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Stuck in immobility: LGBTQIA+ persons in Uganda caught in the intersectional impact of the Anti-Homosexuality Act

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LGBTQIA+ individuals in Uganda are affected by the intersectional impact of the Uganda Anti-Homosexuality Act. This contribution assesses how the Act affects mobility decisions of LGBTQIA+ persons in the country. Since internal flight is not an option, and seeking asylum in another country depends on visibility as an LGBTQIA+ individual, people use different strategies to avoid being stuck in immobility and actively navigate the restrictive environment in Uganda.

In May 2023, Uganda's President Museveni signed a very repressive **bill that criminalizes homosexuality**. As a result, members of the LGBTQIA+ community can be sentenced to life in prison. NGOs and associations who support members of the LGBTQIA+ community are also targeted by this law, since **it outlaws the "promotion of homosexuality"**. The 2023 Anti-Homosexuality Act stems from the 2014 Act which criminalized same-sex couples with life imprisonment but has been struck down by the constitutional court.

Consequently, members of the LGBTQIA+ community in Uganda endure severe discrimination and exclusion from both authorities and society at large. They face death threats, arrests, and sexual violence. Notable cases include **Monalisa's** situation, a transgender and queer person who was arrested in her apartment along with her flat mate as a result of her neighbors' complaint. Both were subjected to sexual harassment and inhuman and degrading medical exams. Other cases include the murders of prominent Ugandan LGBTQIA+ activists, like **David Kato** and **Brian Wasswa**. In February 2023 alone, **more than 110 members** of the LGBTQIA+ community reported instances of sexual violence, arrests, evictions and public humiliation to the advocacy group Sexual Minorities Uganda (**SMUG**). A government report **showed** that as of January 2023, 26 organizations were or had been under government investigation over involvement in LGBTQIA+ advocacy. Persecution and criminalization also affected SMUG, whose operations were **suspended** as of August 2022. Nonetheless, SMUG continued **to operate without a valid NGO permit**. However, in March 2024, the **Appeal Court in Uganda has upheld the government's refusal to register SMUG**, on the grounds that "LGBTQIA+ people are deemed criminals in the country."

The Intersectional Impact of the Anti-Homosexuality Act

The 2023 Anti-Homosexuality law impacts the diverse members of the LGBTQIA+ community differently. As stated by **Kimberlé Crenshaw**, different aspects of their identity make different people vulnerable due to multiple and intersecting forms of **discriminations**. Hence, within the LGBTQIA+ community in Uganda, each person experiences the effects in a unique way depending on their identity marker as lesbian, gay, bisexual, transgender and other. **According** to the Organization for Refuge, Asylum and Migration (ORAM), lesbians in Uganda tend to be more exposed to rape whereas gay men are at higher risk of homicide. Trans individuals face distinct forms of abuse and encounter barriers such as lack of access to justice, education, health and psychological care, employment, secure housing, and documentation issues, as a result of their particular vulnerability to the state violence against members of the LGBTQIA+ community. **A case in point** is Mukisa, a Ugandan trans man whose experiences are described in the following way:

“In 2021, (...) he was beaten, arrested and questioned over his sexuality and gender identity. Mukisa, who is yet to undergo sex reassignment surgery, reports being placed in a cell with male inmates, despite his pleas against it, where he was allegedly raped, encouraged by police authorities – a traumatising attack from which he says he contracted HIV”.

Moreover, **transitioning in Uganda presents significant challenges**, as few medical professionals are willing to support trans individuals through the process. Therefore, despite the existence of a **legal framework** enabling transition, **practical implementation** is hindered by pervasive homophobia. Additionally, bisexual individuals often contend with greater invisibility, experiencing double discrimination and stigmatisation from **both heterosexual and non-heterosexual people**. Intersex individuals face further discrimination due to institutional procedures that hinder access to proper medical treatment or the ability to change identity markers on official documents. As a result, specific identity markers in sexual orientation can provoke **distinct experiences of violence**, as evidenced by an intra-group intersectional perspective.

Impact of the law on mobility decisions: managing the visibility versus invisibility tension

These varied experiences lead to different agentic behaviours among LGBTQIA+ persons, which can range from attempting internal relocation (through so-called **Internal Flight Alternatives – IFA**) or applying for asylum in a third country.

IFA is defined as the possibility of having access to a safe area in the country of origin where a person can move to and find protection. As **Reinhard Marx** mentions, the notion of Internal Flight Alternative emerged from state practice and is perceived as a form of domestic protection. Thus, the concept of IFA entails that necessary protection should be available in a genuine and meaningful way without relying on international support. However, the Anti-Homosexuality Act applies throughout the entire country. It legitimizes persecution against LGBTQIA+ individuals in Uganda but also perpetuates **hate speech and violence targeting them**. This leaves LGBTQIA+ persons in Uganda extremely vulnerable, making it challenging for them to explore IFA due to the pervasive atmosphere of violence directed at them throughout the country.

Consequently, LGBTQIA+ individuals **cannot choose IFA** and move to another place inside the country for protection due to the grave life-threatening persecution existent in Uganda. They must explore other ways to ensure their safety, with one viable option being international protection sought through asking for asylum in another country.

However, this option is not without risks, notably the potential visibility as a member of the LGBTQIA+ community. For a claim to international protection to be successful, they must provide a credible story of their sexual orientation or gender identity. As noted by [Camminga](#) regarding the situation of LGBTQIA+ individuals in South Africa, members of the LGBTQIA+ community in Uganda grapple with a dilemma between “hiding and being visible”. They must delicately navigate a balance between asserting their internationally recognized rights and seeking acknowledgement at the national level, thus becoming visible. At the same time, they strive to evade social and legal oppression by remaining invisible.

In response to this dilemma, some LGBTQIA+ individuals may opt to enter into mixed-orientation relationships to ensure their safety while seeking asylum in third countries. A ground-breaking 2020 [legal case](#) in Canada illustrates this approach: AP, a gay man who was granted protection in Canada based on his sexual orientation, was married to AM, a straight woman. The Canadian Federal Court acknowledged that mixed-orientation couples fulfil the criteria and definition of a conjugal relationship and decided that AM was eligible for family reunification in Canada along with their child. This landmark decision is crucial for asylum-seekers’ claims on the grounds of their sexual orientation. This judgment acknowledges that persecutory environments necessitate a vast and diverse number of agentic behaviours, such as entering a marriage to ensure safety in the country of origin, on the part of asylum seekers. The judgment thus also paved the way for recognition of similar agentic behaviours involving mix-orientation couples applying for asylum.

Hence, considering Uganda’s national hostility and state-level anti-homosexuality laws, it is crucial for courts to acknowledge and recognize the choices made by members of LGBTQIA+ while planning their safe mobility routes outside the country. Therefore, this noteworthy and highly pertinent decision by the Canadian Federal Court underscores the importance of considering each individual’s decision to mitigate local, societal and national widespread violence. This involves navigating the invisibility vs. visibility tension by transcending the consequences of such a dilemma.

Conclusion

Acknowledging the pervasive state-persecution and violence endured by the LGBTQIA+ community in Uganda due to the Anti-Homosexuality Law (2023), it is essential to recognize the intersectional impact of this legislation on diverse LGBTQIA+ members. LGBTQIA+ individuals in Uganda experience the effects of the Ugandan Anti-Homosexuality Act differently. And yet, they are confronted with a common dilemma: IFA within Uganda is not an option, and seeking international protection in another country requires a level of visibility.

Given the extreme violence faced by LGBTQIA+ individuals in Uganda, resulting in the murder of several activists, this community is exceedingly vulnerable and unable to consider IFA. Consequently, LGBTQIA+ individuals in Uganda grapple with the dilemma of asserting their rights and becoming visible or evading social and legal oppression by remaining invisible.

This leads to complex decision-making processes in the Ugandan social landscape and explains LGBTQIA+ individuals’ choices, such as opting for invisibility through entering marriages and creating families with people of different sexual orientations to pass as ‘straight’ and reduce the risk of hostilities and violence, while simultaneously applying for asylum in another country based on their sexual orientation or gender identity. This viable mobility route constitutes one possible alternative to resist immobility and address the challenges arising from the Anti-Homosexuality Law.

