

# Universality versus Cultural relativism in International Human Rights: A Case Study of the Anti-Homosexuality Act of Uganda 2023

Godswill Owoche Antai

Kampala International University, Kampala, Uganda.  
Correspondence: [godswill.antai@kiu.ac.ug](mailto:godswill.antai@kiu.ac.ug); +256 (0) 741217856

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## ABSTRACT

This research examines the frequent conflict that has emerged between the universal human rights standard and the indigenous cultural practices with special attention paid to the Anti-Homosexuality Act of Uganda of 2023. The Act criminalized same-sex relationships, an act that is in violation of universal human rights principles and showed a probable conflict between international norms and local cultural values. This review unravels how the Anti-Homosexuality Act of Uganda fits with or goes against international human rights commitments and further to determine more general implications of balancing universal principles against cultural relativism. The doctrinal approach adopted in this study includes a review of relevant international treaties, Uganda's legislation and academic literature. The findings reveal that the Act, to an extent, undermines universal principles of human rights through the violation of rights to privacy, dignity, and equality. Such tug of war will require a lot of inclusive dialogue with the local communities and advocacy for protection of human rights which respects the cultural context. In addition, international organizations should support capacity building and facilitate debates that improve tolerance and respect for human rights. The work will engender a debate in reconciling universal human rights and cultural diversity, as well as emerging lessons for more effective and sensitive strategies in international human rights advocacy.

Keywords: Universality, Cultural relativism, Human Rights and Homosexuality

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## INTRODUCTION

Among the deepest and most enduring criticisms leveled against international human rights has been the tension between universality and cultural relativism. This is against the background that universality is the very premise in which international human rights frameworks is predicated on as human rights is inherent and applies across board to all human beings [1]. Cultural relativism, on the other hand, places extreme regard for cultural contexts and traditions in understanding and appointing rights, indicating that human rights should be understood according to local cultural and societal norms [2]. This dualism perhaps best comes to life in cases when the provisions of national legislation and or cultural practice contravene international human rights standards. One such example is the Anti-Homosexuality Act of 2023 by Uganda, which attracts debate at both local and

international levels. The Act criminalizes homosexuality and further prescribes very stiff penalties for any person or persons convicted of having engaged in same-sex relationships or promoting the rights of Lesbian [3], Gay, Bisexual and Transgender (LGBT), which is a product of cultural and religious justifications. The Anti-Homosexuality Act is enacted regardless of the raising question of compatibility with international principles of human rights. Through the Act, basic rights to privacy, dignity, and nondiscrimination are denied, hence undermining the universality of human rights as enshrined in international treaties between different states in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). On the contrary, it signifies a strong adherence to cultural relativism, which illustrates just how local

traditions, religious beliefs, and societal values in some part shape and sometimes conflict with global human rights norms [4]. The study aims at analyzing the Anti-Homosexuality Act of Uganda through the lenses of universality and cultural relativism. It henceforth seeks to interrogate how far this legislation either complies with or contradicts Uganda's international human rights commitments, while carefully analyzing the broader implications that it will portend for both national and international human rights discourse. In addition to the use of historical development and key provisions of the Act, the cultural and societal context within Uganda, and the international reactions and domestic reactions, the paper sets out an intricate analysis of the

### **Brief history of Uganda's Anti-Homosexuality Act of 2023**

The Anti-Homosexuality Act of 2023 is perhaps among the most controversial legislation enacted by Uganda, criminalizing same-sex relationships and prescribing very stiff penalties upon persons engaged in homosexual conduct. Broadly criticized by the international community, the Act is the last in the long-standing legal and political war over LGBTs' rights in Uganda [5]. The bill has provisions for life imprisonment for those convicted of committing acts of "aggravated homosexuality," heavy fines, and jail terms for those promoting or supporting issues of LGBTQ+ rights. Justifications by the proponents for the Act are that it is the last resort to save the Ugandan cultural and religious values from being fast swept out by sexual freedom and individualism ideals from the West [6]. The Act has been criticized by those opposing it for being in violation of the

### **Historical Development of the Concept of Universality**

The principle of universality is in reality, deeply entrenched in history, although many scholars consider its codification in international law as being relatively new. The concept only came to the fore in the aftermath of the Second World War, [8] mostly as a response to the wrongs that were committed during such war, emphasizing the need for a universal standard for the protection of human rights. Earlier philosophical foundations of universality are found in natural law theories, which postulated that certain rights are inherent in human nature and hence universal [9]. The enlightenment thinkers, such as John Locke and Immanuel Kant, developed this further by asserting that every human being had natural rights not dependent upon the laws and usages of any society [10]. Mass murders of the Holocaust and other war atrocities brought the world into agreement that human rights should be universal. All this eventually culminated in the creation of the United Nations in 1945, with the purpose of affording all nations peace and security as

relationship in play between universal human rights principles and local cultural practices. The effects this conflict has had on Uganda's international reputation and the difficulties it has helped raise in observing universal human rights in culturally diverse settings will also be analyzed. This research paper, therefore, intends to throw its own weight into the ongoing discourse on how respect for differences in culture could be reconciled with the assurance of fundamental human rights, in order to make some recommendations about which affirmative actions might be achieved to ease these tensions in such a way that both human dignity and cultural respect are served.

fundamental human rights to privacy, equality, and freedom from discrimination. It has been argued that the legislation violates the international human rights treaties, particularly the ICCPR, to which Uganda is a signatory [7]. The Anti-Homosexuality Act of 2023 presents a very good case study whereby an opportunity is given to understand if universality in human rights can coexist with cultural relativism. This research raises principal questions about how much of the cultural practice can or should have bearing on what is undeniably universal with respect to the interpretation and application of international human rights standards. It is, therefore, the purpose of this article to deconstruct these issues with a more profound and finer analysis of the implications that this legislation in Uganda may have for the broader international human rights framework.

well as ensuring due respect for human rights [11]. It is on December 10, 1948, at the UN General Assembly, that universality was enshrined in international law with the adoption of the Universal Declaration of Human Rights. Though the UDHR is not legally binding, its preamble underlines the recognition of the inherent dignity and inalienable rights given to each human family member. The principles established in the UDHR were further adumbrated by the legally binding international covenants like the ICCPR, adopted in 1966 and entering into force in 1976. To this end, it placed an obligation on states to respect, protect, and fulfill a whole range of civil and political rights, including the right to life, freedom of speech, religion, and the presupposed right to a fair trial. The Covenant on Economic, Social, and Cultural Rights was adopted in 1966 and became effective in 1976 [12]. The ICESCR provides that states prevent many steps that may give rise to the realization of rights relating to work, health, education, and an adequate standard of living.

The UDHR, the ICCPR, and the ICESCR together constitute what is recognized as the "International Bill of Human Rights." These three instruments become the foundation underpinning the framework

### The Concept of Cultural Relativism and Literature Review

One man's beliefs, values, and practices are considered in relation to the particular culture of the individual concerned and not in isolation from it and in terms of another culture's judging criteria. Within human rights, cultural relativism maintains that human rights norms and principles do not admit universal application; rather, specific application and interpretation need to be made within specific cultural, social, and religious traditions [14]. Philosophically, cultural relativism rests upon the anthropological insight that the culture is a complex system of meaning and practice in itself, which has legitimacy within one's context. Early anthropologists, such as Franz Boas, were highly interested in an insider's perspective in the understanding of a culture's practices; moreover, no culture was innately superior to another [15]. This view rejects ethnocentrism, which is the practice of judging another culture based on the standards of one's own, and instead advances the idea that moral and ethical systems are not absolute but culturally bound. Cultural relativism also borrows a leaf from moral relativism, which holds that moral principles are not universal but are fashioned by cultural, historical, and social contexts. This is a philosophical stance that suggests what is considered "right" or "wrong" is not objective, but subjective and changing with respect to the cultural environment [16]. On the other hand, cultural relativist camp would argue that human rights should respect and accommodate cultural diversity [17]. They strongly argue that there will be a loss of unique values, beliefs, and practices from particular cultures with the imposition of a single universal standard of human right. An understanding of the differences between cultures can make human rights more appropriate to apply in diverse societies. According to cultural relativists, the dangers of cultural imperialism can be witnessed in the imposition of values and norms on other societies by the prevalent cultures, more so those of the West [18]. The argue that the West is out to keep pushing for so called universal human rights that are based on its cultural values, which are mostly inappropriate or unacceptable in non-Western societies. It is through respect for cultural relativism that there can be concocted the balance with the imposition of foreign norms, a situation that ensures protection for the sovereignty of nations to determine their own human rights standards [19]. Cultural relativism further allows human rights norms to be indigenized into

of universally codified human rights [13]. They clearly state that all human rights are universal in nature, inseparable, and applicable to each human being, everywhere.

local contexts, thus making them relevant and more acceptable to the very communities they are intended to protect. Such flexibility may result in greater compliance to human rights norms as the law and policy going to be adhered to and enforced if they are in agreement with the local cultural values. Some argue that cultural relativism is being used to vindicate human rights abuses [20]. By conceding universal human rights to cultural practices, cultural relativism may facilitate the existence of acts that are violations to bare human dignity, such as female genital mutilation, marriage of children, or discrimination against minority groups. Some of the critics argue that some rights, like a person's right to life, liberty, freedom from torture, and equality before the law, should be held worldwide, irrespective of the cultural context [21]. They argue further that cultural relativism really weakens the entire concept of human rights universally, as it suggests that rights are not intrinsic for all humans, but rather are relative and dependent on cultural acceptance [22]. In their views, this does not in any way facilitate the notion that there are certain inalienable rights that do belong to every human simply because he is human. Such tolerance of exceptions on the basis of cultural difference can weaken the principle of universality in human rights and thus turn the global regime of human rights into a fragmented, incoherent enterprise. Another criticism of cultural relativism is that it has been said to mask power relationships within cultures. Often, cultural practices are dictated by those in power, and cultural relativism inadvertently legitimizes the oppression of vulnerable groups in society, such as women, children, or ethnic minorities. Not every cultural practice should be protected, especially if it leads to social inequalities or promotes infringements on the rights of subordinated individuals [23].

Culture plays a very significant role in the formation of national laws and policies that guide on the understanding, implementation, and enforcement of human rights within the various societies [24]. In fact, culturally defined norms and values are deeply inducted within legal regimes; they are often the aspects that drive the country's legal regime's priorities and limitations. In most countries, legal systems are highly influenced by matters of culture and religious traditions. For example, Islamic law or Sharia law is a basic source of legislation in several predominantly Muslim countries, and influences laws

related to family, inheritance, and criminal justice. So, too, in many African and indigenous societies, customary law is a reflection of the traditions and practices of local communities which constitutes an influential part of their legal orders. Most cultural legal systems often exist either as a supplement to formal state law or for their own patterns: reflecting the values and societal structures endemic to the concerned people [25]. The national laws and policies themselves are designed out of the need to protect national identity and sovereignty. Additionally, governments have often been resistant to international human rights norms that run contrary to cultural values or are seen to aggress on and house national traditions. For example, laws that criminalize homosexuality or that limit the rights of women or freedom of expression are justified by the need to protect cultural or religious values or dispositions, even when these come into conflict with other international human rights obligations. Cultural considerations play a part in policy and law design and sometimes this may involve transposing cultural practices into the legal framework in ways that make them much closer to human right principles. For example, modern legal systems have incorporated traditional mechanisms of conflict resolution and community justice structures in order to give culturally responsive alternatives to State courts in some jurisdictions. However cultural practices have been challenged or even reformed legislatively, notably where they contravene human rights. Like the moves to criminalize injurious customary practices such as arranged marriages or honor killings illustrate the tension between deferring to cultural diversity and ensuring respect for universal human rights. Another area where cultural impact on national legislation and policy influences international human rights applications. Cultural diversity versus universalism is an issue with which international human rights bodies are often wrestling. This may include a call for states to be more open to dialogue and to find culturally sensitive ways of enforcing human rights, or even a call upon the state to alter the practice in a manner that can comply with international standards. The delicate balance is to uphold cultural differences while, at the same time appointing to it; the protection of basic human entitlements to every individual. The junction of universality and cultural relativism has been the topic of enormous scholarly debate in international human rights law, particularly in cases pitting local laws and cultural practices against international human rights standards. This literature review considers some major contributions to this discourse, using the Anti-Homosexuality Act of Uganda, 2023,

to further illustrate these tensions. [10], provides a comprehensive explanation on the processes through which international human rights laws are enacted within local contexts, particularly with regards to gender violence [26]. This scholar argues that although universal human rights principles aim at protecting individuals, the enactment is resisted because of the local cultural and social norms. Merry's study on the translation of international human rights standards into local justice brings out the complexities that a country like Uganda faces in trying to reconcile the universal norms with domestic values. In his elaborate discussion, [11] postulates that human rights politics and practice offer very invaluable insight into difficulties in implementing universal human rights standards around the world. His work has underscored the very fundamental principle of universality in international human rights law, and he also projects the pragmatic difficulties encountered in the enforcement of such standards across diversified cultural scenarios [27]. [28], gives an overview of the debate between universality and cultural relativism on human rights and reviews how these could be influenced by cultural context. The work of Cowan and Knop is instrumental in putting forward the theoretical underpinnings for cultural relativism, as well as its consequences for international human rights law [28]. It offers a framework against which one may scrutinize Uganda's Anti-Homosexuality Act. [11] sheds light on the tensions between international human rights law and cultural relativism, and further provides a comparative analysis with respect to how different cultures interpret human rights. Case studies from other countries, like those he reviewed, give a broader setting with which to understand both Uganda's legislative approach and the cultural justifications employed in favor of the Anti-Homosexuality Act [29]. Although much of the literature provides a broad understanding of the tension between universality and cultural relativism in human rights law and its implications in cases like Uganda's Anti-Homosexuality Act of 2023, there are still gaps that would need further exploration. Those include lack of adequate attention toward local perspectives, examination of alternative approaches and solutions, and, indeed, very little in regard to regional variations analysis. This will be important for bridging the gaps that exist in literature with regard to universality and relativism of human rights, further developing an understanding of their interplay into more complete insight and practical solutions in navigating the complex terrain of international human rights law.

### The Intersection of Universality and Cultural Relativism

The universality of human rights versus cultural relativism is undoubtedly among the oldest and most intricate debates in international human rights. It sets the question of how human rights should be applied similarly to the entirety of the cultures and societies, or should they be understood and implemented sensitively amidst such cultural differences?. Those who advocate for universality find that human rights are intrinsic to all human beings by virtue of their humanity. This point is premised on the observation that some rights, for example, those that protect the right to life, freedom from torture, and equality before the law, ought to globally establish and protect all people universally, independent of cultural or national circumstances. On the other hand, universalists argue that such rights are inalienable and any cultural practices that will infringe on them is unjustifiable. They further claim that human rights must be viewed in a sense of limiting oppression even in a context where the said oppression is perpetuated as part of a culture. On the other hand, the cultural relativists argue that human rights can never be divorced from their cultural, religious, and social settings within which they are meant to apply. They argue that human rights must be understood and interpreted in a manner consistent with different cultural values and traditions [30], and that such a universalistic definition is that if it is seen to impose

#### The role of International Human Rights Law in Reconciling Universality with Cultural Relativism

International human rights law seeks to reconcile this tension through presenting a universalist framework with local adaptability. Several strategies have been employed to achieve this balance. Many of the international human rights instruments allow for various flexibilities in implementing their provisions, such that states can adapt human rights norms to be implemented in ways that take full account of cultural and legal diversity. Article 2(1) of the International Covenant on Economic, Social and Cultural Rights provides for progressive realization on the basis of a country's available resources. The international human rights bodies, through the likes of the United Nations Human Rights Council and treaty-monitoring committees, all along strive to be culturally sensitive [32]. They engage in a dialogue with states so as to understand the cultural perspective and work further towards promotion of human rights in a way that is culturally respectful. Such an approach eschews confrontation and instead lays its focus on cooperation and understanding. You will find derogation clauses, for example, in many international treaties that allow states to suspend certain rights in emergencies, provided that the measures they take are proportionate and applied in a

Western values upon them, this is a form of cultural imperialism. Moreover, cultural relativists believe respect for cultural diversity is respecting the essence of the matter, they caution that the international community should be careful about interfering in the internal affairs of sovereign states under such a pretext as enforcing universal human rights. This debate rages on up to this day because of the very valid concerns between universality and cultural relativism. Universality enables all human beings to be protected from abuses and creates common standing on which to base international cooperation when dealing with issues of human rights. On the other hand, cultural relativism strongly echoes that more cultural relativity should be embraced at all times, as it typifies the risks associated with taking a society out of its unique social, historical, and cultural contexts in which its values and norms were devised. The difficulty rests in treading the thin line between the two views [31]. Detractors of strict universality regard it to result in one-size-fits-all, irrelevant, or even futile aspects in certain cultural contexts. On the other hand, critics who look upon the culturally relativized approach as a means to justify the abuses of human rights caution that it does undermine the very foundation on which international human rights law is built.

non-discriminatory manner. Furthermore, states might formulate reservations, at the time of signing or ratification, in a way that excludes or alters the effect of certain provisions in a manner it considers consistent with its cultural values, provided these reservations are not in contradiction with the main purpose of the treaty. Other important sources of that law are customary international law deriving from long-term state practice and a sense of legal obligation. Customary international law can be indicative of universal norms, which rise above particular cultural contexts and may help to establish a threshold of rights that all states are obliged to observe, no matter their cultural traditions [33]. International human rights law is in favor of dialogue and creating cross-cultural understanding to reconcile universality and cultural relativism. The arena in which states and civil society can engage in discourses relating to regional human rights mechanisms be it the African Commission on Human and Peoples' Rights, the Inter-American Court of Human Rights, or global forums like the United Nations has to take into account both universal principles and cultural specificity.

### Provisions of the Anti-Homosexuality of Uganda 2023

The legislation carries a penalty of life imprisonment for same-sex sexual acts in general, while in the case of those convicted of homosexual acts, it allows imposition of the death penalty. In certain cases, such as those of "aggravated homosexuality" an offender being HIV-positive, a minor, or a repeat offender, the death penalty may be imposed [34]. It further criminalizes the promotion or funding of the same, as well as activities aimed at advocating for the rights of sexual and gender minorities [35]. The persons or organizations contravening by giving rise to promotion of homosexuality have to be charged heavy fines and even jailed. This provision effectively bans any public expression of support for the rights of LGBTQ+ people as well as the institutional work of NGOs and activists who defend the interests of LGBTQ+ people. It imposes an obligation on each individual, including family members, to inform against even the knowledge of homosexual activities to the authorities; failure to do so constitutes an offense with a penalty of imprisonment. The provision has, therefore, been viewed with great concern as probably promoting vigilantism, undermining family and community trust, and therefore fostering fear and persecution of people in the sexual minority. The law is a breeding ground for

#### Legislative History and Rationale behind the Act

The Anti-Homosexuality Act of Uganda 2023 has a rich legislative inception mirroring the underlying sociopolitical regime of Uganda and the forces at play, either domestically or internationally. The roots of Uganda's legal stand on homosexuality date back to the colonial history which, during British colonial days, gave Uganda some provisions of the British penal code which was incorporated into the Anti-sodomy laws that criminalize homosexual acts [36]. Various conservative religious and cultural groups and tendencies shaping up successive governments have only served in reinforcing them. Homosexuality has long been stigmatized in Uganda, with public discussion usually being termed as "un-African" or a contradiction to religious teachings. This ill attitude in society has to a great length contributed to legislation targeting the elimination of the LGBTQ+ community. The first major legislative move against homosexuality in Uganda came in 2009 with the introduction of the original Anti-Homosexuality Bill by Member of Parliament David Bahati. The bill also sought to punish homosexual acts more severely, among them the capital penalty for "aggravated homosexuality." The bill produced international condemnation and criticism from human rights organizations, foreign governments, and international bodies. The 2009 bill was read both as a

extrajudicial enforcement and vigilantism although this is not explicitly stated in the Act. Criminalization, coupled with the mandatory reporting clause and draconian punishments, might instigate individuals to take the law into their own hands and heighten further the violence and persecution of LGBTQ+ persons. For example, the Act maintains that Uganda has jurisdiction over native Ugandans and permanent residents even when they are committing homosexual acts outside the country. This means that Ugandans found in relationships or doing such activities in countries where homosexuality is legal can be charge-sheeted back in Uganda. This provision, therefore, is a reflection of the determination that the government of Uganda seeks to enforce anti-homosexuality more so outside its territory, hence negated the rights of its citizens to exercise their freedom fully. The act further categorically clarifies that criminalization of homosexuality is said to be intended to create a cushion to the protection of Ugandan culture and religious values. The construction of the law thus indicates a protective role in upkeep of the social tapestry of the conventional family life and the larger society against injurious foreign infiltration, through homosexuality.

reaction to domestic pressures arising from conservative religious groups and external pressures—among them, the influence of American evangelical activists who had been promoting anti-LGBTQ+ sentiments in Uganda. This law was part of a general trend throughout the African continent, with many countries either contemplating or having already passed similar laws against what they see as the threat posed by Western liberalism. The Ugandan Parliament passed the Anti-Homosexuality Act in 2014, in defiance of international pressure. The Act was initially signed into law by President Yoweri Museveni with the explanation that it protected Ugandan culture and religion from Western infiltration. This Act, however, was bound to be nullified but on the procedural basis by the constitutional court in Uganda as it was passed when the quorum was not met in parliament [37]. The 2014 Act is also identical to the 2023 Act. It throws its weight in criminalizing homosexuality and also prescribes stiff punishments. It also went a notch higher by criminalizing the promotion of homosexuality and putting very tight restrictions on advocacy of LGBTQ, The Anti-Homosexuality Act was resurrected in 2023 after renewed national and regional calls for anti-LGBTQ+ legislation. The 2023 rendition of the Act draws from the frameworks

laid by the 2014 law, echoing a maturation in the struggle to crush homosexuality in Uganda. That Act was passed by an overwhelming vote of Parliament and signed into law by the President, who again framed it as being necessary, in this case, to protect Ugandan society from foreign attempts to undermine its cultural and moral values. The reasons for the 2023 Act are multi-fold. Domestically, this would satiate the religious and culturally conservative constituencies within society who view homosexuality as an attack on the traditional family unit and the general way of life within society. It has been able to help the ruling government in amassing support by applying populist sentiments against each other, which diverts their minds from the real issues that have been on course. Regionally, the law brings Uganda to a league with other African countries that have already passed or are in the process of passing similar bills, forming a common denominator against what is perceived as Western expatriated liberalism. Internationally, the Act has resulted in serious backlash as many governments and international organizations have condemned it as a violation of human rights [38]. The United Nations, the European Union, and several other Western governments have reacted with concern over what they call the bad implications on the rights and security of well-being and lives of LGBTQ+ persons

#### **Impact of Cultural and Social Norms on Legislation**

Cultural norms in Uganda play a fundamental role in determining the legal environment and public attitude toward homosexuals. That seems to be steeped in tradition, ironically forgetting itself and the values of a family, a community, and a social conformist life. The family, within Ugandan culture, is the building stone for a cohesive society. Much stress is laid upon marriage, procreation, and the continuation of the bloodline [40]. Homosexuality, being a nonconforming factor to these defined roles, is perceived as a threat to the family structure and, by extension, to the social order. Community norms, too, have a strong influence on behavioral regulation. A strong tenet in Ugandan communities is adherence to existing social norms, within which non-conformists, such as persons of the LGBTQ+ group, are faced with violence, or socially excluded. In the implementation of these norms, it is the community by itself that establishes an element of strong deterrence against deviant acts, including homosexuality. Indeed, for all African states, one could find a history of resistance to the West, particularly on issues that touch on morality and are considered core to their heritage. It is therefore often framed as a defense of African identity against the Western assumptions of superiority. Much Western media, therefore, presents

in Uganda. There are also calls to action on complimentary sanctions and urging a review on foreign to Uganda assistance, following its current stance. Proponents of the Anti-Homosexuality Bill of 2023 have therefore lobbied for such a legislative move to protect the typical way of life in Uganda and the religious values associated with such a lifestyle from unnecessary and external influence. The law is said to be a defense of the traditional family and a response to an alleged international agenda to impose LGBTQ+ rights on Uganda. In their arguments for the Act, the proponents of the law argued that the law was meant to forestall continuous erosion of moral values and protect the younger generation from practices they considered deviant behaviors. Moreover, the law had been couched to be a reaction by the government against what was held to be Western interference in Uganda's domestic affairs. The Ugandan government and its supporters see the promotion of LGBTQ+ rights as a move that tries to enforce Western values on a people with cultures and traditions that are at odds with them [39]. The enactment of the Anti-Homosexuality Act was one through which the government reiterated its power and stood its ground in the face of neocolonial pressure to accede to international norms on human rights that many people felt were extraneous to the cultural context.

homosexuality as foreign, incompatible with traditional African values. It is one of those measures to protect Ugandan culture from Western encroachment. The government and its proponents justify criminalizing homosexuality as a measure to protect the cultural integrity of the nation and save it from the erosion of cultural and traditional values. The infrastructures of legal and social systems in Uganda are significantly influenced by cultural norms. Legislation criminalizing homosexuality not only is a response to the attitudes of the societies but also perpetuates them – law institutionalizes attitudes. It is therefore the fact that the Anti-Homosexuality Act is but a reflection and a confirmation of the cultural norms in which homosexuality is considered a behavior that is inappropriate. The same also applies to how the law is enforced and applied. The very culture that breathes life into the law is most likely the one to regulate the concerned law enforcement and judicial agencies, thus carrying the day on matters enforcement and court decisions. This therefore institutes a legal environment in which there is effectively zero relative insulation from discrimination and persecution for LGBTQ+ members.

### Religious Influence on the Legislation

Religion has a very great role in influencing and shaping attitudes towards homosexuality in Uganda. This is a mainly Christian country with a good number of Muslims, both commanding much influence over public opinion and policy-making. A vast majority identify as Christians, with the evangelical and Pentecostal movements [41]. The Anglican, Catholic, and other evangelical churches in Uganda hold very conservative attitudes toward sexuality. For example, they teach that homosexuality is sinful and against the teachings of the Bible. Homosexuality has been termed a moral and spiritual threat to Ugandan society by Evangelical Christian groups. These groups have been on the forefront in organizing public opinion against LGBTQ+ rights and in leading the efforts toward anti-homosexuality legislation. Some American evangelical activists have also had a powerful presence in Uganda, working very hard to propagate anti-LGBTQ+ sentiments and lending support to local efforts to establish very strict anti-homosexuality legislation [42]. Religious leaders in

Uganda often use their pulpits to denounce homosexuality, trying to erect a case for it not only as sinful but also as part of Western liberalism, an import that threatens the moral fibre of the nation. This helped in nurturing a climate of widespread anti-LGBTQ+ sentiment, which is often justified on religious grounds. Islam also views homosexuality as contrary to Islamic teachings; it happens to be the second-largest religion in Uganda. Generally, Ugandan Muslims are against the maximization of LGBTQ+ rights, just like their Christian fellows. Islamic leaders have been involved in this broader religious coalition crusading for anti-homosexuality legislation within the country [43]. Even though the Muslim community has not been as loud on homosexuality as some Christian groups, the position of the faith regarding the subject falls squarely within the general conservative religious posture in the country. This shared opposition across religious lines has therefore bolstered the social consensus against LGBTQ+ rights in society and has aligned the front for legislation in the anti-homosexuality laws.

### Impact of Politics on the Legislation

Politics in Uganda is closely and deeply intertwined with the societal attitudes and religious beliefs in the country, and these two factors have greatly impacted the enactment of the Anti-Homosexuality Act. The regime in Uganda, under the presidency of Yoweri Museveni, has often used anti-homosexual rhetoric as a means of shoring up political power and appealing to popular sentiment. Homosexuality has often been portrayed as foreign imputation, and Western countries and organizations have been accused of attempting to impose LGBTQ+ rights on Uganda within some broader neo-colonial scheme. In framing the Anti-Homosexuality Act as a defense of Ugandan sovereignty and cultural values, the government has generated public support and shifted focus away from political and economic issues. Legislation was also used to whip up nationalist sentiment by pitting Uganda as a defender of traditional African values in the face of the moral decay of the West. This narrative has resonated with many Ugandans, who view the law as necessary for protecting the cultural and religious identity of the nation [44]. The Anti-Homosexuality Act has been used politically to garner support from key constituencies, majorly from the conservative religious groups. By doing so, the government has been certain about the support and loyal voting from these groups in times of elections. The law has also been used to discredit political

opponents and human rights activists, who are portrayed as being in league with foreign interests seeking to undermine Ugandan values. Revived in 2023, the legislation can be said to have been politically motivated: the government is trying to rebrand and attract conservative support from rural and religious voters. In a country where political opposition is often met with repression, the focus on homosexuality has provided a convenient distraction from governance issues and a means of rallying popular support. The passage of the Anti-Homosexuality Act did have important implications, however, for Uganda's international relations, especially with Western countries and international organizations that lobby for LGBTQ+ rights. The case of the Ugandan government defying an international outcry and threats against it with sanctions has been framed as one of sovereignty and resistance to foreign interference. This has also served to signal to other African nations that Uganda will oppose Western pressure and forge ahead with its cultural and moral values. This has further cemented Uganda's position at the forefront of African nations that share similar views regarding homosexuality and has added to the larger regional trend of anti-LGBTQ+ legislation.

### Applicability of Universality on Anti-Homosexuality Act in Uganda

At the heart of international human rights lies the principle of universality, postulating that all human

beings have the same rights and freedoms, regardless of their nationality, ethnicity, religion, gender, or



sexual orientation. Uganda's Anti-Homosexuality Bill of 2023, however, fails to respect these universal principles and, therefore, infringes upon many of the essentials of international human rights law [45]. The UDHR sets out the principle of equality in Article 1, which says that "all human beings are born free and equal in dignity and rights." Article 7 goes ahead to demand that "all are equal before the law and are entitled without any discrimination to equal protection of the law." The Anti-Homosexuality Act directly contravenes these provisions by singling out LGBTQ+ people to be institutionalized with punitive treatment hence legitimizing discrimination. Article 26 of the ICCPR follows the UDHR, asserting that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law." Clearly, under the Act, the criminalization of homosexuality clearly places the Act in violation of it, as it makes laws based on sexual orientation protection and equality from which the LGBTQ+ community is entitled under all international instruments. ICCPR secures the individual from arbitrary or illegal interference with privacy, family, home, or correspondence. The Anti-Homosexuality Act contravenes this right in the sense that it criminalizes what is, by definition, a consenting adult

same-sex relationship, intruding into the private lives of the members and even penalizes conducts that otherwise should be protected under the right to privacy [46]S. Not only does it breach international norms, it also breeds fear and oppression. Article 6 and Article 7 of ICCPR recognize the inherent right to life and prohibit torture and cruel, inhuman, or degrading treatment or punishment. The draconian penalties in the Anti-Homosexuality Act, including capital punishment for "aggravated homosexuality," seriously may be in question for compatibility with these provisions. This law can only be interpreted as cruel and degrading treatment, continually eroding the dignity and humanity of the LGBTQ community. Articles 19 and 22 of ICCPR guarantee the right to freedom of expression and freedom of association. The Act against homosexuality infracts these freedoms by criminalizing the promotion of homosexuality and enforcing punishment among people or organizations supporting LGBTQI rights. Therefore, it silences free speech, advocacy, and directly endangers the very existence and work of an organization advocating for LGBTQI rights. This weakens civil society and erodes the wide human rights movement in Uganda.

#### **Reaction from the International Community – Human Rights Groups and Foreign Governments**

International human rights organizations, including Human Rights Watch, Amnesty International, and the International Lesbian, Gay, Bisexual, Trans and Intersex Association, have also reacted strongly to the law. They cite the fact that the law contravenes all of the international human rights conventions and are thus calling for its repeal. They have pointed out that the law is discriminatory and may promote acts of violence against sexual minorities [47]. Other organizations and advocacy groups have called for international sanctions against Uganda or for other diplomatic actions to pressure the Ugandan government to repeal the Act. As they put it, the actions will be to safeguard the international human rights standards and, most importantly, protect the vulnerable communities. In this regard, several foreign governments have expressed outright condemnations of the Anti-Homosexuality Act. This

has been criticized by the Western countries, particularly the United States, European Union, and Canada, on human rights implications, where Uganda is being urged to respect international human rights norms. Some governments have threatened to sanction or cut aid over the legislation. In reaction, some countries reviewed their humanitarian development assistance to Uganda. Indeed, the implication on aid and investment has been high, with some governments and other organizations contemplating realignment of their support towards Uganda basing on whether they stand right by human rights or not. There have been campaigns all over the world and public demonstrations, demanding the repeal of the Anti-Homosexuality Act [48].

#### **Impact of the Anti-Homosexuality Act of Uganda 2023 on Human Dignity, Equality, and Nondiscrimination**

The Anti-Homosexuality Act of Uganda 2023 is a strange leap of universal human rights principles founded on human dignity, equality, and nondiscrimination. The implications regarding these core values and principles are profound and extend far beyond the life of LGTB persons, even into the fiber of further Ugandan societal life. The anti-homosexuality statute already offends the dignity of LGBTQ people by criminalizing and characterizing

their sexual identity as criminal and immoral. The negative othering through pejorative language and dehumanizing punitive measures of the law concerning sexual identity keep the premise that stigmatization is positive, stereotypes are enforced. Dehumanization in this sense strips all people of their dignity and respect inherent qualities, without which human dignity remains incomplete. The Act creates legal inequality and a two-tiered legal procedure

where a different set of laws and punishment is meant for people who are LGBTQ+. By criminalizing love between two people of the same sex and holding consensual relationships as an offense, that law simply fails to afford equal protection of laws to that part of society. And this inequality in law spirals across the vista of life, taking with it the populations from the LGBTQ+ realms into further universes of discrimination and prejudice in employment, health, and social welfare on account of its criminalized status. The Act institutionalizes discrimination into law, an environment through which people from the LGBTQ community are not only legally but socially ostracized [49]. That systemic discrimination in the Act, therefore, only aids, abets, and develops further heightened surveillance, harassment, and violence against LGBTQ+ people. The impact of this legislation far transcends the parameters of legal discrimination endemic to the Act and fosters a

culture of systemic intolerance and exclusion. The Act contributes to the already heightened atmosphere of fear and insecurity among LGBTQ+ people in Uganda. All of this, coupled with the serious social stigmatization of the subject, creates the situation in which many are forced to exist in conditions of secrecy and isolation, with all the ensuing psychological and social consequences. This kind of fear undermines mental health and well-being, increasing the feelings of vulnerability and marginalization of LGBTQ+ people. The Anti-Homosexuality Act takes away civil liberties and freedoms of expression, association, and privacy from all Ugandans. Its sweeping coverage and harsh penalties are tools for the suppression of dissent and leveling the activities of human rights watch dogs hence eroding the extent of safeguarding civil liberties in the country.

### CONCLUSION

This research paper vividly depicts how under national legislation, with cultural and religious flavours that characterize Zambia, there arises a great challenge when it conflicts with internationally recognized established human rights principle. Findings reveal that the provisions of the Act undermine universal human rights principles as it criminalizes same-sex relationships and imposes heavy penalties. This violates basic human rights to privacy, dignity, and equality as defined in international agreements under the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights (ICCPR). In a spirit of embracing cultural relativism, the legislation is staunchly defended on the basis that the bill is in line with traditional Ugandan values and religious beliefs. According to this perspective, the emphasis is placed on ensuring that human rights are in consideration set within the local cultural and social setting. Meanwhile the Act has faced strong international condemnation, and yet within the country, the Act has been lauded for its support by a number of cultural and religious groups. The very facts of such differing reactions still reveal a broader problem of how best to reconcile universal human rights standards and local cultural norms. This Act has affected Uganda's global reputation and diplomatic relationship with international human rights organizations. It emphasizes the challenges that come with enforcing universal human rights in culturally diverse circumstances and hence the call for

a balancing act that respects not only global standards but also local traditions. Therefore, Uganda's experience with regard to the Anti-Homosexuality Act justifies a balanced approach between cultural diversity and upholding the fundamental human rights of all people. The universality-versus-cultural-relativism dilemma in international human rights law continues to be a lively one, and this case offers another illustration of the difficulties in finding a course between these two values. It also serves to underscore, through designing solutions that respond to both universal principles and cultural sensitivities, that there is a need for dialogue and negotiation between global human rights advocates and local cultural leaders. This could be a case in point whereby, in solving cultural challenges facing the conflict with international human rights standards, what will be achieved will be the importance of serious engagement with the respective local communities to listen to their side and at the same time serve for human rights. Legal and policy approaches should be based on the common ground of finding a solution, cultivating tolerance, and realization of respect accruing from culture without the suspicion of undermining cultural settings. For the broader world, supporting capacity development and inclusive dialogue processes can help circumvent such battles and contribute to the furthering of human rights in diverse settings.

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