



The Rafto Foundation's reasons for awarding the 2011 Rafto Prize

The 2011 Rafto Prize to Sexual Minorities Uganda (SMUG) and their leader Frank Mugisha

Brave fighters for human dignity

The 2011 Rafto Prize is awarded to Sexual Minorities Uganda (SMUG)¹. Frank Mugisha (32), Executive Director of SMUG, will receive the award on behalf of the organisation. The Prize is awarded to SMUG for its work to make fundamental human rights apply to everyone, and to eliminate discrimination based on sexual orientation or gender identity. SMUG's work is especially important in the current situation with deteriorating human rights conditions in Uganda, and particularly for sexual minorities. SMUG and Frank Mugisha's struggle concerns the most basic purpose of human rights: to protect individuals from abuse by the authorities and the majority. The Rafto Foundation hereby gives its support to the work against a "state-sponsored homophobia that is spreading across the African continent".²

SMUG is a coalition of organisations working to promote the human rights of lesbian, gay, bisexual, transgender and intersex people (LGBTI people, or sexual minorities, which is the term used by SMUG). The coalition was founded in 2004, arising from a need for a movement that could promote common demands, coordinate the work of the different organisations, speak on behalf of the entire group of sexual minorities and strengthen internal solidarity. SMUG has become a powerful voice for a stigmatised and persecuted minority. Where others have had to remain anonymous and work in hiding, SMUG and a handful of central activists from the coalition have spoken out, at significant personal cost. SMUG has played an important role in high-profile cases, for example when Victor Mukasa filed a case against the state for an illegal raid on his flat, when important activists sued Rolling Stone magazine for harassment, and, not least, with the coalition's work to fight the proposed law, known as the "Anti-Homosexuality Bill".³ Here, SMUG helped set up and run a broad human rights coalition which has become an important voice in Ugandan society.⁴ In addition, SMUG is important to individuals as it follows up and supports those who are subject to harassment, violence and arrest.

Sexual minorities – “pollutants of society”

Frank Mugisha and his colleagues in SMUG have, through their strong personal engagement and at great personal risk, fronted the fight for LGBTI people's rights in Uganda. This is a country where few recognise sexual orientation and gender identity as part of the fundamental right to a

¹ <http://www.sexualminoritiesuganda.org/>

² <http://www.hrw.org/en/news/2009/12/11/un-landmark-meeting-denounces-rights-abuses-based-sexual-orientation-gender-identity>

see also http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2011.pdf

³ <http://wthrockmorton.com/wp-content/uploads/2009/10/anti-homosexuality-bill-2009.pdf>

⁴ The Civil Society Coalition on Human Rights and Constitutional Law (CSCRCL)
<http://www.ugandans4rights.org/>

private life,⁵ and where people who do not conform to society's gender and sexual norms are subject to abuse.⁶ Lesbian, gay, bisexual, transgender and intersex people are often ostracised by their families and local society. Many lose their jobs and place at school and end up having to live in the slum, without any social network other than those in the same desperate situation.⁷ A lack of respect for rights relating to sexual orientation and gender identity therefore leads to social and economic marginalisation. Homosexuality is seen as "contagious", a consciously chosen identity, and foreign to African culture. Sexual minorities are referred to in public as a pollutant that destroys society and therefore must be eliminated.

SMUG activist killed

Spokespersons for lesbian, gay, bisexual, transgender and intersexual people are persecuted and harassed because of their work. Frank Mugisha describes a life in fear: "I don't know what could happen to me at any minute. I do not know who wants to hang me. I do not know who wants to attack me."⁸

Victor Juliet Mukasa's story illustrates the challenges sexual minorities and human rights activists face in Uganda. Mukasa sees himself as a lesbian and transgender person. While growing up, he was beaten by his father who could not accept that his daughter was behaving like a boy. His family has subsequently demanded he not use the Mukasa name.⁹ He was encouraged to seek help from the church. This led to a ceremony where he was stripped and beaten in front of a large crowd in order to drive out the evil spirits. Humiliation was total.¹⁰ When Mukasa was acting Executive Director of SMUG following its founding in 2004,¹¹ he was under enormous pressure from the authorities. In 2005 the police raided his home without a valid warrant. Mukasa took the case to court, and in the end he won. But the situation became so untenable that he felt forced to flee the country.¹²

Another high-profile SMUG activist, David Kato, was killed in his home in January 2011. The killing happened after his photo appeared on the front page of a local newspaper, Rolling Stone, accompanied by the headline "Uganda's top 100 homos" and a banner saying: "Hang them!". It was accompanied by stories of how homosexuals raided schools and recruited school children. Kato and two other activists took the newspaper to court and won.¹³ Soon after, he was killed. Kato's killing was condemned world-wide¹⁴ but Ugandan police authorities played down the incident.¹⁵ The killing was not investigated as a hate crime, but attributed to a crime of profit. The public ostracising of sexual minorities, and not just activists, continues. Transsexual Stosh Mugisha had to leave her home, and tells: "People tried to stone me. It's so scary. And it's getting

⁵ The right to a private life is one of the fundamental human rights and is laid down in the UN Covenant on Civil and Political Rights. Article 17 states: 1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2) everyone has the right to the protection of the law against such interference or attacks.

⁶ A survey in July 2009 found that 95 per cent were against legalisation of gay sex.
http://articles.cnn.com/2009-12-08/world/uganda.anti.gay.bill_1_gays-death-penalty-aids-prevention?_s=PM:WORLD

⁷ The various sides of the social and political harassment that takes place are shown in the BBC documentary, "The world's worst place to be gay". <http://www.youtube.com/watch?v=S9DsawSC3cE>

⁸ <http://www.amnesty.org/en/news-and-updates/ugandan-gay-rights-activist-i-have-watch-my-back-more-ever-2010-11-05>

⁹ "Juliet Victor Mukasa, Ugandan activist", *A Gender Variance Who's Who*,
URL: <http://zagria.blogspot.com/2008/04/juliet-victor-mukasa-1976-ugandan.html>

¹⁰ "Trial by fire", *New Internationalist magazine*,
URL: <http://www.newint.org/features/2007/05/01/uganda/>

¹¹ "Sexual minorities Uganda", *Wikipedia*, URL: http://en.wikipedia.org/wiki/Sexual_Minorities_Uganda

¹² "Queer Rights Panel 01. Intros: Victor Juliet Mukasa", *YouTube*, URL: http://youtu.be/zg5cQqs_C4M

¹³ <http://www.nytimes.com/2011/01/28/world/africa/28uganda.html>

¹⁴ Norwegian authorities were clear in their condemnation:

http://www.norway.go.ug/News_and_events/pressrelease/Statement-on-the-murder-of-David-Kato/

Please also see reactions from Amnesty International:

<http://www.amnesty.org.au/news/comments/24640/>

Human Rights Watch:

<http://www.hrw.org/en/news/2011/01/27/uganda-promptly-investigate-killing-prominent-lgbt-activist>

and president Barack Obama: <http://www.whitehouse.gov/the-press-office/2011/01/27/statement-president-killing-david-kato>

¹⁵ http://maddowblog.msnbc.msn.com/_news/2011/02/02/5976853-the-unbearable-sadness-of-david-katos-story

worse."¹⁶ A lesbian who fled Uganda after being beaten and threatened by a mob before having her house burned to the ground explains: "They would point and shout at us in the street. They would swear or say 'You lesbians, that is disgusting. It is against nature. Heaven will not accept you'". She fears for what will happen when she returns to Uganda after being refused a residence permit in Great Britain.¹⁷

The "Anti-Homosexuality Bill"

Frank Mugisha and his colleagues cannot expect protection from the authorities in Uganda. On the contrary, there are political gains to be made by mobilising against homosexuals and other sexual minorities. The legal system provides protection in some circumstances,¹⁸ but at the same time the law is a significant part of the problem. Sex between people of the same gender ("carnal knowledge against nature") is prohibited in Uganda, and can in principle be punished with lifetime imprisonment.¹⁹ A proposed law from October 2009 ("Anti-Homosexuality Bill") suggests lifetime imprisonment as a minimum sentence and a death sentence for "aggravated homosexuality" (in the event of repeat offences, if the person is HIV positive, or has had sex with a minor).²⁰ For "promoting homosexuality", for example by offering information or supporting the flow of information, the proposed sentence is seven years in prison. People, including family and friends, who do not report acts of homosexuality to the authorities risk three years in prison. The proposed bill is an infringement on the rights of all Ugandan citizens. It violates fundamental human rights, including the right to a private life, to not be discriminated against, to equal protection and the protection of minorities.²¹ It undermines freedom of expression, which is a cornerstone in a democratic society and threatens the right to good health by criminalising important work to prevent HIV and AIDS. It also increases the psychological pressure on sexual minorities and their closest ones. The whistle-blower paragraph effectively breaks down trust in society. The proposed bill has not been passed, but remains "on hold".

The debate surrounding the "Anti-Homosexuality Bill" has radically worsened the situation for lesbian, gay, bisexuals and transsexuals. Whereas the existing sodomy legislation was largely dormant, the increased politicisation of the issue has led to sexual minorities being increasingly subject to violence, harassment and random arrests. Verbal harassment is the norm in the public debate. Many say that lesbians and gays have no human dignity and should be killed. SMUG and Frank Mugisha's work is especially important in this situation where few dare speak their case.

Political Distraction

It is important to see the predicament of sexual minorities in Uganda in the context of the political situation in the country, where Yoweri Museveni has been President for 25 years. Uganda is heading towards authoritarian rule with weakened respect for human rights. The process of democratisation has ground to a halt, and discontent the regime is increasing. People's protests are met with violence and mass arrests.²² In this situation, many politicians, like David Bahati, use sexual minorities as "the good enemy" that unite the people. They become scapegoats for social problems and are an important distraction from corruption, misgovernment and worsening social and economic conditions. The "Anti-Homosexuality Bill" is repeatedly brought

¹⁶ <http://www.nytimes.com/2011/01/28/world/africa/28uganda.html>

¹⁷ <http://www.guardian.co.uk/world/2011/jan/27/ugandan-lesbian-deportation>

¹⁸ Uganda's High Courts have supported sexual minorities' right to a private life, freedom from discrimination, the right to protection and protection of minorities. See *Victor Mukasa & Another vs. Attorney General* (High Court Miscellaneous Cause No 24 of 2006), and *Kasha Jacqueline, Pepe Onziema & David Kato vs. Giles Muhame and The Rolling Stone Publications Ltd* (2011).

¹⁹ Paragraph 140 – 142 of Uganda's Penal Code Act states that "Attempts at carnal knowledge" be punished with seven years imprisonment, while "gross indecency" between men (women are not mentioned) be punished with five years imprisonment. This is a continuation of British colonial legislation and there are similar provisions in many other African countries.

²⁰ This was a private amendment, proposed by David Bahati, Member of Parliament for the governing party. There is little reason to doubt that it was cleared by the authorities.

²¹ http://www.ugandans4rights.org/publications.php?subaction=showfull&id=1305019313&archive=&start_from=&ucat=2&

²² <http://www.hrw.org/news/2009/10/01/uganda-troops-killed-unarmed-people-riot-period>
<http://www.amnesty.org/en/library/asset/AFR59/012/2011/en/382727b5-6ef8-46df-8934-b5b5847b1140/afr590122011en.pdf>

into the spotlight as protests increase.²³ By playing on peoples prejudices, anti-democratic forces gain greater room to manoeuvre. Homophobia and lack of respect for rights relating to sexual orientation and gender identity are therefore a direct threat to democracy in Uganda. For SMUG and Frank Mugisha, it is important that the international community also sees the struggle as part of a bigger picture, where the "Anti-Homosexuality Bill" should not be allowed to distract from other human rights abuses.

Global challenges and the legacy of colonial rule

The need to strengthen legal protection of sexual minorities does not only apply to Uganda and Africa. Sex between people of the same gender is punishable in many parts of the world. In several Muslim countries, sexual minorities face the death penalty.²⁴ In parts of Latin America and Eastern Europe, social discrimination continues to mean a life in fear for lesbian, gay, bisexual and transgender people despite formal legal protection.²⁵ In USA, the issue of sexual orientation and gender identity is part of the "cultural war" that splits the population. At the same time, for example in Europe, awareness of sexual minorities' human rights and value has been brought more sharply into focus.²⁶

In Africa, the challenges faced by those working for the rights of LGBTI people are, among other things, linked to sodomy legislation from colonial times and to lobby activities run, financed or inspired by conservative missionary groups from USA and Europe.²⁷ The West thus has a responsibility to help fight the infringements on sexual minorities' human rights taking place in Africa today. But there are also positive developments in the region. The South African constitution from 1994 protects the rights linked to sexual orientation and gender identity.²⁸ In Kenya, the LGBTI movement made progress in connection with the constitutional review process in 2010, and there is hope that homosexuality can be decriminalised in the not-too-distant future.²⁹ This puts Uganda's negative development into perspective.

International responsibility

By awarding the 2011 Rafto Prize to Frank Mugisha and SMUG's fight for sexual minorities, the Rafto Foundation wishes to underscore that human rights encompass everyone and that it is unacceptable to persecute or discriminate against anyone based on their sexual orientation or gender identity. It is our wish to help make the right to a private life include sexual orientation and gender identity and make the prevention of persecution and discrimination of sexual minorities a priority in the work on human rights.

Norwegian authorities have declared that the rights of sexual minorities shall have a high priority in the work against discrimination.³⁰ The Rafto Foundation supports this and by awarding the prize to SMUG, it hopes to encourage and make Norwegian and other authorities more

²³ The bill was first proposed a year before the election in February 2010 and dominated the election campaign. It was brought up again in spring 2011 when the regime experienced the most serious protest ever, the so-called "walk to work" campaign.

²⁴ http://en.wikipedia.org/wiki/LGBT_rights_by_country_or_territory

²⁵ This report gives a good overview of the challenges faced by those working for LGBTI rights:

<http://www.hrw.org/reports/2009/06/10/together-apart>

Please also see other reports from Human Rights Watch at

<http://www.hrw.org/by-issue/publications/674>

²⁶ The European Court of Human Rights in Strasbourg has handed down several judgements that state that sexual identity is a part of the fundamental right to a private life and that discrimination based on sexual orientation and gender identity violates the Article 14 of European Convention on Human Rights, regarding discrimination.

²⁷ The influence of conservative evangelical groups in USA on developments in Uganda in general, and the "Anti-Homosexuality Bill" more specifically, has been documented:

<http://www.nytimes.com/2010/01/04/world/africa/04uganda.html>

http://www.huffingtonpost.com/emma-rubysachs/ugandas-attack-on-gays_b_860578.html

²⁸ In 1996, South Africa became the first country in the world to have a constitution that prohibited discrimination based on sexual orientation, but homophobic attitudes are widespread and there is a long way to go before sexual minorities receive real legal protection.

²⁹ The Outlawed Among us. A Study of the LGBTI Community's search for Equality and Non-Discrimination in Kenya, Kenya Human Rights Commission, May 2011.

³⁰ Please see the Norwegian government's action plan "Better quality of life for lesbian, gay, bisexual and transgender people, 2009-2012". In June 2011, there was a deepening of the international work http://www.regjeringen.no/upload/UD/Vedlegg/Menneskerettigheter/Norges_internasjonale_arbeid_mr_m_inoriteter_juni11.pdf

accountable in this work. We also wish to help make the fight against discrimination of sexual minorities a high priority among private organisations and companies that work in Uganda and other countries where the situation for these groups is precarious.

The Rafto Foundation wishes to turn the spotlight on the serious human rights situation in Uganda. It wishes to highlight the fact that SMUG and Frank Mugisha's fight for the human dignity of a particularly vulnerable group is also part of a greater fight for democracy and social justice. In an African context, sexual minorities' rights are often overshadowed by economic rights and protection of life.

It is important to recognise that human rights are mutually dependent. The fight for the dignity of LGBTI people cannot wait until other rights have been obtained. Stigmatisation undermines human dignity, and a lack of respect for rights relating to sexual orientation and gender identity leads to economic marginalisation. The situation in Uganda also shows how the mobilisation of prejudices against sexual minorities undermines democracy. We wish for the prize to promote reflection over how prejudices maybe manipulated for political gain and create awareness about our responsibility to prevent this from happening.

Sexual Minorities Uganda works for fundamental human rights – the right to a private life and the right to not be discriminated against because of sexual orientation and gender identity. By awarding the 2011 Rafto Prize to SMUG, the Rafto Foundation recognises Frank Mugisha and his colleagues for their work on human rights and hopes the award will help afford them greater protection and inspiration to continue working in what is a vulnerable and difficult situation.

The Rafto Foundation, Bergen, Norway. Wednesday 17 August 2011.