuality bill was first discussed in Nigeria, it caught the LGBTI movement off guard. The general belief within the organisations was that the time of decriminalisation of LGBTI individuals had come, but instead, the opposite was true. In Nigeria, LGBTI individuals face overlapping legislation with the 'Same Sex Marriage (Prohibition) Act', the Federal Criminal Code, applicable in all southern states, and the Federal Criminal Code, effective in the northern states. In the latter, people can face death by stoning under Shari'a law. Solidarity within the LGBTI movement was strengthened and organisations professionalised when it became clear that this trend would not stop at the Nigerian border but spread over the continent – to Ethiopia, Kenya, and The Gambia, for example. Furthermore, countries like Burundi and Rwanda, which did not have legislation on same-sex relations before, followed and introduced criminalising laws. As soon as these laws are in place, they create an atmosphere of uncertainty and danger, in which LGBTI individuals are considered and declared outlaws. Police brutality is state-sanctioned and actions, like raiding people's houses, exists without consequences; instead such actions are broadcasted by the media and people are exposed in public.

In Namibia, the time of intense hate speech, which was triggered by Mugabe's statements in 1995, came to an end due to the professionalization of the LGBTI movement and its relentless fight against hate campaigns by teaching women's and human rights. Yet, under the new president Hifikepunye Pohamba, who came into office in 2005, scapegoating still plays an important role, especially before



the elections, and hate speech continues, although it is less vocal. Namibian parties such as the Namibia Economic Freedom Fighters campaigned with demands to wipe out homosexuality during the elections in November 2014. Actions like those of the Namibia Economic Freedom Fighters are proof that education about sexual diversity being neither Un-Christian nor Un-African is required.<sup>16</sup> Although the scope of state persecution is not as extensive as in Uganda or Nigeria, Namibian legislation is gradually excluding LGBTI individuals from human rights protection. When laws are amended, references to LGBTI people, for instance, labour laws concerning their protection against discrimination in the work place, are taken out. Newly adopted laws, dealing with domestic violence, for example, exclude LGBTI persons from the outset. Expelling LGBTI individuals from legal protection gives society the impression that they are outlaws and can be exploited. The families of LGBTI persons are often forced to make a choice whether to be loyal to their family member, or to reject them, like political leaders encourage them to do. In many African societies, the latter results in LGBTI persons, especially the youth, being deprived of social security and compelled to live in poverty.

South Africa is a good example that decriminalisation is one, but by no means the only, step to ensure equality for LGBTI people and that progressive legislation can also cause a backlash. Even seemingly legal equality is far from being accomplished. In November 2006, same-sex marriage was legalised in South Africa, despite the objection of various religious groups, churches, and politicians, such as Jacob Zuma, who then became president in 2009. As a compromise with opposing influential religious and political leaders throughout the country, the law was the so-called 'Civil Union Act', now existing alongside the 'Marriage Act'. While the latter is still exclusively reserved for heterosexual couples, the 'Civil Union Act' allows both same-sex and opposite-sex partners to contract a union, which is then called either civil partnership or marriage accordingly. Although the legal outcomes of these unions are the same as those under the 'Marriage Act', the existence of a separate law leaves a sour taste and shows that equality for all citizens is not yet a reality. Moreover, liberal legislation is often challenged and subjected to public discourse. In 2010, traditional leaders from large organisations, such as Contralesa<sup>17</sup>, proposed the 'Traditional Court Bill'. It aimed to exclude LGBTI individuals from the legal system provided by traditional courts, claiming that homosexuality did not exist in rural areas.<sup>18</sup> This bill tried to undermine the South African constitutions as whole and ensure the preservation of a patriarchal system. The latter led to the alignment of the LGBTI movement with women's rights organisations to prevent this bill from becoming law.

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<sup>16</sup> [http://www.namibian.com.na/index.php?archive\\_id=124911&page\\_type=archive\\_story\\_detail&page=1](http://www.namibian.com.na/index.php?archive_id=124911&page_type=archive_story_detail&page=1)

<sup>17</sup> Congress of Traditional Leaders of South Africa

<sup>18</sup> <http://www.theguardian.com/commentisfree/2012/may/26/south-africa-gay-lgbt-traditional>

The human rights situation of African LGBTI people is as diverse as each country's state legislation. LGBTI activists in Uganda, who try to prevent the adoption of legislation imposing the death penalty on LGBTI individuals, certainly have to use different tactics than South African activists, who endeavour to change mind-sets deeply rooted in society. The different conditions require different strategies from the activists on the ground, as well as, from foreign donors. However, broad cross-regional coalitions of LGBTI organisations and also other human rights advocates can all contribute equally to a visible and vocal fight for equality.

### **Bad governance and the exploitation of the media**

A reason for the current increase in criminalising laws and homophobic rhetoric is the growing visibility of LGBTI activists and organisations, as well as, the movement as a whole. Nowadays, sexuality, especially talking about it in public, is taboo in most African countries. This holds true for heterosexuality but, of course, to a lesser extent than for anything that is not considered 'normal'. Public discourse about sexual diversity and freedom of choice, as well as, about sexual violence, irritates huge parts of the population. As these issues are never openly spoken about or debated and considered inappropriate, they are unknown to people and are hence, responded to with fear. The pluralism of gender identity and sexual orientation is seen as something new and therefore imported to the African continent. Homosexuality is sensationalised, mystified by rumours and lies, and often, LGBTI individuals are exposed to public judgement and heavy violations of privacy. The fear and rejection of LGBTI people by parts of the population is used in two key ways: during election campaigns, hate speech and scapegoating are used as tools to win votes and, on the other hand, it is used to distract citizens from real political issues, such as corruption or misadministration. Effective publicity by LGBTI activists is often used by politicians to propose criminalising bills. This occurred in the aftermath of protests in favour of same-sex marriage during the International Conference on Aids and STIs in Africa (ICASA), which took place in Abuja in 2005. The following January, a bill was presented to the Nigerian National Assembly by Justice Minister Bayo Ojo. Although it was not passed, the bill enhanced the criminalisation debate. Interesting to see is what wording was chosen and how it changed over the course of the following years, from a discussion about the introduction of an anti-gay bill to the so-called 'Same Gender Marriage (Prohibition) Bill in 2008, indicating a coordinated approach and action. The issues of same-sex marriage, gender identity, and of sexual orientation were simply packaged into a single discourse. Homosexuality was equated with the legalisation of same-sex marriage and debate over the real issue, the enjoyment of basic human rights, was prevented from the state's side. Civil society organisations were successful in preventing the bill from passing during public hearings in 2009. Human rights activists hoped that these attempts to pass anti-LGBTI legislation would end after the election of a new president. But, shortly

after the election of Goodluck Jonathan in 2011, the bill was discussed again. The Nigerian LGBTI community then found itself in a completely different situation. Previously, the bill had never passed the lower house and, therefore, had not reached the upper house; but this time, the initiative was coming from one of the senators. In January 2014, the 'Same Sex Marriage (Prohibition) Act' became law after being signed by Jonathan. The name of the law gives the impression of being directed exclusively at same-sex couples to prevent them from getting married, but in reality, it involves extensive criminalisation of all forms of same-sex activities with the threat of life imprisonment, including punishments for individuals who support or witness them, as well as, people who aid or provide services to LGBTI individuals. The political situation at the time when the law passed was quite tense, as the terror of Boko Haram was omnipresent and corruption scandals were unsettling the political class. Human rights activists on the ground stated that these political and social turbulences were the impetus for the president to sign the bill, with the purpose of distracting the population. Previously, he had not acknowledged the tabled bill publicly in any form. What this all amounts to, is that besides being an effective instrument to control the population, anti-LGBTI rhetoric by politicians can also be used as a tool to win over voters, and thus, hate speech is especially common during elections.

The media plays an important role in influencing the masses as state-owned, as well as, independent media, provides a platform for hate speech in many countries. Hence, newspapers, magazines, TV channels and radio stations are, oftentimes willingly, contributing to the aforementioned alienation of LGBTI individuals and to the creation of a hostile environment, justifying or calling for hate crimes. Human rights such as freedom of press and freedom of speech are not accessible to citizens, especially not to the LGBTI community. This is reinforced as media institutions who offer a platform to LGBTI organisations are accused of 'promotion of homosexuality' and are often closed down on the basis of stricter legislation. For many politicians, the media is a convenient tool whenever corruption accusations against them emerge. As LGBTI activists on the ground oftentimes experience in these situations, news about arrests of LGBTI persons or police raids will appear in newspapers or other media sources as a way to distract the population from obvious bad governance and maladministration. Furthermore, the state is expanding its surveillance apparatus, not to monitor terrorist or criminals, but rather to control and harass civil society actors. Other laws have been introduced to accelerate the shrinkage of the public sphere, hence, complicating human rights advocacy in general.

Most of the countries where anti-gay bills are discussed are tyrannical and struggling economically, with poverty as a major structural problem that affects large parts of the population. Local LGBTI organisations and activists claim that legislating morality or sexuality is in reality used as a

smokescreen to disguise the preservation of wealth and resources within a small, well-connected political class. Large parts of the population are deprived of any perspective and it tends to direct its frustration towards a scapegoat. The real issues such as corruption, insufficient access to health and education, as well as, the stagnation of development are therefore not addressed. As will be argued further in the other paragraphs of this chapter, homophobia is used as a weapon by the political, social, religious, and economic elite to control large parts of the population.

### **The question of accountability**

A huge problem in the fight against discrimination, but especially the criminalisation of LGBTI individuals and organisations, is the question of accountability. This implicates former colonial powers, such as the United Kingdom, who have to bear the responsibility of their past actions and for initiating these criminalising laws. Domestically, though, it proves very difficult to hold state or non-state actors accountable for their hate campaigns and violations of human rights, especially in countries where LGBTI individuals are criminalised. In the Ugandan case, foreign evangelical groups who preach against LGBTI individuals, have relations with high-ranking politicians. Not only due to the fact that these groups are powerful, but also because some of them are silent players from the background, their interference will most likely remain without consequences. Nevertheless, Ugandan LGBTI organisations joined forces in 2012 to sue one leading American evangelist, Scott Lively, in the federal court of Massachusetts under the Alien Tort Statute. The “suit alleges that Lively’s involvement in anti-gay efforts in Uganda, including his active participation in the conspiracy to strip away fundamental rights from LGBTI persons, constitutes persecution.”<sup>19</sup> In late 2014, the attempt by the defence to dismiss the case was once again rejected. While the lawsuit is on-going<sup>20</sup>, it remains uncertain whether Scott Lively will really be held accountable in the United States for the damage he caused and the hatred he spread within the Ugandan society.

### **Education or indoctrination?**

Homophobia in African contexts is not only state-sanctioned in terms of the exploitation of the media, thereby limiting public space and disguising economic mismanagement or nepotism by putting the spotlight on LGBTI individuals. Alarming is also the close collaboration of state actors with religious groups, as a way of reaching out to the private sphere. Evangelical churches and groups, promoting hatred, are part of a neoliberal elite, who is more interested in the acquisition of wealth,

<sup>19</sup> [www.ccrjustice.org/LGBTUganda/](http://www.ccrjustice.org/LGBTUganda/)

<sup>20</sup> [www.masslive.com/news/index.ssf/2014/12/scott\\_lively.html](http://www.masslive.com/news/index.ssf/2014/12/scott_lively.html)

than in the salvation of their followers. In Uganda, for instance, they are part of Yoweri Museveni's patronage system and "their leaders are often rewarded by the government before elections with expensive cars and other prestige goods."<sup>21</sup> Thus, the institutionalisation of homophobia can also be observed within the education system. Laws, implemented to establish homogenisation, are associated with aligned curriculum contents. In fifth grade in Kenya, for instance, in subjects like 'social education and ethics', children are taught that homosexuality is a social deviant, just like drug addiction and theft. During examinations, pupils are asked to give reasons why Christians have to be united against homosexuality. These examples are attempts to teach hate towards those who are non-compliant and who do not fulfil the criteria of homogenisation created by the state. Through education and religion, the state tells its citizens with whom to have sex, when to reproduce, and so forth. Therefore, anti-homosexuality bills and laws are part of a broader context of the state's effort to control sexuality, which also includes anti-abortion laws and regulations that hinder contraception.

The educational system is enforced as a way to ensure the replication of conservatisms and homophobic attitudes over generations. As it is clear that knowledge is power, they have succeeded in spreading ignorance about African history. The curriculum in schools in Nigeria, for instance, tries to debase African tradition and tribal religions by teaching them as 'myths and legends', whereas religious values, brought by foreign missionaries, are claimed to be the truth and truly African.

An educational system controlled by religious institutions teaching such cultural values is contributing to the very same end as those educational establishments financed by the state. Effectively, both the state, as well as, religious institutions benefit from imposing homophobic attitudes through education. The control of the population via education is, of course, advantageous to a non-democratic, corrupt political system that relies on a certain hierarchy, characterised by militarisation and stereotypical masculinity.

### **Religion and patriarchy – maintaining conservative traditions and gender roles**

What can be observed between the state and religious institutions is an 'unholy marriage' of sorts. In many African countries, the boundaries between them are fluid. As illustrated above, in regard to education, they use the same structure of argumentation that mutually complements their work. The missionaries, as precursors to and negotiators of the colonial occupants, brought homophobia with them and it can be assumed that sodomy laws were introduced in the colonised areas as an attempt to hinder same-sex relationships, which were deeply rooted in the African tradition. For instance, in Kenya, healers, diviners, and seers, some of who were openly queer, were displaced by the social

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<sup>21</sup> <http://library.fes.de/pdf-files/iez/10610.pdf> (p. 5), March 2014.

welfare of the missionaries. The new religion was used as a tool to justify why heterosexuality should be the only accepted form of sexuality in a society. Due to the fact that religious institutions take over the functions usually delegated to the state, such as education or health services, they are often perceived as 'the provider'. Their moral influence on members cannot be underestimated and, especially in countries with fragile infrastructures, people are more likely to be susceptible to emotional blackmailing. As a result, the sovereign historical authenticity of the African continent, and particularly of African sexuality, is neglected and tabooed within the framework of austere morals. Contradictorily, in some countries, churches once played an important role in the achievement of people's sovereignty, during the fight for independence. In Namibia, the churches were the people's voice and acted as human rights advocates during this struggle. They spoke out against Apartheid and for the respect and protection of the human dignity. However, after Namibia became independent, churches left the agency to the new government, and during the height of hate speech, only a few church leaders raised their voice for the rights of LGBTI people.

Especially in Uganda, evangelical groups from the United States and Canada are taking advantage of economic misery and the failure of the local political class, by investing in the country's educational infrastructure by building schools, for example. In contrast to many other religious groups who are eager to support the communities on the ground, these evangelicals are trying to implement their own homophobic agenda. It is dangerous that these evangelical groups do not only try to reach the population through religion and church services, but rather by imposing their influence on state structures. Therefore, either religious leaders actively address politicians or, as it is the case in Uganda, they are represented in the government by their followers. The network and the outreach of the evangelical movements cannot be underestimated, as their branch in the Ugandan Parliament, so-called 'Fellowship', has superb relations with high-ranking Evangelicals in US politics and was the driving force behind the anti-homosexuality bill in Uganda. Evangelical or Pentecostal churches preach the Western family model as the ideal and give warning of an alleged 'gay agenda' enforced on the entire continent. Since these evangelical groups were successful in Uganda, they became the role models for the anti-gay movement, and they have tried to use these actions as a blueprint for other countries worldwide.

In contrast to the rest of Sub-Saharan Africa, South Africa is pursuing progressive LGBTI policies. But in South Africa, the influence of religious, especially Christian, groups is ever-present, manifesting itself in the constitution and in President Zuma, who represents a patriarchal system in which stereotypes of masculinity are reproduced. Although to a lesser degree, people who challenge the implemented hierarchy are discriminated against by the state on a daily basis. The norm is a 'heterosexist', masculine idea of what power and control is. The ideal type is a male, heterosexual

warrior. In many countries on the Continent, state-controlled PR machineries are creating an image of the presidency and governance as strongly linked to the military, promoting the head of state as a commander-in-chief wearing a uniform. Signs of weakness or vulnerability are not allowed in this kind of environment and femininity is considered inferior. Consequently, lesbians belong to the group of people who are most vulnerable to violence and discrimination, since they challenge values imposed by patriarchy and religion. In this context, intersectional discrimination is an enormous problem as black, impoverished, lesbian women, living in South African townships, are often treated with sheer brutality, suffer corrective rape or, ultimately, are killed.

Enlightenment and empowerment of the population is the not-so-secret, weapon to end discrimination against LGBTI people and the violation of their basic human rights. To fight corrupt political elites, to change the patriarchal structures of society, and to question the impeccability of religion, is the challenge, not only for the LGBTI movement, but for all civil society organisations. The struggle, although currently more visible and, in many ways, more existential in Africa, is anything but an African one.

### **The situation at African multilateral fora**

Multilateral institutions established in the African continent provide tools with which to pursue violations of LGBTI persons' human rights. But unfortunately, they do not work as effectively as they could and states are not held accountable for actions promoting the discrimination and prosecution of LGBTI individuals. The African Charter on Human and People's Rights guarantees every individual the enjoyment of all the rights enlisted in the Charter. Although Article 2, the non-discrimination article, does not specifically list sexual orientation or gender identity as a ground for discrimination, it could be included in the term 'any status'. Supervision and interpretation of the Charter is delegated to the African Commission on Human and People's Rights and to the African Court on Human and People's Rights, which was established in 2004. In fact, the Commission has pilloried violations of LGBTI persons' human rights by member states over the years, as well as, the measures applied during prosecution, such as invasive medical examinations. Moreover, it declared that discrimination on the grounds of sexual orientation and gender identity runs contrary to the principles of the African Charter. The African Court is meant to complement and reinforce the Commission's work, but to this day, the protocol establishing the Court has been signed by only 27 states. The Court is still not influential enough and it hardly has the power to hold member states accountable for human rights violations on the basis of sexual orientation and gender identity. So far, the African Union (AU) has not take a clear and open position on sexual orientation and gender identity. Many human rights organisations and activists are satisfied with this fact, as they fear a positioning of the AU in favour of discrimination of LGBTI individuals.

For the entire text of the African Charter on Human and People's Rights see:  
<http://www.achpr.org/instruments/achpr>

### **WHAT CAN (OR SHOULD) EUROPEAN INSTITUTIONS DO OR NOT DO?**

The following chapter aims to connect the experiences and challenges of African LGBTI activists and organisations with an EU perspective. It takes a closer look at which instruments the EU institutions have at their disposal to support the enforcement of human rights on the ground, and whether actions from the EU side are already effective and even wished-for or not.

First, it has to be taken into consideration that the EU often faces a conflict of interest when it comes to economic concerns on the one side, and the critique of human rights violations on the other side. The raw material reserves and the extraction industry in many African states, for instance, are



enticing economic interests. It is clear that the EU is also susceptible to blackmail when countries like Uganda, threaten to engage in more trade with Russia or China whenever human rights violations are publicly denounced by EU officials. Therefore, EU institutions have to establish their credibility in regard to human rights policies. A firm stance and efficient politics are required to end the violations of LGBTI people's human rights. Yet, it is controversial how the international community, specifically the European Union, should react to these developments. The Ugandan LGBTI movement, for instance, called for very tough sanctions on the state, in an effort to make Uganda an example for other countries in the region and to emphasize that there will be consequences when laws violating human rights are introduced. In many cases though, LGBTI activists or organisations reject sanctions, as they can worsen the situation of an entire demographic and can be used for scapegoating.

### **Brief overview of EU human rights policy instruments**

The EU holds itself to a standard when promoting human rights worldwide, and therefore, its institutions can recourse to several tools. They make use of the European Instrument for Democracy and Human Rights (EIDHR), with a budget of more than one billion euro, the Strategic Framework on Human Rights and Democracy, as a kind of action plan, as well as the different guidelines which the Council of the EU has adopted thus far and which will be illustrated in the subsequent chapter.<sup>22</sup>

Moreover, all trade or cooperation agreements the EU makes with non-EU countries include a clause on human rights. Mostly, these paragraphs state that both parties agree to adhere to the principles laid down in the charters, conventions, or declarations on human rights most pertinent to the countries in the agreement. In relation to the African Continent, the Cotonou Agreement, concluded in 2000 between the EU and the ACP countries, stipulates in Article 9 that “[c]ooperation shall be directed towards sustainable development centred on the human person, who is the main protagonist and beneficiary of development; this entails respect for and promotion of all human rights.”<sup>23</sup> Article 96 of the agreement lists a number of measures that can be taken if the violation of the aforementioned principles by one of the contracting parties occurs, including suspension, as the last resort. Before any extreme measures are considered, the article provides a detailed protocol that has to be followed and that calls for political dialogue and a consultation procedure. However, there are known cases of human rights violations in an African state where Article 96 and its measures were not applied, because the EU did not expect a positive outcome, and therefore, did not want to risk the disruption of multi- and bilateral relations in the country. The EU side justifies their actions by pointing out that the maintenance of communication channels, especially with countries with

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<sup>22</sup> For more information on the EU's human rights policy and forwarding links to learn more about the single instruments see: [http://www.eeas.europa.eu/human\\_rights/index\\_en.htm](http://www.eeas.europa.eu/human_rights/index_en.htm)

<sup>23</sup> [www.acp.int/content/acp-ec-partnership-agreement-cotonou-agreement-accord-de-partenariat-acp-ce-accord-de-contono](http://www.acp.int/content/acp-ec-partnership-agreement-cotonou-agreement-accord-de-partenariat-acp-ce-accord-de-contono)

noted human rights violations, is extremely important. Critics of the human rights clause in trade or cooperation agreements claim that the behaviour of the EU is proof that it applies the article inconsistently and with some kind of double standard. This raises question about the EU and its member states, in so far as how these clauses have any significance at all if they are hardly applied in cases of severe human rights violations.

### **The EU Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons<sup>24</sup>**

The Council of the European Union, where the national ministers of specific policy fields meet, is one of the essential decision-makers of the EU. It is part of the legislative branch, responsible for aligning the member states' policies, adopting the EU's budget alongside the European Parliament, and concluding international agreements by providing the mandates for negotiation, on behalf of the member states, to the European Commission. Moreover, the Council of the European Union, together with the High Representative of the EU for Foreign Affairs and Security Policy and the diplomatic corps of the European External Action Service (EEAS), shapes the foreign and security policy of the European Union. This happens, among other things, on the basis of guidelines set by the heads of government or state of EU member states when meeting several times a year as the European Council.

Although not legally binding, EU guidelines are of a great political importance because they were adopted by ministers of the member states, hence at a high diplomatic level, and they are a substantial component of the EU's human rights policy. They can be understood as tools provided to diplomatic staff in third countries, as well as, a common thread for the EU's appearance in international fora and organisations.

In June 2013, the Foreign Affairs Council of the European Union adopted the EU Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons. Prior to that, in June 2010, the EU member states had already adopted a 'Toolkit to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) People'<sup>25</sup>, but it did not have the same political weight and functioned more as an advice booklet. Nevertheless, the toolkit certainly had an impact on the speed with which the guidelines were formulated and thus paved the way for their adoption. The latter include instructions on how to proceed with securing and promoting LGBTI individuals' human rights, and for the first

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<sup>24</sup> For the full text of the guidelines please see:

[http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/137584.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf)

<sup>25</sup> For the full text of the toolkit please see: [http://eeas.europa.eu/human\\_rights/lgbt/docs/toolkit\\_en.pdf](http://eeas.europa.eu/human_rights/lgbt/docs/toolkit_en.pdf)

time, explicitly mention intersex persons. The guidelines are a comprehensive manual for EU diplomats around the globe on how to improve the human rights situation of LGBTI people.

According to the EEAS, diplomacy should focus on:

- “eliminating discriminatory laws and policies, decriminalisation, and ending the death penalty for same-sex relations (currently applicable in seven countries)
- promoting equality and non-discrimination at work, in healthcare and in education
- combating violence by the state or by individuals against LGBTI persons
- supporting and protecting human rights defenders”<sup>26</sup>

The guidelines “prioritise actions around combating discriminatory laws and policies, LGBTI-phobic violence, and the promotion of equality and non-discrimination.”<sup>27</sup> Furthermore, they include a checklist to assess and monitor LGBTI human rights issues.

Their implementation is the responsibility of the EU member states’ national embassies but, first and foremost, of the 139 representations of the EU, the so-called EU delegations, in third countries all around the world. In combination with “human rights country strategies and reports, demarches and public statements, individual cases, court hearings and prison visits, political dialogues, international mechanisms and efforts by civil society”<sup>28</sup>, the guidelines are meant to significantly improve the situation of LGBTI individuals in every part of the world. But usually, the adoption of a document is easier than its implementation. Especially in African countries, EU delegations face many problems whenever LGBTI issues are addressed, for the interference by former colonisers is, understandably so, a matter of delicacy. Taking into consideration the historical perspectives, as illustrated above, it is clear that the accusations against European countries, for trying to impose alien cultural views and values, are not pure invention and the question of accountability for the origin of these criminalising laws has to be discussed on equal footing.

However, the current strategy of the EU to improve the situation of LGBTI persons on the Continent is tackled from both the multilateral and bilateral levels. In international fora such as the UN, alliances with third, non-Western states, for instance from Latin America, are formed and the latter are encouraged to be vocal about and drive initiatives in favour of LGBTI people’s human rights. Moreover, an endogenous development through Pan-African political fora is supported. In 2014, the African Commission on Human and Peoples’ Rights adopted a resolution on the protection against

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<sup>26</sup> [http://eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://eeas.europa.eu/human_rights/lgbt/index_en.htm)

<sup>27</sup> [http://ilga-europe.org/home/news/for\\_media/media\\_releases/protection\\_of\\_lgbt\\_human\\_rights\\_officially\\_part\\_of\\_eu\\_foreign\\_policy](http://ilga-europe.org/home/news/for_media/media_releases/protection_of_lgbt_human_rights_officially_part_of_eu_foreign_policy)

<sup>28</sup> [http://eeas.europa.eu/human\\_rights/lgbt/index\\_en.htm](http://eeas.europa.eu/human_rights/lgbt/index_en.htm)

violence on the basis of sexual orientation and gender identity. Although this Commission does not have an immediate impact on member states of the African Union, it is, nevertheless, a body established by the African Charter on Human and Peoples' Rights, also known as the Banjul Charter.<sup>29</sup> Also at a bilateral level, the EU works from several, different approaches to tackle the issue and contribute to an improvement on the ground. Inside the EEAS, for instance, people working on human rights issues are closely cooperating with those who are in charge of the different geographic regions. The Africa department of the EEAS has developed its own toolkit to implement the guidelines, and hence, is trying to translate them into something operational, that will succeed in the implementation process. For example, an effort has been made to deviate from discourse based on cultural values and attitudes, and to speak of the LGBTI issue in the broader context of non-discrimination, regardless of the origins and the reasons behind it. The issue then becomes part of a context that addresses women, children, people with disabilities, indigenous people, and religious minorities. Advocating for a discourse in favour of tolerance and acceptance of diversity could help form alliances between different human rights movements on the ground. By looking at the LGBTI issue from a broader context, the concerned countries are also reminded of their obligations as members of the UN and under the international law, especially in regard to the universality of human rights.

The 'Guidelines to Promote and Protect the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons' is one of eleven adopted documents of this kind so far. The guidelines are to cover issues of great importance to the EU, including 'Promotion and Protection of the Rights of the Child', 'Death penalty', 'Violence against Women and Girls and Combating all Forms of Discrimination against Them', and so forth.<sup>30</sup> Human rights and LGBTI organisations praised the adoption of the guidelines and ILGA-Europe called it a "truly significant development", which "also set[s] standards for the EU internal LGBTI human rights policy."<sup>31</sup> In fact, the EU still lacks a coherent and consistent strategy regarding the protection and promotion of LGBTI human rights within its borders. "ILGA-Europe, the European Parliament and almost half of EU member states have been [...] calling for a comprehensive EU LGBTI Roadmap."<sup>32</sup> Without that demanded formalisation by the European Commission, one can argue: To what extent is the EU a credible human rights advocate and is it in the position to claim the moral high ground? Recalling that the criminalisation of LGBTI persons was brought to countries, not only on the African continent, by the colonial powers, through

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<sup>29</sup> For the full text of the African Charter on Human and Peoples' Rights see: <http://www.achpr.org/instruments/achpr/>

<sup>30</sup> For an overview of all adopted EU guidelines see: [http://eeas.europa.eu/human\\_rights/guidelines/index\\_en.htm](http://eeas.europa.eu/human_rights/guidelines/index_en.htm)

<sup>31</sup> [http://ilga-europe.org/home/news/for\\_media/media\\_releases/protection\\_of\\_lgbti\\_human\\_rights\\_officially\\_part\\_of\\_eu\\_foreign\\_policy](http://ilga-europe.org/home/news/for_media/media_releases/protection_of_lgbti_human_rights_officially_part_of_eu_foreign_policy)

<sup>32</sup> [http://ilga-europe.org/home/news/for\\_media/media\\_releases/protection\\_of\\_lgbti\\_human\\_rights\\_officially\\_part\\_of\\_eu\\_foreign\\_policy](http://ilga-europe.org/home/news/for_media/media_releases/protection_of_lgbti_human_rights_officially_part_of_eu_foreign_policy)

the introduction of corresponding penal codes or by missionary work, it is indeed high time for a change in engagement, discourse, and action. Therefore, this project aimed to provide a platform for some LGBTI activists from different African countries to formulate recommendations towards the EU institutions and to arrange meetings with EU staff to discuss the implementation of the guidelines.

## **Recommendations**

These recommendations are a synthesis of the recommendations formulated by the activists during the course of the week-long project, as well as, their suggestions for a follow-up on the programme.

1. Public attention around the world has led to a strong engagement of EU institutions in Uganda and resulted in a successful cooperation between the EU delegation and LGBTI organisations on the ground. This **'Ugandan model' should be acknowledged and used as a blueprint for other countries**. Therefore, synergy effects created by the cooperation of Ugandan LGBTI organisations with other civil society organisations should be replicated.
2. One of the most important points is that **the EU has to invest in the African LGBTI movement to help it grow**. Linking the activists to EU delegations on the ground should be prioritised and improved, so as to enable cooperation. This would help in strengthening the contacts of the EU with activists and LGBTI organisations, but it is especially necessary to invest in a long-term relationship. The Women's Rights Movement could be followed as an example, for it was actually the first to put 'gender issues' on the agenda. Investing in the movement also means providing LGBTI rights defenders with access to the Human Rights Defenders programme and to include LGBTI activities within the programme, as funding is required. Aside from that, LGBTI issues have to be integrated into the countries' human rights strategies and have to be put on the agenda of bilateral human rights dialogues.
3. In parallel, an **internal building and strengthening of the movement**, as well as, solidarity within is needed. Platforms have to be determined, perhaps provided by EU institutions or European NGOs on the ground, in order to allow Pan-African strategizing, skills-building, knowledge transfer and constant exchange of experiences. The never-ceasing struggle for equality and the fighting on the ground for fundamental human rights, against state and non-state actors who constantly criminalise, threaten and exert violence, is debilitating. Therefore, activists also need time to reflect, brace their energies, and focus on their well-being.
4. The **EU's monitoring has to be improved**. When LGBTI human rights violations are monitored across Sub-Saharan Africa, local LGBTI organisations have to be involved and present. This also applies to the Universal Periodic Reviews, conducted by the United Nations, and other monitoring processes not initiated by the EU. The latter should also identify the problems that

delegations on the ground face towards the implementation of the guidelines, in order to make real improvements, not only document the LGBTI human rights situation.

5. **The access to funds has to be facilitated and funding possibilities have to be improved.** One approach could be to provide training for EU projects and their funding applications to activists. The legal requirements not only have to be clarified, but also simplified, in order to grant access. The requirement of being a registered organisation in the concerned country is, for instance, in many cases, not feasible, as a hostile environment or illegality does not allow for registration.

Donor-mapping, whether executed by EU institutions, EU NGOs, or political foundations, such as the Heinrich Böll Stiftung, could help identify donors, individuals or organisations alike, which are already financed by the EU. Thereby, new sources of funding and possible partners for future applications could be identified. At the same time, more information on funding possibilities, especially when it comes to regional funds for collective projects, has to be provided. In that context, funds to individuals have to be examined more critically, as it was often observed that entire organisations could not continue their work after losing the key figure.

Moreover, the cooperation between EU-based NGOs and LGBTI organisations on the ground has to change, especially its modus operandi. EU-based NGOs should determine possibilities for fundraising on behalf of local organisations.

Taking into consideration the risk for organisations on the ground when the visibility of (financial) support is requested, for instance, when printing logos on publications, it is vital to ensure useful support. In many cases, this visibility fails to exert pressure on national governments, but is regarded by the latter as proof of a foreign agenda and interference.

6. The **provision of legal support** should not be underestimated. This can mean support during court cases, by showing presence at the hearings, or even diplomatic mobilisation. The latter should be, depending on the specific case and country, rather quiet, for instance via informal talks between government officials. Last but not least, access to specialists, i.e. lawyers, should be granted in cases where LGBTI individuals are prosecuted by the state.
7. Furthermore, it is crucial to **build capacity among government officials**, such as newly elected members of parliament in different African countries. In many cases, politicians do not have sufficient knowledge about UN or regional conventions, declarations, treaties, and so forth, already signed by their country. Providing information on the commitments that a specific country made, related to issues of sexual orientation and gender identity within the framework human rights protection, could train and educate politicians, or at least give them a foundation, to become active themselves against hate speech and discrimination.

8. The **investment in education, enlightenment and awareness-raising** should be self-evident, but this is, unfortunately, not always the case. Some countries' infrastructures, exploited by corrupt elites, are too weak to provide comprehensive education. In other countries, the curriculum is still oriented towards the syllabus once imposed by the colonial powers, teaching the alleged standard of heterosexuality and tabooing sexuality and gender issues in general. Moreover, religious institutions have great influence, taking on state tasks and preaching conservative beliefs on marriage and sexuality. Pressure must be exerted, especially on religious leaders. EU-based faith-based organisations working on the African continent have to be pushed to bear responsibility, as well as, to publicly take a firm stand for the promotion and protection of LGBTI human rights. They have to take action by pressuring cooperating partners on the ground to adopt pro-LGBTI agendas and monitoring their activities.

Challenging the narrative propagated by state officials and state controlled media could be achieved by providing means to establish a separate, self-governed media platform (local, regional or country specific). Additionally, research on African history and tradition has to be changed by investing in an African historiography that unveils and explores the existence of same-sex relationships long before colonisation. It would entail changing the historical narrative of sexual diversity as a product imported by colonial powers, to the acknowledgement of sexual diversity as an integral part of African tradition and cultural history. More research could also help the EU by providing more accurate terms and ways to address these issues around sexual orientation and gender identity, rather than imposing, once again, Western ideas and concepts, such as the terminology 'LGBTI'.

9. The EU member states have to be pressured to **facilitate migration and asylum procedures**. EU-based NGOs should urge the national governments within the EU to ease asylum requests of persons persecuted on grounds of their sexual orientation or gender identity and to increase quotas of migrants and asylum seekers.

## **FUTURE PROSPECTS**

When Uganda's president Museveni signed the 'Anti-Homosexuality Act' into law in February 2014, it was accompanied by the international and domestic outcry of human rights activists, but also by cheering crowds in favour of the tough legislation. In the summer of 2014, the Ugandan Constitutional Court declared the law illicit. Given the fact that the court's ruling referred to a procedural mistake, missing the required quorum of parliamentarians, it was only a small victory in the combat for decriminalisation. Colonial era laws criminalising LGBTI persons are still in place and LGBTI activists in Uganda fear that parliamentarians, such as David Bahati, will come up with a new bill and eventually succeed in passing a law.

The fight for the protection and respect of LGBTI people's human rights in Sub-Saharan Africa is ongoing and needed more than ever. Luckily, awareness of this problem has risen worldwide, including the EU. One will have to wait and see if EU institutions will actually successfully implement the guidelines on the African continent, and therefore, contribute to securing and enforcing the human rights of absolutely every human being. The recommendations listed above can help EU institutions achieve this goal by engaging in diplomacy with governments of the concerned countries, but most importantly, by supporting civil society organisations on the ground, as they are the experts on which strategies to apply and which tools to use in order to achieve their goal. African civil society organisations are professionalising more every day and pooling their strengths to achieve decriminalisation and equality. As the case of South Africa makes clear, decriminalising legislation will not be the end of this struggle—only the beginning. It is the task human rights advocates to face patriarchal, conservative, and corrupt structures within the society every day, in order to change the mindset of the entire populations.



## Overview abbreviations

AU	African Union
EEAS	European External Action Service
EFA	European Free Alliance (Part of the political group The Greens/EFA in the European Parliament)
EI	Education International
EP	European Parliament
EU	European Union
EU NGO	European Union (based) Non-Governmental Organisation
hbs	Heinrich Böll Stiftung
ILGA-Europe	International Lesbian, Gay, Bisexual, Trans and Intersex Association - Europe
LGBT	Lesbian Gay Bisexual Transsexual
LGBTI	Lesbian Gay Bisexual Transsexual Intersexual
LGBTIQ	Lesbian Gay Bisexual Transsexual Intersexual Queer
MEP	Member of the European Parliament
S&D	Socialists & Democrats (Political group of the European Parliament)
SOGI	Sexual Orientation and Gender Identity
UN	United Nations