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Audrey L. Comstock

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Gay Rights and U.S. Foreign Aid: A Look at Nigeria and Uganda

Audrey L. Comstock

ABSTRACT

The LGBT community is explicitly targeted in many areas of the world through discriminatory state policies and practices including lengthy imprisonment and death. Research examining the relationship between foreign aid and human rights conditions has yet to fully situate gay rights within the aid allocation relationship. In 2011, President Obama issued a memo directing U.S. foreign aid policy to explicitly take gay rights levels into consideration in aid allocation. This article begins to explore the effect, if any, of the policy change. This article traces gay rights practices and U.S. foreign aid amounts from 2009-2014 in Uganda and Nigeria. The descriptive analysis sheds light on the relationship between gay rights and foreign aid during a time of foreign aid policy change. Through these two cases, I find that U.S. foreign aid increased slightly over time while violence and policies against the LGBT population worsened in Nigeria and Uganda. In conclusion, I call for future research to further explore the relationship between foreign aid, development, and gay rights.

INTRODUCTION

“The very first article of the Universal Declaration of Human Rights proclaims that, ‘All human beings are born free and equal in dignity and rights.’ All human beings – not some, not most, but all. No one gets to decide who is entitled to human rights and who is not.” (United Nations Secretary General Ban Ki-Moon, December 11 2012)

The international community increasingly recognizes gay rights as an intrinsic part of human rights. The above quote highlights the United Nations expansion of the definition of human rights to include all groups and all peoples. Some states actively oppose the inclusion of gay rights issues into the definition of human rights. Islamic majority states in particular maintain that human rights as a concept does not extend to sexual orientation and gender identity. Despite opposition of some states, the trend in global attitudes, policies, and rhetoric is towards the advancement of gay rights. The landmark 1994 *Toonen v. Australia* decision ruled the International Covenant on Civil and Political Rights applies to issues of sexual orientation discrimination and prompted Australia to expand its domestic laws towards the recognition of gay rights. The United Nations launched the Free & Equal Campaign focusing specifically on the promotion of gay rights globally. The U.S. made moves to expand its recognition of gay rights internationally as well.

The U.S. shifted from being silent through abstention during a 2008 United Nations General Assembly statement decriminalizing homosexuality to vocally supporting and promoting gay rights in 2011. In 2011, the U.S. sent a clear message in support of gay rights at the international stage. Both President Barack Obama and Secretary of State Hillary Clinton called for recognition of gay rights as human rights. In doing so, they called for the United States to use its position as global hegemon to promote gay rights around the world. To that end, President Obama directed that U.S. foreign aid be used to advance gay rights.

One way for a state to reward other states with good human rights records is to increase foreign aid. Academic research has analyzed whether human rights practices do, in fact, determine what

states receive U.S. foreign aid.¹ Findings have been weak in support of any such connection. Given the growing recognition of gay rights as human rights and the 2011 U.S. policy shift linking U.S. foreign aid to gay rights practices, the relationship between aid allocation and gay rights practices merits a closer look. In doing so, this article builds upon earlier research in international relations that focuses on foreign aid allocation by adding the new dimension of gay rights practices to the broader concept of human rights. This article centers on two related questions 1) Has foreign aid policy change resulted in changed foreign aid allocation? 2) Does the relationship between U.S. foreign aid and gay rights practices mirror that between foreign aid and human rights more broadly, or is there a new relationship that is unique to gay rights?

The article begins by briefly reviewing the existing literature on foreign aid and human rights. Next, I discuss U.S. positions on foreign aid and human rights over time highlighting the changes between the Ford, Carter, and Obama administrations, which culminated in the 2011 policy change linking gay rights with foreign aid. This is not an exhaustive discussion but provides a framework through which to compare changes in policy overtime. Next, I examine gay rights conditions before and after the 2011 policy change by looking specifically at the cases of Nigeria and Uganda. The result of these case studies reveals that gay rights conditions did not noticeably affect U.S. foreign aid amounts. In fact, foreign aid remained stable or actually increased in Nigeria and Uganda while conditions worsened for gay individuals. I conclude by situating the findings of this study in foreign aid and human rights scholarship more broadly and discussing future directions for research in the area of gay rights and foreign aid.

THE LITERATURE: DO HUMAN RIGHTS CONDITIONS DETERMINE AID AMOUNTS?

Within scholarly research, a debate exists about how effective foreign aid can be and what the relationship is between human rights and foreign aid is. While scholars find some support for a correlation between foreign aid and human rights, the direction, size, significance, and factors affecting said relationships varies greatly among studies and even within the same study. Some of the reasons that research continues to offer an unclear image of the relationship between rights and aid allocated has to do with time period, states examined, methods used, what specific types of rights are included (civil and political vs. physical integrity rights), and what kind of foreign aid is measured (military vs. economic vs. other types). This section highlights the varying arguments and findings for both of positions on the relationship between aid and human rights – that positive human rights conditions result in more foreign aid or that worse human rights conditions result in more foreign aid. For a more exhaustive discussion of literature on human rights and foreign aid see Apodaca and Stohl 1999.¹

A Positive Relationship: Good Human Rights can lead to More Foreign Aid

Prompted by the Carter Administration policy linking aid to human rights practices, there was a notable increase in scholarly research on U.S. foreign aid allocation in the 1980s. Early research was supportive of the role of human rights in determining aid allocation. These studies frequently argued, and found support for the argument that a state's human rights practices were a significant indicator for how much foreign aid the state would receive. Even studies that offer some support for this argument depict a complex story of how aid allocation works.

¹ e.g. Lebovic and Voeten 2009 and see Poe 1990 for a comprehensive review of earlier studies on human rights and US foreign aid.

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The gate-keeping model suggested that human rights conditions did not determine whether or not states received aid, but human rights conditions did influence the amount of aid received.ⁱⁱ The model only focused on the determinants of U.S. foreign aid allocated in fiscal year 1982 to Latin American states. Although critiqued, notably by McCormick and Mitchell, the Cingranelli and Pasquarello finding has been supported to some extent by later works.ⁱⁱⁱ Subsequent research expanded the analysis beyond the time of the 1980s and location of Latin America. For example, Trumbull and Wall found a positive relationship between human rights levels and aid allocation.^{iv} Neumayer found that states with better and improving human rights practices received more bilateral foreign aid.^v

There appears to be some consensus on the difference that comes in analyzing economic aid versus military aid. In examining allocation of economic aid during the Carter and Reagan administrations, Poe found that human rights conditions were important in U.S. aid allocation.^{vi} Apodaca and Stohl also concluded that human rights conditions mattered in determining the allocation of economic, but not military, aid, but that human rights are not the only or most important variable in explaining aid allocation.^{vii} Together, these studies suggest that human rights can, at times, determine some types of U.S. foreign aid allocation.

A Questionable Relationship: Worse Human Rights lead to More Foreign Aid

Despite the research discussed in the prior section, numerous studies support the argument that positive human rights do not result in increased foreign aid. These studies point to the finding that the U.S. sends more aid to states with worse human rights practices. Meernik, Kruger, and Poe found that states with the worst human rights conditions received more U.S. aid than states with better human rights conditions.^{viii} Neumayer echoes this finding when considering foreign aid beyond the United States.^{ix} While respect for civil and political rights is significant at the ‘aid eligibility stage’, at the allocation stage, most states allocate more aid to states with some of the worst rights conditions. From these findings, Neumayer concluded that states do not reward better rights practices with higher amounts of foreign aid.

The studies above highlight the finding that human rights were not the primary consideration or defining factor explaining levels of foreign aid allocation.^x Economic development was more important in determining aid allocation than human rights conditions.^{xi} Based on these studies, the premise that the U.S. gives more foreign aid to states with better human rights records appears questionable at best.

Given the wide range of findings in regards to the role of human rights records in the decision to allocate foreign aid in the above foreign aid studies, it is difficult to make a more definitive statement regarding connections between human rights and foreign aid other than better human rights can, at times, result in higher amounts of some forms of foreign aid. The studies varied in how they measured human rights using civil, political, and physical integrity rights indicators. None of the previous studies examining foreign aid explicitly considered gay rights when measuring human rights. In part, the exclusion of gay rights as an analyzed category of rights is because until recently, gay rights were not widely considered to fall under the broader definition of human rights. Additionally, there are no global data on gay rights conditions across the universe of states over a long time span.

Africa and Foreign Aid

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In view of the dearth of research, it is unclear where gay rights fit into the current debate about human rights conditions and aid allocation more broadly. In addition to the unclear relationship between human rights and foreign aid, foreign aid allocation itself has been criticized as being ineffective in promoting development. There is a contentious relationship between developing states, and African developing states in particular, and foreign aid. Critics cite growing corruption and general dependence on foreign aid as limiting the effectiveness and desirability of foreign aid. Perhaps one of the most public critiques of the detrimental effects of international aid on dependency in Africa was Dambisa Moyo's *Dead Aid*.^{xii} In the text, Moyo argues that the billions of dollars sent in the form of foreign aid has been poorly implemented and contributed to making the poor poorer, fueling corruption in Africa, and holding African states back from advancing in important areas such as literacy and public health (7). Academic research similarly is skeptical in the linkage between foreign aid and development. For example, Knack (2004) found no evidence linking aid levels and levels of democracy.^{xiii} Reliance on international aid without the need for public accountability can inhibit institutional development.^{xiv} However, there is a lack of complete consensus on the efficacy of foreign aid in developing states with some research pointing to benefits of aid in Africa. Goldsmith (2010) finds aid to produce a "minor net plus for African states' ability to govern well."^{xv} In some studies, foreign aid in Africa has been associated with improvements in democracy and economic liberalism.^{xvi}

HUMAN RIGHTS, GAY RIGHTS, AND U.S. FOREIGN AID: A BRIEF HISTORY

Do gay rights practices determine how the U.S. allocates foreign aid? As discussed in the previous section, prior literature does not offer conclusive results as to the relationship between rights and aid allocation. Historically, the U.S. included human rights as one aspect in allocating foreign aid. "U.S. foreign aid policy has developed around three primary rationales: national security, commercial interests, and humanitarian concerns."^{xvii} At certain periods, the U.S. has elevated the importance of human rights in foreign policy decision-making. This section highlights the policies connecting foreign assistance and human rights, focusing on the Ford, Carter, and Obama administrations.^{xviii}

The Foreign Assistance Act and the Ford Administration

The 1974 Foreign Assistance Act addressed the allocation of military or security foreign aid, updating the 1961 Foreign Assistance Act. The earlier Act restricted U.S. military aid and arms sent to any state "which engages in a consistent pattern of gross violations of internationally recognized human rights."^{xix} Section 502B of the Foreign Assistance Act, known as the Humphrey-Cranston Amendment, specifically connected aid allocation to human rights conditions. The 1975 Harkin Amendment (Section 116) added the stipulation that the U.S. could not allocate economic aid to governments committing gross human rights violations.^{xx} "Except under extraordinary circumstances no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."^{xxi} However, presidents have been able to cite 'extraordinary circumstances' to maneuver around the Act and "follow [their] political agenda with little or no concern for the human rights records of aid recipient countries."^{xxii}

President Ford vocalized his lack of support for the human rights requirements in the Foreign Assistance Act. "I regret the action of the Congress in cutting off the modest program of military assistance to Chile. Although I share the concern of the Congress for the protection of human rights and look forward to continuing consultation with the Chilean Government on this matter, I do not regard this measure as an effective means for promoting that interest."^{xxiii} Other members of the Ford

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Administration such as Secretary of State Henry Kissinger and Undersecretary of State for Security Assistance Carlyle Maw voiced their opposition as well. The latter testifying that no security-based assistance was based on a state's human rights practices.^{xxiv}

From these statements, it is clear that the 1974 Foreign Assistance Act and the Humphrey-Cranston Amendment neither reflected administration objectives, nor received presidential support. Presidents Nixon and Ford focused on security related issues such as the SALT I and II Treaties, the Oil Embargo, and the controversial and public Vietnam War in lieu of advancing human rights via foreign aid policy. When foreign aid was strategically used, it was used to combat the spread of communism, not to discourage bad human rights practices.

Human rights, even broadly considered, were not on the Ford and Nixon Administration foreign policy agendas. Cohen goes so far as to describe human rights policy during the Nixon and Ford Administrations "hostile administrations" that engaged in "executive sabotage of human rights initiatives."^{xxv} Gay rights, not generally accepted as part of human rights, did not enter into the public discussion. Recently released White House tapes revealed that President Nixon was in some ways progressive regarding gay rights, stating his belief that gay individuals are "born that way." However, the tapes also confirmed the President's unwillingness to include gay rights into public policy. "By God, I am not going to have a situation where we pass along a law indicating, 'Well, now, kids, just go out and be gay.' They can do it. Just leave them alone. That's a lifestyle I don't want to touch..."^{xxvi}

The Carter Administration

The Carter Administration made a conscious effort to re-center foreign policy on human rights. President Carter linked human rights to foreign policy in his inaugural speech in 1977, "Because we are free, we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights." The Carter Administration further articulated the connection between human rights and foreign policy in Presidential Directive 30 1978, which reads, "...Countries with a good or substantially improving record of human rights observances will be given special consideration in the allocation of U.S. foreign assistance, just as countries with a poor or deteriorating record will receive less favorable consideration."^{xxvii}

Human rights, for the Carter Administration, was a concept conceived broadly, but not broadly enough to include gay rights. During the time, the U.S. defined human rights through aspects of existing human rights law such as torture, political rights, and civil rights. Neither the U.S. domestic law nor the international human rights law explicitly addressed gay and lesbian rights as human rights. While the Carter Administration sought global human rights through speeches on the international stage such as the address before the United Nations General Assembly in 1977, the administration did not take action to include gay rights into politics either at the international or domestic level. The Carter Administration was described as having a "timidity" and "overall indifference" to gay issues.^{xxviii} Carter was quoted as discussing the inapplicability of gay rights to the Equal Rights Amendment (ERA):

The main obstacle to the ratification of the ERA in Illinois and in Georgia ... is the allegation that it is only supported by radical kinds of people. And the question of homosexuality and the question of abortion and religious beliefs and the sharing of restrooms and the destruction of families--these artificial arguments are put forward, and they can best be knocked down by a

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person who's known to be sound and committed and balanced and patriotic . . . religious leaders in Illinois . . . are the ones that can knock down these false allegations.^{xxix}

It is unclear whether the human rights foreign policy articulated by the Carter Administration achieved what it set out to do. Scholars have asked whether human rights levels played a determining role in aid allocation. Cingranelli and Pasquarello (1985) found that human rights levels did not determine whether or not a state received U.S. foreign aid, while Meernik, Krueger, and Poe (1998) found that states with worse human rights practices were more likely to receive U.S. foreign aid – contrary to what the Carter policy articulated. The research conducted during the time of the Carter administration points to human rights not determining U.S. foreign aid allocation. Stohl, Carleton, and Johnson found that U.S. policies on promoting human rights did not best explain foreign aid levels across the Nixon, Ford, and Carter Administrations.^{xxx}

The Obama Administration

In looking at the current U.S. administration, the Obama administration became the first to articulate support for gay rights, globally by linking gay rights practices to foreign aid and interpreting gay rights as human rights. This follows from a global linking of both rights groups by activists, NGOs, and law found in domestic and international arenas. In a December 2011 memorandum entitled “Presidential Memorandum -- International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons”, President Obama outlined the importance of gay rights and several ways for the United States to promote gay rights abroad. The memorandum listed five primary actions to improve gay rights 1) combat criminalization of LGBT status/conduct 2) protect LGBT refugees and asylum seekers 3) Foreign Assistance to Protect Human Rights and Nondiscrimination 4) Swift U.S. responses to LGBT rights abuses and 5) Engaging with International Organizations to end LGBT discrimination.^{xxxi}

The memorandum directed U.S. agencies to alter existing aid allocation policies, “By this memorandum I am directing all agencies engaged abroad to ensure that U.S. diplomacy and foreign assistance promote and protect the human rights of LGBT persons.” Media and rights groups interpreted the memorandum to mean that gay rights were to become a criterion for U.S. foreign assistance.^{xxxii} This statement sharply opposes the past foreign policy direction taken by the Bush Administration. The Bush Administration notably failed to support a non-binding United Nations General Assembly Declaration that called for the decriminalization of homosexuality, the only Western democracy not to voice support for the declaration.^{xxxiii} While the Bush Administration avoided a controversial stance on gay rights at the United Nations, the Obama administration directly addressed gay rights there.

Following this change in policy, Secretary of State Hillary Clinton spoke at the Human Rights Council and reiterated U.S. support for promoting gay rights globally, “Like being a woman, like being a racial, religious, tribal, or ethnic minority, being LGBT does not make you less human. And that is why gay rights are human rights, and human rights are gay rights.”^{xxxiv} The memo along with statements made by Secretary Clinton to the international community solidified the Obama Administration position on gay rights. This position dramatically differs from the previous Ford, Nixon, and Carter administrations discussed above.

The change in foreign policy position occurred in the context of domestic social movements supporting gay rights. While the Clinton and Bush administrations operated against a domestic

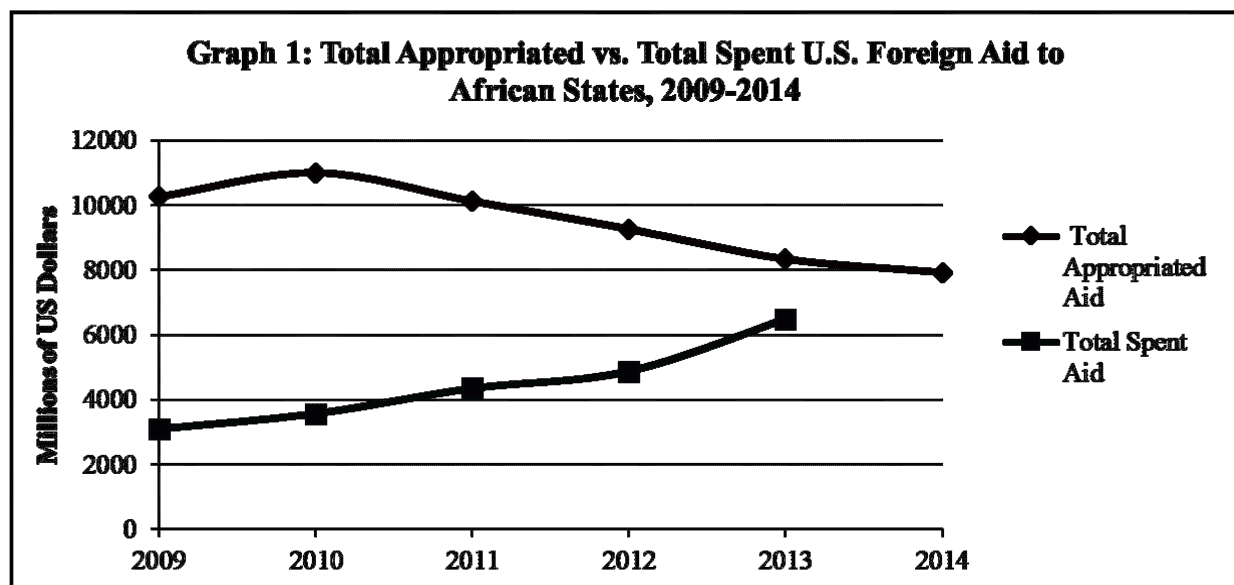
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backdrop of civil rights and anti-war movements, the gay rights movement strengthened as the Obama Administration entered the White House. When President George W. Bush left the White House in January 2009, 2 states preformed same-sex marriages, 8 states and the District of Columbus allowed civil unions/ domestic partnerships, and 29 states had constitutional bans on same-sex marriage.^{xxxv} By 2012, 6 states and the District of Columbus preformed same-sex marriages, 12 states allowed civil unions/domestic partnerships, and 30 states had constitutional bans on same-sex marriage. The changes in same-sex marriage recognition during this time demonstrate active social movements and the changing public opinion on gay rights.^{xxxvi} In 2010, President Obama signed the repeal of “Don’t ask, don’t tell”, allowing gay men and women to openly serve in the military. In 2012, President Obama became the first U.S. president to support same-sex marriage.

To my knowledge, no study has assessed whether or not U.S. foreign aid policy recognizing gay rights as part of human rights has changed allocation practices. In the next part of the paper, I analyze the relationship between gay rights and foreign aid allocation. Through descriptive analysis, I examine whether aid levels dropped when states had worse gay rights conditions, as expected from the articulated Obama policy.

CASE STUDY ANALYSES: NIGERIA AND UGANDA

This article focuses on the two cases of Nigeria and Uganda to explore the relationship between gay rights and U.S. foreign aid allocation. As a first look at the connection between gay rights and foreign aid levels, African states make the most sense to begin with. Practices in Africa largely motivated the U.S. foreign policy change to include gay rights as criteria for aid levels. Nigeria and Uganda offer interesting cases to examine. The bill in Uganda making some homosexual acts punishable by death prompted international condemnation and the United States to recognize gay rights as human rights. Roughly half of the 76 states identified by the United Nations Free & Equal Campaign with discriminatory laws criminalizing consensual, adult relationship are in Africa. Graph 1 depicts U.S. foreign aid allocated to all African States 2009-2014. In each case discussion, I compare the overall numbers with specific amounts allocated to Nigeria and Uganda.



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I build case studies on Nigeria and Uganda to explore the complex relationship between foreign aid and gay rights. In each case, I examine the amount of foreign aid the state received over time and its relevant laws regarding the LGBT population. I rely on information from human rights organizations and U.S. State Department annual country reports to discuss the reported gay rights conditions in each state. Although no source claims to account for all violations that occur in any given year in a state, public reports, and the U.S. State Department Reports in particular provide insight into what information the U.S. used in formulating assessments of gay rights levels in each state. These assessments then could be used to make foreign aid allocation level decisions for the following year. Focusing on these cases allows me to look past law as the only measure of gay rights recognitions and to look closer at the time prior to the 2011 Obama statement and after. Using the 2011 U.S. policy change as a focal point, I analyze gay rights conditions and foreign aid allocation leading up to and following the policy change.

NIGERIA

Background

Since gaining independence from British colonial rule in 1960, Nigeria progressed slowly from a state with noted election violence and political corruption to achieving its first peaceful transition of power between civilian leaders in 2007. Freedom House noted an improvement in human rights conditions during the 1990s, when many political prisoners were freed and the government-targeted corruption.^{xxxvii} Many non-governmental organizations operate in Nigeria along with radio stations and newspapers, allowing for “robust public debate.”^{xxxviii} Yet, there is noted need for improvement and expansion of these rights. In 2015, the Committee to Protect Journalists urged protection of journalists in Nigeria and cited instances in 2014 when federal troops seized newspapers and disrupted journalists.^{xxxix} Nigeria signaled support for international human rights through the ratification of United Nations treaties against torture and racial discrimination along with treaties recognizing civil and political rights, women’s rights, children’s rights, and migrant rights.^{xl}

Despite some progress in human rights conditions and continued commitment to rights via international legal commitments, Nigeria remains marred by human rights violations and poor health conditions. A noted success was Nigeria’s 2009 amnesty program allowing for the exchanges of weapons for amnesty and cash stipends. Over 20,000 individuals surrendered weapons and attacks in the oil rich Niger Delta have declined as a result.^{xli}

In the early to mid-2000’s Nigeria experienced a polio epidemic.^{xlii} Violence and kidnappings continued through the mid 2000’s.^{xliii} Religious discrimination is widespread.^{xliv} Petroleum dependence continues to cause political and human rights problems. “Ethnic minorities in the Niger Delta feel particularly discriminated against, primarily with regard to distribution of the country’s oil wealth. Several militia groups, some based on ethnicity, operate in the Delta region and frequently target oil workers for kidnapping and extortion.”^{xlv} The international community is skeptical about Nigeria’s commitment to human rights given the recent reports of torture and violence, in clear violation of the treaties it has ratified.^{xlvi}

Gay Rights Practices Pre-2011

In the years leading up to the 2011 U.S. foreign aid policy change, Nigeria discriminated against and violates the rights of the LGBT population. Through laws and public attitudes, Nigeria embodied an environment of hate directed towards the LGBT community. The hostile laws and attitudes to the LGBT community drew criticism from domestic and international rights groups.

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The government and citizens perpetuated rights violations following the end of military rule in Nigeria and adopted Sharia Law in 1999. While Nigeria's criminal and penal codes establish the punishment of up to 14 years imprisonment for those found guilty of consensual homosexual conduct, harsher punishments have been established by Sharia law adopted in northern Nigerian states. In northern Nigeria, sodomy is punishable by death by stoning.^{xlvi} The application of Sharia Law in Nigeria to homosexuality follows a trend found in other Muslim-majority states. Rehman and Polymenopoulou (2013) point to states with Muslim-majorities as utilizing the "most brutal punishments."^{xlvi} However, religion alone cannot explain anti-gay positions and violence in Nigeria. Hostility and violence extends throughout Nigeria, not just in the northern Islamic states. In 2008, members of a LGBT-friendly church were stoned and beaten in Lagos, the most populated city in Nigeria. According to a U.S. State Department report, Nigerian authorities took no actions to prosecute the perpetrators. "The attacks occurred after four newspapers published photographs, names, and addresses of church members."^{xlx}

Since 2006, a version of the Same Sex Marriage Ban has appeared before the Nigerian legislature. A variation of the bill appeared before the National Assembly in 2006, but never went to a vote. "This version was introduced in 2008 and went through two readings but was quietly dropped in the face of civil society protest in Nigeria supported by an international outcry. It was re-introduced in 2011."^l Human Rights Watch and Amnesty International in particular contributed to an international condemnation of the law.^{li} Human Rights Watch wrote a strongly worded letter to the President of Nigeria in opposition of the law writing that it would "gravely" restrict the rights of Nigerians and place individuals at risk of "coercion, blackmail, police investigation, arrest, and prosecution."^{lii} The Sex Marriage Ban considered in 2011, for the third time in five years.^{liii} Despite international pressure, the domestic movement against gay rights continued to promote anti-gay legislation.

Gay Rights Practices 2011 and After

Nigerian officials made no effort to improve gay rights despite threats from the U.S. and other states to cut off aid. Instead, the parliament passed the Same Sex Marriage Ban in 2011 and President Jonathan signed the Ban into law in 2014. The Ban prohibits "participating in or witnessing same-sex marriage ceremonies, criminalize public displays of affection between same-sex couples, and criminalize LGBT organizations."^{liv} Due to the harsh penalties and widespread reach of the Ban, it has been dubbed the "Jail the Gays" law by activists in Nigeria.

In 2013, Same Sex Marriage (Prohibition) Bill passed in the Nigerian Senate. Building on prior versions of the law, the Bill made it a criminal action if an individual "supports the registration, operation, and sustenance of gay clubs, societies, organizations, processions, or meetings" or "registers, operates, or participates in gay clubs, societies, organizations, or directly or indirectly makes public show of same sex amorous relationship" commits an offense punishable by 10 years' imprisonment.^{lv} The international community widely criticized the passage of the bill with the United Kingdom and United States taking strong positions against it. U.S. Secretary of State John Kerry stated that the bill "dangerously restricts freedom(s)."^{lvi} In 2014, President Goodluck Jonathan signed the Same-Sex Marriage (Prohibition) Bill into law. Policymakers made only minor changes to the previous versions and continued restrictions on public displays of affection between same-sex couples, the work of NGOs and other organizations that help gay individuals through health provisions and/or activism^{lvii} and continued the threat of lengthy prison terms based only on a person's sexual orientation.^{lviii}

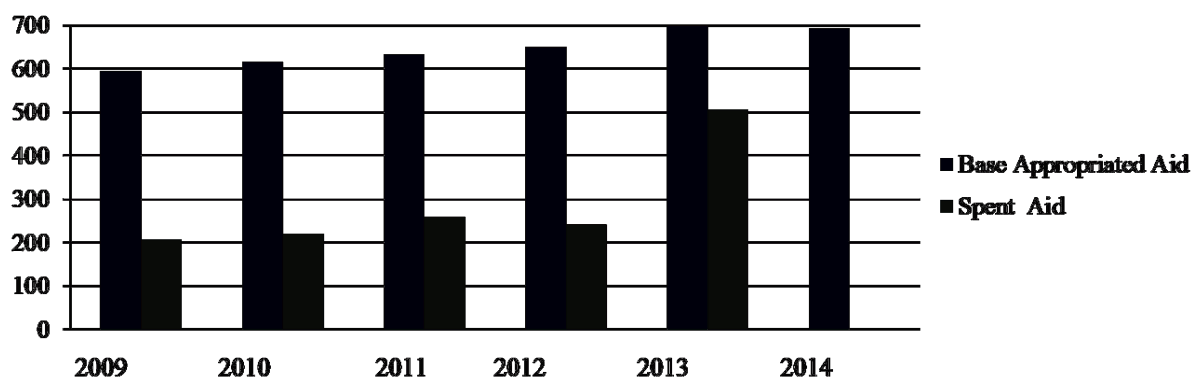
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As the legislative discrimination continued in Nigeria, so did violence and other discrimination against the LGBT population. Introduction and discussion of the hostile legislation has led to an increase in violence. “LGBT activists claimed an increased level of hostility towards those accused of same-sex activities since the bill’s introduction.”^{lix} Dorothy Aken’Ova was quoted by the BBC as saying, “Hostility towards gay people has escalated since parliament debated the Same-Sex Marriage Prohibition Act last year.”^{lx} Not only are the laws harmful to the LGBT population, but the media attention and public discourse surrounding their movement through legislative processes has increased the hostility towards LGBT people.

In 2013, there were reports of individuals suspected of engaging in same-sex activities were harassed and assaulted by mobs.^{lxi} Negative stigmas against people with HIV/AIDS contributed to widespread discrimination, often resulting in job loss and denial of health services. “The public considered the disease a result of immoral behavior and a punishment for homosexual activity,”^{lxii}

Conclusion

Graph 2: U.S. Foreign Aid Appropriated and Spent on Nigeria 2009-2014



In response to the threat of less aid, Jibrin Danlami Hassan, the commissioner of Bauchi state’s Sharia commission, is quoted as saying that he was “happy that Mr. Jonathan (the Nigerian President) had signed it (Same-Sex Marriage Prohibition Act) into law, despite threats by Western powers to cut aid to Nigeria. The threat they are doing cannot make us change our religion.”^{lxiii} Despite threats to cut off aid if gay rights were not recognized, Nigeria continued to pursue the Same Sex Marriage Ban, which criminalizes many actions beyond marriage, making it nearly impossible for the LGBT population to come out and feel safe. What we see in Graph 2 is that the U.S. threat of decreased aid was a hollow one. Despite increased hostility towards the LGBT population through legislation and physical violence, the United States did not cut off foreign aid. In fact, we observe some increase in both Spent and Allocated aid. From this it is difficult to ascertain whether cutting off aid would prompt Nigeria, or other similar states, to improve respect for gay rights. We can conclude, however, that the U.S. did not follow through with its 2011 policy to link foreign aid to gay rights practices. In Nigeria, whether aid stayed the same or increased conditions for the LGBT population worsened.

UGANDA

Background

101, boulevard Raspail, 75006 Paris – France Tel: +33(0)1 47 20 00 94 – Fax: +33 (0)1 47 20 81 89 Website: www.ags.edu (Please cite this paper as the following: Audrey Comstock (2016). Gay Rights and U.S. Foreign Aid: A Look at Nigeria and Uganda. *The Journal of International Relations, Peace and Development Studies*. Volume 2. Available from: <http://scholarworks.arcadia.edu/agsjournal/vol2/iss1/2>)

Since Uganda gained independence from Britain in 1962, it has been led by brutal authoritarian heads of state until approximately 1986, when Idi Amin and Milton Obote fought for control of the state. During this power struggle in Uganda, hundreds of thousands of people were killed, those in opposition to the government were tortured and killed, and little freedom existed.^{lxiv} Yoweri Museveni seized power in 1986 through a military coup and has since stayed in power via presidential elections, whose legitimacy has been widely called into question.^{lxv} Since independence, political competition and free elections have been restricted. Human Rights Watch summarizes Ugandan politics since Museveni claimed power as, "After 26 years of President Yoweri Museveni's rule, increasing threats to freedom of expression, assembly, and association raise serious concerns about Uganda's respect for the rule of law. The security forces continue to enjoy impunity for torture, extrajudicial killings, and the deaths of at least 49 people during protests in 2009 and 2011."^{lxvi}

At the international level, Uganda ratified United Nations treaties covering torture, civil and political rights, discrimination against women, racial discrimination, economic and cultural rights, migrant rights, and the rights of the child.^{lxvii} To a certain extent, this legal commitment signals support for human rights, and small progress is visible in some areas. Freedom House notes that religious freedom is protected in the Ugandan constitution and that there is some freedom of the press, with numerous news outlets operating in the country.^{lxviii} However, the Ugandan government often harasses and bring charges against those journalists who its practices.^{lxix} The ban on political parties was lifted in 2005, and although women are discriminated against, a national law mandates women fill a percentage of the parliamentary seats.

Gay Rights Practices Pre-2011

As discussed above, Uganda governments have fostered a hostile environment with respect to human rights since independence. In recent years, the government has focused on repressing gay rights, in particular. Despite some freedoms, Freedom House describes Uganda as on a "downward trend" due to "increased restriction and harassment of the opposition and a systematic campaign to obstruct and shut down civic groups that engage the government on sensitive issues such as gay rights, corruption, term limits, and land rights."^{lxx} In 2006, Uganda passed the NGO Registration Amendment Act, which has been described as a "burdensome registration" for NGOs, since it inhibits mobilization around rights issues, making it more difficult for LGBT organizations to promote gay rights.

According to 2010 UNAIDS estimates, between 6-7% of Nigerians are living with HIV/AIDS.^{lxxi} Despite these high numbers of HIV positive people in Uganda, the government continues to pass anti-gay legislation that inhibits medical treatment. In 2009, Uganda passed the Anti-Homosexuality Bill, which makes same sex acts punishable by death and increases punishments for not reporting violations. The targeting of 'witnesses' to same sex acts threatening health workers treating HIV/AIDS and LGBT advocates if they do not turn in patients. In addition to the Anti-Homosexuality Bill, Uganda passed the HIV/AIDS Prevention and Control Act in 2010. "The bill contains measures that have been proven ineffective against the AIDS epidemic and that violate the rights of people living with HIV," said Joe Amon, Health and Human Rights director at Human Rights Watch. "The HIV epidemic in Uganda is getting worse, and this bill is another example of misguided, ideological approaches and lack of leadership."^{lxxii}

Not all anti-gay sentiments in Uganda come from within. A notable anti-gay external influence is the American Scot Lively, who first visited Uganda in 2002, supported Uganda's harsh penalties for homosexuality and "is said to have inspired the country's controversial "Kill the Gays" bill."^{lxxiii}

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Lively and members of his group have held workshops on how to convert gay people and labeled the LGBT population as “an evil institution.”^{lxxiv} Based on his activism against the LGBT community in Uganda, the Ugandan rights group Sexual Minorities Uganda (SMUG) has sued Lively for crimes against humanity.^{lxxv}

Gay Rights Practices Post-2011

In 2011 the Ugandan anti-gay supporters killed prominent human rights/LGBT rights activist David Kato. Shortly following a Ugandan newspaper’s publication of photographs of Kato and other known gay individuals, Kato was beaten to death. While the Ugandan government denied responsibility for the attack, local rights groups offered a different explanation. “David’s death is a result of the hatred planted in Uganda by U.S. evangelicals in 2009. The Ugandan government and the so-called U.S. evangelicals must take responsibility for David’s blood.”^{lxxvi}

Later in the year, the Ugandan Parliament’s Legal and Parliamentary Affairs Committee recommended passage of the Anti-Homosexuality Bill, which called for harsh penalties for homosexual acts including a 14-year prison term for first time offenders.^{lxxvii} In 2012, the bill was returned to the National Assembly.

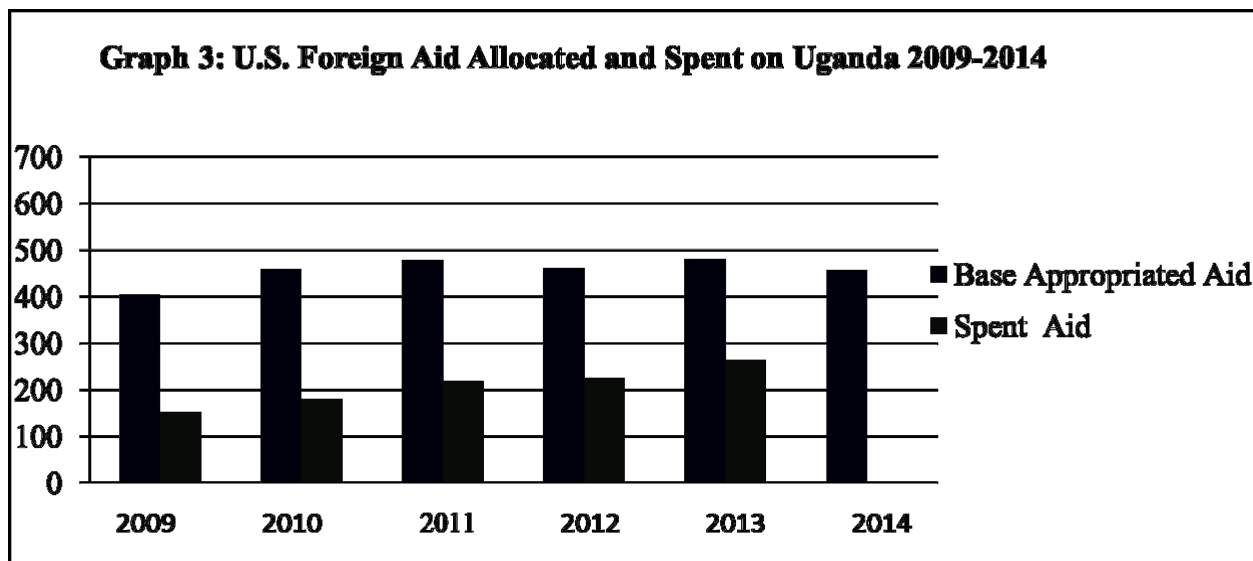
Following from previous hostile legislation, Uganda increased its level of NGO scrutiny. While many NGOs promoting issues outside of LGBT rights operated freely, LGBT groups confronted opposition from within the Ugandan government. Notably, the Ministry for Ethics and Integrity ordered a rain on a LGBT workshop in Entebbe.^{lxxviii} The Ugandan NGO Board, prevented LGBT groups from registering as NGOs,^{lxxix} which made it more difficult for LGBT groups to meet and organize.

In 2014, President Museveni signed the Anti-Homosexuality bill into law, which both reinforced and expanded upon existing anti-gay policy. For the first time, Ugandan law explicitly targets lesbians, not just gay men.^{lxxx} This is a crucial point, since colonial-era laws in African states criminalized same sex male, but not female relationships. Thus, the explicit criminalization of lesbian actions/relationships demonstrates that anti-LGBT discrimination is not a mere colonial relic. The new laws represent current day discrimination. In its 2013 report, the United States Department of State identified violence the LGBT community as one of the “three most serious human rights problems in the country.”^{lxxxi}

Also In 2014, Uganda attempted to thwart a United Nations Human Rights Council resolution against anti-LGBT violence and discrimination. However, the Council rejected the proposed amendments submitted by Uganda and six other countries that would have stripped the resolution of its provisions protecting LGBT populations against violence and discrimination undermining the very purpose of the pro-rights resolution. The resolution passed with a vote of 25-14.

Conclusion

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Since President Obama's 2011 directive, President Obama and Secretary of State Kerry have both specifically vocalized their disappointment in Uganda's anti-gay laws, but foreign aid has continued to Uganda unabated. The above discussion makes it clear that Uganda continued its discriminatory laws in the post-2011 time period and even expanded anti-LGBT practices both domestically through laws, policies, and intimidation and internationally through its votes and actions at the United Nations. This relationship is demonstrated in Graph 3, which shows that while Uganda continued to violate gay rights, the United States continued to send foreign aid. Base Appropriated Aid levels remain largely unchanged while spent aid actually increased during the 2009-2014 period.

DISCUSSION AND CONCLUSIONS

Findings from case studies exploring Nigerian and Ugandan gay rights practices before and after the 2011 Obama statement explicitly calling for gay rights recognition as a prerequisite for U.S. foreign aid offer bleak conclusions. Foreign aid levels largely remained the same during this time while gay rights practices generally worsened. However, these findings are not necessarily surprising in light of existing scholarship on human rights and U.S. foreign aid. The previous studies find mixed results, with recent studies finding either no linkage or a negative relationship meaning that states with worse rights practices were more likely to receive U.S. foreign aid.

This article contributes to scholarship on foreign aid, human rights, and gay rights in several ways. Primarily, the results documenting the relationship between gay rights levels and foreign aid help us to situate how the U.S. considers gay rights in terms of foreign policy. The results suggest that the U.S. treats gay rights similarly as it has treated human rights more broadly. Presidents and other public officials find the need to vocalize the importance of both sets of rights and to condemn other states for gross violations. However, it is clear that the U.S. values other factors above gay rights, or human rights more broadly, in conducting foreign policy. In the case of this paper, I find that the U.S. did not value gay rights as a defining factor in allocating foreign aid. Over time when conditions for gay individuals worsened, foreign aid often increased.

Secondly, as the first paper to examine gay rights and foreign aid, this article contributed an important first step in analyzing gay rights in a foreign policy context. More work is needed to fully examine 1) the determinants of gay rights conditions in Africa and globally. This paper only touched

on one measure change in gay rights might occur: through bilateral U.S. foreign aid. 2) To expand the analysis of the relationship between bilateral foreign aid and gay rights and rights-based policy objectives. As a regionally and temporally limited study, this paper depicts only one small piece of the puzzle of the relationship between these two variables.

From this study, the evidence lends support for to the existing arguments that aid allocation has little to no correlation with human rights practices. I find that in the cases of Nigeria and Uganda, aid levels did not significantly change. We see a lack of implementation of the policy introduced in President Obama's 2011 statement calling for gay rights practices to inform U.S. foreign aid decisions. Part of the difficulty in assessing the relationship between U.S. foreign aid and human rights in the past has been the seeming disconnect between presidential rhetoric on human rights and actual foreign aid allocation. In examining gay rights, we find a similar difficulty in assessing policy. On the one hand, the U.S. made great advances in vocalizing its support for gay rights. On the other hand, there is little evidence to document the U.S. pro-gay rights policy implementation.

Audrey Comstock is a PhD Candidate in the Government Department at Cornell University where she researches international law and human rights.

ⁱ Apodaca, C. and Stohl, M., 1999. United States human rights policy and foreign assistance. *International Studies Quarterly*, 43(1), pp.185-198.

ⁱⁱ Cigranelli, David L. and Thomas E. Pasquarello. 1985. "Human Rights Practices and the Distribution of U.S. Foreign Aid to Latin American Countries" *American Journal of Political Science* 29 (3): 539-63.

ⁱⁱⁱ McCormick and Mitchellⁱⁱⁱ (1988),

^{iv} Trumbull, William N. and Howard J. Wall. 1994. "Estimating Aid-allocation Criteria with Panel Data" *Economic Journal* 104:876-82.

^v Neumayer (2003b)

^{vi} Poe (1992)

^{vii} Apodaca, Clair. 2005. U.S. Human Rights Policy and Foreign Assistance: A Short History. *Ritsumeikan International Affairs* 3:63-80.

^{viii} Meernik, Kruger, and Poe (1998)

^{ix} Neumayer, Eric. 2003a. 'Is Respect for Human Rights Rewarded? An Analysis of Total Bilateral and Multilateral Aid Flows' *Human Rights Quarterly* 25:510-27

^x (e.g. Apodaca and Stohl 1999).

^{xi} Demirel-Pegg, Tijen and James Moskowitz. 2009. US Aid Allocation: The Nexus of Human Rights, Democracy, and Development. *Journal of Peace Research* 46(2): 181-98. Poe and Meernik (1995)

^{xiii} Moyo, Dambisa. 2010. *Dead Aid: Why Aid is Not Working and How There is a Better Way for Africa*. Farrar, Straus and Giroux New York

^{xiii} Knack, S., 2004. Does foreign aid promote democracy? *International Studies Quarterly*, 48(1), pp.251-266.

^{xiv} Moss, Todd, Gunilla Pettersson, and Nicholas van de Walle. 2007. An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa" in William Easterly (ed) *Reinventing Foreign Aid*. MIT Press.

^{xv} Goldsmith, A.A., 2001. Foreign aid and statehood in Africa. *International organization*, 55(01), pp.124.

^{xvi} *ibid* pg 144.

^{xvii} Tarnoff, Curt and Marian Leonardo Lawson. 2001. *Foreign Aid: An Introduction to U.S. Programs and Policy*. Congressional Research Service, United States Congress.

^{xviii} It is important to note than many other administrations did provide foreign aid to improve human rights, however the Carter and Obama administrations notably attach human rights conditions as a prerequisite for aid allocation. Please see Apodaca 2005 for a more detailed discussion of human rights foreign aid policy by presidential administration.

^{xix} Section 502B United States Foreign Assistance Act 1961

^{xx} Foreign Assistance Act Section 116

^{xxi} Foreign Assistance Act 502B

^{xxii} Apodaca, Clair. 2005. U.S. Human Rights Policy and Foreign Assistance: A Short History.

Ritsumeikan International Affairs 3:63-80.

^{xxiii} Gerald R. Ford: "Statement on Signing the Foreign Assistance Act of 1974.," December 30, 1974. Online by Gerhard Peters and John T. Woolley, *The American Presidency Project*. <http://www.presidency.ucsb.edu/ws/?pid=4660>.

^{xxiv} Apodca, Clair. 2013. Understanding U.S. Human Rights Policy: A Paradoxical Legacy. Routledge.

^{xxv} Cohen, Stephen B. 1982. Conditioning U.S. Security Assistance on Human Rights Practices American Journal of International Law 76(2): 246-79. And (1979, 225

^{xxvi} As quoted in the Huffington Post article "Richard Nixon Argues Gays Are 'Born That Way' In Newly-Released White House Tapes" by Curtis M. Wong retrieved at http://www.huffingtonpost.com/2014/07/11/richard-nixon-gay-rights-n_5578277.html

^{xxvii} Presidential Directive NSC- 30. 4. February 17, 1978.

^{xxviii} Frank, Walter. 2014. Law and the Gay Rights Story: The Long Search for Equal Justice in a Divided Democracy. Rutgers University Press.

^{xxix} Equal Rights Amendment Remarks at White House Briefing (APP) May 15, 1980

http://www.ontheissues.org/Archive/American_Presidency_Jimmy_Carter.htm

^{xxx} Stohl, M., Carleton, D. and Johnson, S.E., 1984. Human rights and US foreign assistance from Nixon to Carter. Journal of Peace Research, 21(3), pp.215-226.

^{xxxi} Presidential Memorandum December 6, 2011 "International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons" found at <http://www.whitehouse.gov/the-press-office/2011/12/06/presidential-memorandum-international-initiatives-advance-human-rights-l>

^{xxxii} See for example <http://www.theguardian.com/world/2011/dec/07/gay-rights-us-aid-criteria>

^{xxxiii} <http://www.nytimes.com/2008/12/19/world/19nations.html>

^{xxxiv} <http://www.state.gov/secretary/rm/2011/12/178368.htm>

^{xxxv} <http://www.bostonglobe.com/2013/06/26/same-sex-marriage-over-time/mbVFMQPyxZCpM2eSQMUzK/story.html>

^{xxxvi} See Fleischmann and Moyer 2009 for a discussion of social movement activity around same-sex marriage in the United States. Fleischmann, Arnold, and Laura Moyer. "Competing Social Movements and Local Political Culture: Voting on Ballot Propositions to Ban Same-Sex Marriage in the US States." Social Science Quarterly 90, no. 1 (2009): 134-149.

^{xxxvii} <http://www.freedomhouse.org/report/freedom-world/1999/nigeria#.Uz3KFai0m8>

^{xxxviii} World Report 2014: Nigeria. Human Rights Watch. Retrieved from <https://www.hrw.org/world-report/2014/country-chapters/nigeria>

^{xxxix} Nkanga, Peter. 2015. Nigeria Targets Independent Newspapers. Committee to Protect Journalists report. Retrieved at <https://cpj.org/blog/2014/06/nigeria-targets-independent-newspapers.php>.

^{xl} See the United Nations Human Rights Office of the High Commissioner for Human Rights Nigeria webpage for up to date status of treaty ratifications.

http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN

^{xli} World Report 2014: Nigeria. Human Rights Watch. Retrieved from <https://www.hrw.org/world-report/2014/country-chapters/nigeria>

^{xlii} http://www.nytimes.com/2013/05/28/health/polio-reappears-in-the-horn-of-africa.html?_r=0

^{xliii} <http://www.freedomhouse.org/report/freedom-world/2008/nigeria#.Uz3Kjqla0m8>

^{xliv} Ibid.

^{xlv} Ibid.

^{xlvi} Nigeria uses torture officers to extract confessions. 18 September 2014 <http://www.bbc.com/news/world-africa-29254500>

^{xlvii} <https://www.hrw.org/news/2011/11/01/nigeria-same-gender-marriage-ban-would-attack-rights>

^{xlviii} Rehman, Javaid and Eleni Polymenopoulou. 2013. Is Green a Part of the Rainbow? Sharia, Homosexuality and LGBT Rights in the Muslim World. *Fordham International Law Journal* 37(1): 1- 52.

^{xlix} <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm#wrapper>

ⁱ Ibid

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^{lii} <https://www.hrw.org/news/2009/01/23/letter-nigerian-president-yaradua-regarding-same-gender-marriage-bill>

^{liii} <https://www.hrw.org/news/2011/11/01/nigeria-same-gender-marriage-ban-would-attack-rights>

^{liv} <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm#wrapper>

^{lv} <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

- ^{lvi} Nigeria Passes Law Banning Homosexuality. The Telegraph. 14 January 2014.
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- ^{lvii} <https://www.hrw.org/news/2014/01/14/nigeria-anti-lgbt-law-threatens-basic-rights>
- ^{lviii} Ibid.
- ^{lix} Ibid.
- ^{lx} <http://www.bbc.com/news/world-africa-25749308>
- ^{lxi} <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>
- ^{lxii} The public considered the disease a result of immoral behavior and a punishment for homosexual activity - See more at:
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>
- ^{lxiii} As quoted by the BBC <http://www.bbc.com/news/world-africa-25749308>
- ^{lxiv} <http://www.freedomhouse.org/report/freedom-world/1999/uganda#.U0mCp6Ia0m8>
- ^{lxv} <http://www.freedomhouse.org/report/freedom-world/2007/uganda#.U0mFqKIa0m8>
- ^{lxvi} <http://www.hrw.org/world-report/2013/country-chapters/uganda>
- ^{lxvii} http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN
- ^{lxviii} <http://www.freedomhouse.org/report/freedom-world/1999/uganda#.U0mCp6Ia0m8>
- ^{lxix} See for example the charges brought against James Tumusiime of the Weekly Observer
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- ^{lxxii} <http://www.hrw.org/news/2010/05/13/uganda-protect-don-t-punish-people-hiv>
- ^{lxxiii} http://www.huffingtonpost.com/2014/03/19/gay-revolution-scott-lively-_n_4988537.html
- ^{lxxiv} http://www.nytimes.com/2011/01/28/world/africa/28uganda.html?_r=0
- ^{lxxv} See SMUG's webpage on the case <http://ccrjustice.org/ourcases/current-cases/sexual-minorities-uganda-v.-lively>
- ^{lxxvi} Val Kalende as quoted by the New York Times on January 27, 2011
- ^{lxxvii} http://www.washingtonpost.com/world/africa/ugandan-leader-signs-harsh-anti-gay-bill-despite-warning-from-obama-administration/2014/02/24/88486066-9d63-11e3-878c-65222df220eb_story.html
- ^{lxxviii} Freedom House 2013 report and <http://www.hrw.org/news/2012/02/16/uganda-minister-shuts-down-rights-workshop>
- ^{lxxix} <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>
- ^{lxxx} http://www.washingtonpost.com/world/africa/ugandan-leader-signs-harsh-anti-gay-bill-despite-warning-from-obama-administration/2014/02/24/88486066-9d63-11e3-878c-65222df220eb_story.html
- ^{lxxxi} <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>