

# Foreign Aid Donors, Domestic Actors, and Human Rights Violations: The Politics and Diplomacy of Opposing Uganda's Anti-Homosexuality Act

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## Abstract

How should aid donors respond to human rights violations in 'recipient' countries? Much of the literature on this topic focuses on whether donors use aid conditionality rather than the effectiveness of different donor responses in preventing rights abuses. This article argues that to better understand the effectiveness of conditionality, and donor responses to rights violations more generally, it is necessary to consider the role of domestic actors and processes in recipient and donor countries. Drawing on the concept of 'two-level games', it develops a framework for donor responses to rights abuses that incorporates international- and domestic-level processes. This article examines these dynamics with a case study of donor responses to the Anti-Homosexuality Bill/Act in Uganda between 2009 and 2014. The analysis shows how different donor responses impacted the struggle against the repressive legislation – positively and negatively – through their effects on domestic actors. More broadly, the article shows that engaging with domestic actors and processes can shed light on how aid donors can most effectively respond to human rights violations in different political contexts.

**Keywords:** aid donors; foreign aid, human rights; LGBT rights; political conditionality; two-level games.

## Introduction

How should foreign aid donors respond to human rights violations committed by governments in countries receiving development aid? For many, the answer is that donors should use the public threat of aid sanctions, and should actually withdraw aid, to pressure ‘recipient’ governments into ending rights abuses. Failing to use such aid conditionality is widely seen as reflecting donors’ lack of commitment to human rights in the Global South (e.g., Crawford 1997; Berthélemy 2006; Barratt 2007). Donor governments have been criticised – particularly by human rights non-governmental organisations (NGOs) and parts of the media – for not withdrawing official development assistance (ODA) from countries where government repression occurs (see Dasandi and Erez 2019).<sup>1</sup> Some even claim that this makes donors complicit in rights abuses (e.g. Easterly 2017). Indeed, the view that donors *should* withhold aid in such cases is the basis of a large literature that examines empirically the relationship between aid flows and human rights performance (e.g. Cingranelli and Pasquarello 1985; McCormick and Mitchell 1988; Neumeyer 2003; Berthélemy 2006; Barratt 2007; Petrikova 2016) – and the conditions under which donors withdraw aid to rights violators (e.g. Nielsen 2013; de Felice 2015; Swedlund 2017; Esarey and DeMeritt 2017).

While there has been considerable focus on whether donors connect ODA to human rights performance, far less attention has been given to whether aid conditionality – and donor responses more broadly – prevent rights violations in recipient countries. This is despite numerous examples of the failure of conditionality to avert rights abuses (Brown 2005; Crawford 1997). This article considers the effectiveness of donor responses to human rights violations. I argue that to better understand when donor responses can help prevent rights violations, it is necessary to engage with domestic actors and processes in both recipient and donor countries. Drawing on aspects of Putnam’s (1988) concept of the ‘two-level game’ in international negotiations, this article develops a framework for understanding donor responses to rights violations that incorporates international- and domestic-level processes. The framework suggests that the effectiveness of different donor responses to rights violations will depend on the relationship that donor and recipient government have with

various domestic actors (citizens in recipient countries, local human rights actors, and citizens in donor countries), and how these actors perceive the rights violation and the donor response.

This argument is demonstrated through an in-depth analysis of donors' response to recent efforts to introduce legislation in Uganda that would violate the basic rights of LGBT people in the country.<sup>2</sup> The Anti-Homosexuality Bill (AHB) was first tabled in the Ugandan Parliament in 2009. It was signed into law as the Anti-Homosexuality Act (AHA) in February 2014, before being overturned six months later. It generated significant international attention and strong condemnation by Western donors, including public threats to withdraw aid. I examine how different donor responses between 2009 and 2014 impacted the process. The analysis shows how the impact of these different responses on domestic actors, in turn, affected the Ugandan Government's position.

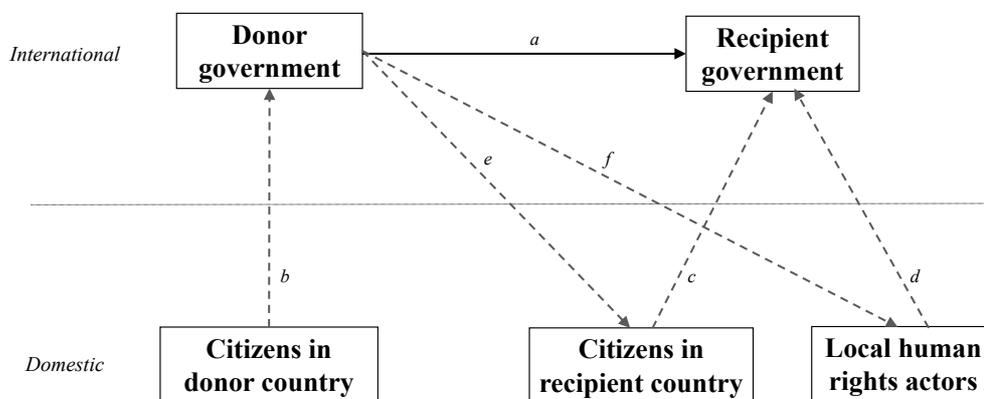
In focusing on LGBT rights, this article considers an emerging international human rights norm that has faced opposition in many countries (Nuñez-Mietz and García Iommi 2017; Symons and Altman 2015). Since the late 2000s, aid conditionality has emerged as a principal foreign policy tool that donor governments use to protect LGBT rights in such countries (see Symons and Altman 2015), despite recent analysis suggesting that it can negatively impact countries adopting progressive LGBT policies (Velasco 2020). This article sheds light on how aid conditionality and other donor responses can impact LGBT rights in ODA-receiving countries. More broadly, it shows the importance of engaging with domestic actors and processes in seeking to understand how donors should respond to specific rights violations. In doing so, the study highlights the need to consider issues such as when donors should respond publicly and when the use of quiet diplomacy may be more effective, or how they can best support local actors working to protect human rights. Hence, the article demonstrates the need to move beyond focusing exclusively on whether donors use conditionality to considering more broadly how donors can respond most effectively to human rights violations within specific political contexts.

## **Donor diplomacy, domestic actors, and human rights**

Much of the focus on donor responses to human rights violations has been on aid- or political conditionality.<sup>3</sup> This refers to ‘the use of pressure, by the donors, in terms of threatening to terminate aid, or actually terminating or reducing it, if conditions are not met by the recipients’ (Stokke 1995: 11-12). By making resources conditional on respect for human rights, it is argued that donors incentivise recipient governments to end repression. This argument, however, revolves around the interaction between donor and recipient governments, with less attention paid to domestic actors. As Molenaers et al. (2015: 6) explain, ‘the myriad of domestic factors shaping conditionality bargains remain largely understudied’. I argue that to understand when and how donor responses – including the use of conditionality – can help prevent human rights violations, it is necessary to consider domestic actors and processes in donor and recipient countries; and how they impact on the actions and responses of donor and recipient governments in exchanges surrounding rights abuses.

In making this argument, I draw on aspects of Putnam’s (1988) conceptualisation of international negotiations as a ‘two-level game’, treating the exchanges between donor and recipient governments as a negotiation. Putnam argues that in international negotiations, national governments need to engage at both the international and domestic level. At the domestic level, governments face pressure from groups that seek favourable policies, and whose support enables governments to remain in power. At the international level, ‘national governments seek to maximise their own ability to satisfy domestic pressures, while minimising the adverse consequences of foreign developments’ (Putnam 1988: 434). Decision-makers in national governments cannot ignore either level. In this study, I apply specific aspects of the two-level games concept to donor government responses to rights violations committed by a recipient government. I develop a framework that considers how various domestic actors in donor and recipient countries influence, and are influenced, by the responses of their national governments, and the implications this has for preventing rights violations. In doing so, the objective of this study is to shed light on when and how donor responses can improve the human rights situations, and when they might worsen the situation. To investigate the

effectiveness of donor responses, it is also necessary to consider factors influencing the donor responses. This is especially so because the perception of why donors have adopted specific responses by actors in recipient countries, in turn, shapes the effects of these responses, as I explain further below. The framework includes the following domestic-level actors in recipient and donor countries: citizens in recipient countries, local human rights actors in recipient countries, and citizens in donor countries. These actors and their relationships are presented in the framework in **Figure 1**, with the arrows indicating influence.



**Figure 1.** Framework of international and domestic actors in donor responses to human rights violations.

It is worth noting that the framework is a simplification of the different actors involved in this process, and the relationships between and within them. It is especially important to point out that while the framework presents donor and recipient governments as unitary actors, there are often sharp distinctions in how different parts of government engage with a specific rights violation. Indeed, in the case considered in this study, there were significant differences in how different parts of both donor governments and the Ugandan Government engaged with the AHB at various points in the process. The figure, however, broadly enables us to consider patterns of relationships between key actors. It shows that the donor response to the recipient government's rights abuse (*a*) is influenced by citizens in donor countries (*b*). This response has additional effects on citizens and human rights

actors in the recipient country ( $e$  and  $f$ ), which impacts their relationship with the recipient government ( $c$  and  $d$ ). This, in turn, has implications for the recipient government response to the donor. I discuss these actors and their relationships to donor and recipient governments in more detail, before applying this framework to the case of the repressive anti-homosexuality legislation in Uganda.

### *Citizens in recipient countries*

Citizens in recipient countries can influence their governments' actions, as indicated by  $c$ . The human rights literature frequently assumes the public in poorer countries cannot affect government behaviour because these are often non-democratic states. However, the spread of semi-authoritarian regimes means that citizens in these countries can influence their governments in various ways (Ottaway 2013; Cheeseman 2013). Other domestic actors – such as the media, civil society, and religious groups – also influence the citizen-government relationship in these countries. As **Figure 1** shows, in addition to any direct impact on the recipient government, donor responses can also affect these citizens, which in turn has implications for how citizens influence recipient government actions. In other words, the nature of  $e$  in the model can impact  $c$ . Putnam (1988) refers to the effect that international pressure can have on domestic politics as 'reverberations'.

The argument for the use of aid conditionality assumes that it will have positive reverberations in recipient countries by increasing domestic pressure on recipient governments to end rights abuses. This is because the withdrawal of ODA can reduce the resources and legitimacy of these governments, which can foster greater public dissatisfaction with the government.<sup>4</sup> However, this argument ignores instances when conditionality may have negative reverberations in domestic politics in recipient countries. Proponents of aid conditionality tend to overlook the negative impacts of aid cuts on the lives of people in poorer countries (see Dasandi and Erez 2019). These harms mean that public threats to withdraw aid may trigger a backlash against donors and increase support for the recipient government. The economic sanctions literature notes that sanctions can generate a 'rally

around the flag' effect among citizens in the targeted country, bolstering support for a ruling regime (Kaempfer and Lowenberg 1988). Even when sanctions are not applied, scholars argue that public threats may be ineffective when the targeted state faces significant domestic audience costs in conceding to the threats; in such instances private threats can bring a concession more effectively (Kurizaki 2007).

Public threats to withdraw aid may be especially prone to such adverse outcomes due to the potential harm to vulnerable people. Conditionality can generate a public backlash against donors because it is perceived to undermine the moral basis of aid, and because 'conditionality implies superiority: it infringes on sovereignty, insists the donor(s) knows best, and highlights the inequality of power' (Stokke 1995: 43). Recipient governments may even use confrontations with donors to increase domestic support:

In an open confrontation of this kind, which is very likely to involve political conditionality (human rights, democracy), the recipient government may be able to whip up national sentiments and anger against external interference. In this way it may calculate on, and even succeed in, turning a (possible) loss in terms of financial capital (aid) into a gain in terms of its political capital at home. (Stokke 1995: 43)

Two factors can make a public backlash against donor conditionality especially likely. First, a backlash is more likely if citizens support the government actions that generate the rights violations. The aid and human rights literature typically assumes that the public opposes rights violations – whereby  $c$  in the model constrains the recipient government's abuse of rights. There are, however, situations when citizens support, or are ambivalent about, government rights abuses. This can occur when rights violations are perceived to enhance security, when they target minority groups, or when human rights come into conflict with cultural norms (Mitchell 2012; Tadros 2011; Lupu and Wallace 2019). When citizens support rights violations, recipient governments may be less willing to meet donors' public demands despite potential aid reductions (Bueno de Mesquita and Smith 2007). Second, a public backlash is more likely if donors are perceived to be acting to advance their own interests or responding to domestic pressures. Global media coverage means that public statements

by donor governments, including those threatening aid cuts receive considerable attention in recipient countries. If such threats are perceived as posturing for their domestic audiences, this could further fuel a public backlash. Hence, *b* in the figure can adversely impact the nature of *c*, as I discuss in more detail below.

### ***Local human rights actors***

Local human rights actors seek to influence the recipient government, as indicated by *d*. The aid and human rights literature often overlooks or downplays the role of local human rights defenders in the Global South, and how they are affected by donors. Indeed, the wider literature on the spread of human rights norms tends to emphasise external actors and transnational networks (see Keck and Sikkink 1998; Risse et al. 1999) over local actors (Press 2005; Ron et al. 2017). While extreme repression can mean there is little possibility for local actors to advocate for rights; in many contexts, domestic actors – such as civil society organisations (CSOs), activists, the media, judiciary, politicians, and parts of government – play a crucial role in advancing human rights.

There has been increasing attention on the relationship between donors and local actors in recipient countries, linked to greater focus on how donors can work in more politically informed ways (Carothers and de Gramont 2013). The motivation for this turn to politics, in part, comes from the often-disappointing results of donor efforts to affect change, which some attribute to the lack of local buy-in for donor-supported reforms (Carothers and de Gramont 2013; Andrews 2013). There is growing recognition that donors need to support local actors engaged in reform efforts to ensure greater domestic commitment for reforms, and because local actors better understand the political context (Dasandi et al. 2019). This argument can be applied to human rights protection. When promoting rights requires a shift in attitudes and societal norms, it is especially important that local actors lead efforts for change, and external actors remain in the background (Merry 2006; Tadros 2012). Donors can support CSOs with financial and political assistance. However, some donor actions, such as aid conditionality, may undermine these efforts by generating a backlash that

negatively impacts local actors, or by putting donors at the forefront of the struggle for rights, thereby crowding out local actors.

### *Citizens in donor countries*

Citizens in donor countries influence donor governments' responses to rights violations, as indicated by *b* in **Figure 1**. Public support provides legitimacy for development assistance, and so it is important that donors are responsive to concerns about aid. A growing literature examines how public attitudes influence donors' decisions (see Bodenstein and Faust 2017; Milner and Tingley 2013). While aid conditionality is typically seen as an effort to influence recipient governments, it can sometimes be motivated by a need to counter pressure from citizens and other domestic actors. Recent studies suggest that citizens in donor countries strongly favour aid being conditional on respect for human rights (e.g. Heinrich and Kobayashi 2020; Allendoerfer 2017; Bodenstein and Faust 2017; Dasandi et al. 2021). This, together with growing public and media scepticism towards aid (Addison et al. 2017; Corbett 2017), means donors face pressure to withdraw aid when rights violations occur to demonstrate ODA is not misspent (Fisher 2015; de Felice 2015; Dasandi et al. 2021).

The economic sanctions literature discusses the 'expressive' use of sanctions, whereby they are imposed to signal disapproval to domestic audiences rather than the instrumental purposes of changing the targeted government's behaviour (Galtung 1967; Barber 1979). This has been discussed in the context of aid donors. Fisher (2015) argues that following growing public criticism of aid since the mid-2000s, the UK Government has increasingly used 'expressive' political conditionality to signal to citizens that aid is well-spent (see also de Felice 2015; Dasandi et al. 2021). Hence, there are instances when donors' threats to cut aid (*a*) are directed more at countering pressure from domestic audiences (*b*) than changing the recipient government's actions. This is especially important here because the impact of donor responses on recipient country citizens (*e*) – and recipient country citizens on the recipient government (*c*) – will be shaped by how these citizens perceive the motivations behind donor responses, and whether responses are seen as primarily driven by the need

to respond to domestic pressures (*b*). Therefore, citizens in donor countries do not influence directly the effectiveness of donor responses. However, they provide incentives for the donor government to adopt a particular response (e.g. political conditionality) that may be suboptimal – and furthermore this response interacts with domestic actors in the recipient country, which can impact the effectiveness of the response.

### ***Implications***

This framework has several implications for understanding the effectiveness of donor responses to rights violations. First, it suggests that both donor and recipient governments' responses in bargaining over the rights violation need sufficient domestic approval. Putnam refers to the possible agreements in negotiations that would gain necessary domestic support as 'win-sets'. A key difference between the ratification of international agreements that Putnam examines, and donor-recipient exchanges regarding rights violations considered here, is that the focus here is on the impact of these negotiations on human rights rather than the negotiation outcome itself. This means there may be win-sets that improve the human rights situation, and win-sets that worsen it. Another difference is that the negotiation outcomes here impact one country (recipient) more than the other (donor). Therefore, the stakes are much higher for the recipient government than the donor government, and hence there is a significant imbalance in the win-sets for each.

Second, the framework highlights the importance of citizens in the recipient country in terms of their attitudes towards rights violation, and their perceptions of the donor response. If, for example, there is public support for government actions that generate rights violation, then public threats to cut aid may trigger a backlash, which could increase domestic pressure on the recipient government to continue repression rather than end it. This leads to a third implication, which is that the framework suggests a fundamental issue is whether donors respond publicly or privately. Despite the focus on conditionality in response to rights abuses, there has been little attention paid to whether donors engage publicly or privately. The literature on political conditionality assumes donors use public

threats to suspend aid to ensure different actors recognise that any reduction in ODA is directly associated with the rights violation (see Dasandi and Erez 2019; Molenaers et al. 2015). Furthermore, donors' use of quiet diplomacy – behind-the-scenes efforts to persuade and pressure counterparts in the recipient government – has been criticised on the basis that it reflects donors' unwillingness to take meaningful action on human rights (e.g. Brown 2003). However, this framework suggests contexts in which the use of quiet diplomacy may be more effective in ending the rights violation than public threats. More generally, the framework shows that there are a range of donor responses to rights violations, beyond public threats to withdraw aid. This includes, for example, the use of quiet diplomacy or supporting local actors defending human rights. The effectiveness of these different responses will depend on the specific political context and the position of domestic actors. I examine this framework, and its implications, in the case of Uganda's anti-homosexuality legislation.

## **Methods**

The framework presented broadly considers causal processes. It focuses on the effects of donor responses to rights violations in recipient countries on different actors, and how this in turn impacts human rights outcomes. As such, I employ a process-tracing approach, using fine-grained descriptive data to examine the links between the possible causes and the observed outcomes (Bennett 2010). Applying process tracing to a single case cannot establish the general explanatory power of a theoretical framework; however, it can be used to identify the intervening steps and mechanisms that connects possible causes and observed outcomes within individual cases (George and Bennett 2005). I examine the relationship between donor actions and human rights outcomes, and the intervening mechanisms by which these actions impacted domestic actors and the recipient government. Hence, a process-tracing approach is especially well suited for this task.

I assess the effects of donor responses to human rights violations with a case study of donor governments' response to Uganda's Anti-Homosexuality Bill (AHB) – later passed as the Anti-

Homosexuality Act (AHA). Donors responded in various ways to try to prevent the introduction of legislation that would violate the basic rights of LGBT people in Uganda. The case has been purposefully selected to consider the role of domestic actors in donor responses to rights violations. Several additional features make it particularly suitable. First, as the rights violation was connected to a piece of legislation, it is more evident than if the violation was an isolated state action that could be more easily denied or ignored. Second, the case covers a five-year period between 2009, when the AHB was first tabled, and 2014, when the AHA was adopted and subsequently overturned. This allows me to examine different donor actions over time. Finally, as the Bill threatened people's rights because of their sexual orientation, the case presents a clear 'complicity dilemma' for donors (Dasandi and Erez 2019) – in that the rights violation cannot be justified on the basis of the country's development needs or political instability.<sup>5</sup>

The data comes from around 30 semi-structured interviews with key actors, together with relevant reports, speeches, media articles, and academic studies. Interviews were conducted with officials from donor agencies (both international and local staff), and with LGBT activists and CSO staff belonging to the Civil Society Coalition for Human Rights and Constitutional Law (see below). Additional interviewees included other opponents of the AHA, Ugandan government officials, and staff from international human rights NGOs. Most of the interviews were conducted in April-May 2017 in Kampala.<sup>6</sup> They broadly focused on participants' account of the struggle over the AHB, including details of their own involvement in the process. Interviewees were asked specifically about different donor actions and their impacts. It is important to note that interviews were carried out anonymously, especially as some participants – such as LGBT activists – face significant personal security threats, and more generally because participants expressed candid insights on the basis that their identities would not be revealed.<sup>7</sup> Where possible, I have also omitted the names of interviewees' organisations. Taken together, these interviews along with the reports and articles examined provide detailed and comprehensive data on the interactions between donors and other actors regarding the

Anti-Homosexuality Bill. The analysis provides a brief background to the AHB, before examining the different phases of the process based on donors' responses during these periods.

### **Uganda's Anti-Homosexuality Act and the donor response**

Laws on 'unnatural offences', which prohibited homosexual acts, were introduced to Uganda by the British during the colonial era (Tamale 2013; Rodriguez 2017). Following independence, these laws were retained, though there were few prosecutions for homosexuality prior to the 2000s (Tamale 2013). The 2000s witnessed growing calls from Ugandan activists and CSOs for equal rights and recognition for LGBT people. This was met with staunch opposition, particularly from 'right-wing Pentecostal pastors and conservative government officials' who called for measures to curtail homosexuality (Jjuuko 2013: 14). This opposition was linked to the rise of evangelical Christianity in the country, and prominent US evangelists were influential in Uganda's anti-homosexuality movement (Cheney 2012). In this context, David Bahati, a first-term MP, submitted a private member's bill in October 2009 – the Anti-Homosexuality Bill – to strengthen laws against homosexuality. He claimed this was necessary to counter the threat homosexuality posed to Uganda's cultural values, traditional heterosexual family, and children and youth.<sup>8</sup>

The AHB defined 'the offence of homosexuality', which carried a sentence of life imprisonment. It also included the offence of 'aggravated homosexuality' containing clauses on issues such as sexual acts with minors or by repeat offenders. Initially, the death penalty was proposed for those guilty of 'aggravated homosexuality' – which caused an international outcry – though this was later reduced to life imprisonment. It also targeted the 'promotion of homosexuality', 'aiding and abetting homosexuality', and the 'failure to disclose the offence' (Jjuuko 2013; Rodriguez 2017). The Bill, therefore, threatened the fundamental rights of LGBT people and targeted those working with sexual minorities.

The AHB garnered significant attention within Uganda and internationally soon after it was tabled. Civil society groups in Uganda responded by forming the Civil Society Coalition on Human

Rights and Constitutional Law (henceforth, 'CSCHRCL' or 'the Coalition'), an alliance of over 40 organisations that included LGBT groups and human rights CSOs, to fight the Bill (Jjuuko 2013). Yet, as I discuss in more detail, there was also widespread support for the Bill among Ugandan citizens, in part fuelled by religious leaders and media outlets.

### *The initial response to the Bill*

Donor governments quickly voiced their opposition to the Bill. The use of aid conditionality was central to this initial response. Donors issued strong public statements against the Bill with threats to suspend aid. The Swedish Government, for example, announced in December 2009 that it would withdraw the \$50 million of aid it provided each year if the Bill was adopted (BBC News 2009). The European Parliament passed a resolution in December 2009 that condemned the Bill and threatened aid sanctions if it was passed.<sup>9</sup> Others, including Germany, the USA, and the UK, also publicly threatened aid cuts (Guardian 2011; Daily Mail 2011; BBC News 2011a). British Prime Minister David Cameron's threat to cut aid if LGBT rights were violated, in particular, received considerable attention in Uganda (BBC News 2011b).

The initial response from the Ugandan Government was to oppose the AHB. President Museveni pledged to reject the Bill, describing it as 'fascist', and stating it did not represent the views of the Government (Human Rights Watch 2014). This is despite Museveni and the Government previously expressing opposition to LGBT rights (Bompani and Valois 2017). This opposition to the AHB by the Ugandan Government was largely due to the donor pressure, as Museveni, himself, acknowledged (BBC News 2010). According to USAID staff in Kampala, Museveni even gave personal assurances to the US ambassador that the Bill would not be passed.<sup>10</sup>

This early use of public threats to withdraw aid by donors and the response by the Ugandan Government was broadly consistent with the standard view of aid conditionality; the threat by donors of withdrawing aid pressured the Ugandan Government into adopting a public stance opposed to the repressive AHB due to the potential loss of resources that the legislation would entail. Hence, in

contrast to the two-level game discussed, the interactions took place between governments at the international level. Over time, however, this changed because of the significant domestic support for the AHB. As Tamale (2013: 1270) notes, there was ‘widespread support for the Bill among citizens and elected officials’, fuelled by influential religious leaders and media outlets. The public support for the Bill was based on strong opposition to homosexuality; public opinion surveys conducted in Uganda since the mid-2000s show that citizens overwhelmingly oppose homosexuality (e.g. Pew Research Center 2013). In this context, donor threats to suspend aid – which were publicised by proponents of the Bill<sup>11</sup> – served to shift the public debate from the rights of a minority group to focusing on Ugandan sovereignty and Western ‘imperialism’. The public saw the aid conditionality as an example of powerful Western countries trying to undermine Ugandan sovereignty and culture. This enabled the Bill’s proponents to generate a ‘rally around the flag’ effect and mobilise public support. This backlash against donor threats led to public demonstrations in Uganda organised in support of the AHB (Deutsche Presse-Agentur 2009). It also increased hostility towards the LGBT community in Uganda.<sup>12</sup>

The Bill’s popularity was particularly important given the country’s semi-authoritarian, parliamentary system with single-member constituencies, in which MPs must maintain support in their constituencies to remain in office (Goodfellow, 2014; Cheeseman, 2015). For many MPs – the majority of whom belong to the ruling NRM Party – this strong public support meant they had to back the AHB. While some opportunistically sought to bolster their popularity, others were concerned that failing to support the AHB could lead to them being voted out of office (Bompani and Valois 2017; Nyanzi and Karamagi 2015). Some cultural leaders did indeed call for Ugandans to vote out legislators who opposed the AHB (Tusiime 2009). Subsequently, despite Museveni’s opposition, many NRM MPs told him they would support the Bill:

Museveni was told in no uncertain terms, ‘we need this to get re-elected’. They [NRM MPs] believed that if they turned this down, the churches in their constituencies would come for them, and they’d lose the support of constituents. So, they told him, ‘we need this to get re-elected, and to hell with everything else’.<sup>13</sup>

Proponents of the Bill successfully framed it as necessary to protect Ugandan culture from the influence of the West, rather than as a human rights issue. Public statements by Ugandan politicians urged the government to defend Uganda's cultural values against Western pressure and threats to cut aid. This can be seen with MP Elijah Kyetunda's widely publicised radio interview in 2009 in which he stated, 'I will never forgive my government if it dares to mind about foreign aid and forget our cultural values' (Tusiime 2009). Bompani and Valois (2017: 58) note that 'the idea of discontinuing foreign aid proved a central theme in the debate, and many of the Bill's staunchest supporters used the Legislation to address concerns over how Ugandan political autonomy should not be dictated by the financial support of the international community'. This, in turn, increased the pressure on the Ugandan Government to back the AHB. Therefore, in line with the 'two-level game' model presented in **Figure 1**, the use of public threats by donors to withdraw aid had negative reverberations in domestic politics in Uganda, which conversely increased pressure on the Ugandan Government to support, rather than reject, the Bill.

Ugandan civil society actors generally opposed aid conditionality due to the strong public support for the Bill. Indeed, the LGBT rights activists and CSOs that formed the Coalition, organised around the question of 'how do we fight a bill that is so popular with the public?'.<sup>14</sup> In this context, civil society actors opposed donors' use of conditionality for several reasons, including the negative effects it would have on local CSOs fighting the Bill. A public statement signed by prominent African civil society activists in October 2011 explained these reasons:

Donor sanctions are by their nature coercive and reinforce the disproportionate power dynamics between donor countries and recipients, [...] the sanctions sustain the division between the LGBTI community and the broader civil society. In a context of general human rights violations, where women are almost as vulnerable as LGBTI people, or where health and food security are not guaranteed for anyone, singling out LGBTI issues emphasizes the idea that LGBTI rights are special and hierarchically more important than others. It also, paradoxically, has the effect of supporting, rather than counteracting, the vicious notion that homosexuality is 'un-African' and a Western-sponsored 'idea' and that countries like the UK will only act when 'their interests' have been threatened.<sup>15</sup>

The reference to the ‘interests’ of donors such as the UK being threatened is important. Supporters and opponents of the AHB in Uganda saw the strong public reaction by donors as being driven by domestic pressure on donor governments to defend LGBT rights.<sup>16</sup> According to donor staff this perception was broadly accurate – in line with **Figure 1**, domestic politics in donor countries exerted considerable influence on the response to the Bill.<sup>17</sup> In many donor countries at this time, there was growing media criticism and public skepticism of foreign aid, which meant that donor governments needed to show that ODA was used effectively, and was not given to repressive regimes (see Dasandi et al. 2021). This heightened scrutiny of aid spending influenced donors’ response to the AHB.<sup>18</sup> There was also significant focus on LGBT rights in donor countries during this period. Countries such as the USA, UK, Denmark, and others providing aid to Uganda, enacted laws that recognised same-sex marriage for the first time, and leaders such as Obama and Cameron made support for gay rights a hallmark of their leadership (Kollman 2016). The response to the Bill was influenced by these developments, particularly as there was significant international media coverage of the AHB. As a USAID official explained, ‘with the AHA what you had was a particular moment where there was a collision between the Obama administration’s politics and Ugandan politics’.<sup>19</sup> Importantly, several human rights organisations called for Western donors to take action over the AHB in Uganda, and to suspend aid if the Bill was passed – further pushing donors to demonstrate they were taking action (Nuñez-Mietz and García Iommi 2017).

While this domestic pressure ensured donors responded to the AHB, it also revealed an inconsistent approach towards human rights in Uganda. The country has seen various rights abuses in recent years, but Western donors have been reluctant to act because Museveni has been a staunch ally in tackling security issues in the wider region (Cheeseman 2015). A donor official explained:

The reason it [the AHA] became such a big issue compared to other rights abuses, is that there’s no domestic pressure to raise other rights abuses. That’s the nature of diplomacy. We work for politicians, who in turn, are responsive to domestic pressures and constituents.<sup>20</sup>

The stark difference in donors' response to the AHA compared to other rights abuses was noted in the statement released by civil society actors, and was apparent to most Ugandan actors, including the public. As a local donor staff member explained:

For the Ugandan public, the donor reaction came as a big shock. The situation with human rights here has been bad generally, but Western donors didn't speak up. They didn't discontinue aid. Political opponents have been killed and tortured, but this has not attracted the same attention.<sup>21</sup>

This inconsistent response to rights abuses led Ugandans to perceive the donor response as an attempt primarily meant to appease domestic audiences rather than affect change in Uganda. This further helped the Bill's proponents mobilise public support. Hence, consistent with the framework presented in this article, the perception that donors were engaging in 'expressive conditionality' further fuelled the public backlash in Uganda.

### *Working behind the scenes*

The donor response to the AHB went beyond threats to cut aid to more broadly trying to convince Ugandan legislators, the government, and President Museveni not to pass the Bill.<sup>22</sup> There was, however, disagreement among different donors, and between staff in Kampala and those based in donor countries on whether this should be done publicly or in private meetings with Ugandan officials. Following the initial public statements by Western leaders, an approach based on quiet diplomacy was generally employed due to the public support for the Bill.

Donor staff based in Kampala were especially aware of the strong public support for the Bill, which influenced how they sought to respond. In particular, the Bill's supporters framing it as defending Ugandan culture from Western influence, led many to believe the most effective approach to fight the AHB was quiet diplomacy – meeting Ugandan officials privately to persuade them the Bill should be thrown out, which included references to aid cuts.<sup>23</sup> As a Kampala-based donor official explained:

We had frank conversations behind closed doors with key figures, going all the way up to the President. That's the only way to get traction on the issue here [...] we knew the more it became a public debate, the more it would become an issue about 'Western imperialism' versus 'African traditional values'.<sup>24</sup>

While quiet diplomacy has been criticised for reflecting donors' unwillingness to take meaningful action on human rights; donor staff in Kampala strongly rejected this regarding the AHB. As one official pointed out:

People keep talking about 'quiet' or 'silent' diplomacy, but it wasn't quiet; it was behind closed doors. There was definitely a lot of dialogue on these issues, but it wasn't taken into the public domain [...] it was carefully agreed between the heads of the missions that they wouldn't talk about it publicly.

Ugandan opponents of the AHB, particularly the Coalition, also emphasised the importance of behind-the-scenes pressure due to the Bill's popularity. Indeed, over time the donor response was increasingly guided by the Coalition who recommended donors use quiet diplomacy unless the Bill appeared to gather momentum, in which case the CSCHRCL would ask donors to speak out publicly.<sup>25</sup> This was viewed as effective until 2013, with the Bill shelved several times (in 2009, 2011, and again in 2013). During this period, donors also provided greater funding to the Coalition to support their efforts.<sup>26</sup> The Coalition sought to fight the Bill and strengthen LGBT rights in Uganda using different approaches – from participating in parliamentary committees in Uganda, engaging with MPs, and undertaking other policy advocacy work; to lobbying other governments and various regional and international organisations, as well as using the Ugandan and international media (Jjuuko 2013). Donor support was crucial for civil society actors to undertake these activities.<sup>27</sup>

The use of quiet diplomacy during this phase meant that donors continued to apply pressure on the Ugandan Government to oppose the AHB – yet they were able to minimise the potential for a further backlash among the Ugandan public. Turning to the framework presented in **Figure 1**, this approach enabled donors to pressure the Ugandan Government to oppose the Bill, while ensuring this did not have negative reverberations at the domestic level, which could increase pressure on the

government to support the AHB. Donors also provided funding to local human rights actors, strengthening their ability to influence the Ugandan Government.

### ***Renewed public threats and the AHA***

The quiet diplomacy approach was effective until October 2012 when an incident occurred at a meeting of the Inter-Parliamentary Union (IPU) in Québec, which was attended by Uganda's Speaker of the Parliament, Rebecca Kadaga. At the time, there was little attention on the Bill in Uganda, but the incident marked a turning point in the process. Canada's Foreign Minister, John Baird, addressed the meeting and highlighted LGBT rights abuses in countries represented in the IPU.<sup>28</sup> He singled out Uganda, stating that 'draconian punishment and unspeakable violence are inflicted on people simply for whom they love and for who they are'.<sup>29</sup> Kadaga responded by criticising Baird, saying 'if homosexuality is a value for the people of Canada they should not seek to force Uganda to embrace it. [...] we are not a colony or protectorate of Canada. [...] please respect our sovereign rights, our cultural values and societal norms'.<sup>30</sup> The exchange received significant attention in Uganda, and Kadaga was 'welcomed as a national heroine at Entebbe airport' on her return, where she pledged to pass the AHA as a 'Christmas gift for Ugandans' (Bompani and Valois 2017: 53). The incident triggered renewed efforts to pass the Bill, which eventually succeeded in February 2014.

The claim here is not that Baird is responsible for the AHA being passed. Kadaga and other supporters chose to use the incident to introduce a repressive law, and hence responsibility lies with them and the Government. Interviewees also felt that had the IPU incident not occurred, the Bill's supporters may have used another opportunity to advance it. However, in terms of how the process unfolded, the incident prompted renewed focus on the AHB, which led to it becoming law.<sup>31</sup> Hence, Baird's statement had the unintended consequence of reviving the Bill. Furthermore, unintended consequences should not be conflated with unforeseeable consequences – especially as Baird had been warned about potential negative effects. A central figure in the CSCHRL had met Baird previously and discussed the risks of speaking out at the wrong time:

I met John Baird in Canada in 2011. We had a conversation about the situation in Uganda and about public responses to the Bill. We spoke about what it means [for donors] to speak out, and the repercussions of this back home. So, it was a surprise when he came out with that speech. It wasn't according to the conversation we'd had, and what we had suggested. [...] but he's the kind of guy who speaks his mind. I think that's what he did. [...] he was being himself, but it was actually dangerous. At the time, there wasn't a lot of attention on the Bill. [...] there was a lull after the elections. But now this revived it, and the Speaker had a new mission to introduce it.<sup>32</sup>

Other civil society actors also emphasised the importance of timing and context with public statements, which Baird failed to appreciate. One activist explained, 'he should have raised the issue with her in private [...] not in front of other speakers, other governments and parliamentarians, and the media', because 'if you attack a government representative [publicly], they're going to push back and use this to galvanise support for the Bill'.<sup>33</sup>

The AHA was not delivered that year, but the Bill was unexpectedly brought before Parliament in December 2013. After Parliament voted to pass the AHA, several Western leaders and high-level officials, in particular the US President Barack Obama, issued strong public statements threatening negative consequences if Museveni signed the AHA. Obama described the law as a 'backward step for all Ugandans', and warned it would complicate US-Ugandan relations (New York Post 2014). These renewed threats by donors to cut aid to Uganda had negative reverberations fuelling a backlash within the country. Indeed, 'NRM leaders urged US President Obama to stop the "bullying mentality" through threats of discontinued aid, and to "know that Uganda is a sovereign state with its own culture"' (Bompani and Valois 2017: 62). This increased the pressure on President Museveni to sign the AHA and resist donor influence. Museveni went back and forth in his public statements on whether he would sign it. He was effectively caught between donors who opposed the AHA, and the public that strongly supported it, which meant his 'repeated changes of heart [came] as he trie[d] to placate conservative politicians, church leaders, media and the public, all of whom express deep hostility to homosexuality, while not alienating western aid donors who demand that human rights be respected' (Smith 2014).

The domestic pressure eventually prevailed, and Museveni signed the AHA in February 2014, despite telling donors only days before that he would not. The pressure Museveni faced within his

party to sign the AHA and resist donor influence meant he risked being seen as weak if he refused. Mwenda (2014) explains, ‘when Obama asked him not to sign the bill in a public letter that even threatened consequences, he boxed Museveni into a corner’.<sup>34</sup> Indeed, even CSCHRCL members felt that at that point, with public pressure mounting, ‘Museveni had to sign the Bill’.<sup>35</sup> On signing the AHA in front of a large media presence, he spoke out against Western interference (Daily Monitor 2014b). Museveni (2014) claimed he signed the Bill, ‘to assert our Sovereignty by telling everybody that nobody should think of using “aid” to dominate us’. In response, several donors cut aid to Uganda, while others diverted aid away from the government and supporters of the AHA (see Guardian 2014; IRIN 2014).

Donors’ decision to issue public threats against the Ugandan Government, again, went against the advice of local civil society actors. After the parliament passed the Bill, the CSCHRCL issued guidelines for donors explicitly opposing public threats to cut aid, stating:

Aid cuts as a possible punitive measure should be discussed with the government of Uganda behind closed diplomatic doors and out of the glare of the media and the public. [...] Our own stand on aid cuts is that we do not support it because of the backlash that might occur on the LGBTI community and the suffering innocent Ugandans will have to endure as a result.<sup>36</sup>

Other Ugandan opponents of the Bill also argued that the use of public threats by donors was counterproductive, with Mwenda (2014) explaining, ‘Obama and other Western leaders need to use quiet diplomacy to try to change the actions of African leaders. [...] public threats achieve the exact opposite’.

The domestic context in donor countries meant donor governments faced pressure to respond to the Bill (see Saltnes and Thiel 2021). This pressure ensured they were committed to opposing the AHA. Yet, there were negative consequences too – most notably it fuelled the perception donors were more concerned with signalling to their domestic audiences than doing what was best to support LGBT rights in Uganda. This increased the pressure on Museveni to sign the AHA. For CSCHRCL members, this ‘expressive’ objective was why donors threatened aid cuts despite their warnings it

would be detrimental.<sup>37</sup> Donor staff in Kampala also felt that placating the domestic public frequently influenced donor government responses more than questions of how to oppose the Bill most effectively.<sup>38</sup> This led to divisions among donors on how to respond, particularly once the AHA was adopted. For example, at a meeting of EU donors in Kampala after the AHA was adopted, some donors proposed pressuring the Ugandan Government into releasing a joint statement with the EU criticising the AHA. Others argued this was impractical given the Government had passed the law, and it would serve little purpose in overturning the AHA. For some donor staff, the former was an example of posturing to satisfy domestic audiences:

I guess the question is what are you after? Are you actually after change here in Uganda? Is your goal to get the Anti-Homosexuality Act removed or is it more about sending messages back to your headquarters? I think these two positions would collide. Some embassies [...] were under heavy pressure from their capitals, so they had to be seen to be doing something. I'd say that had a negative effect on actually getting rid of the AHA.<sup>39</sup>

Other Ugandan opponents of the Bill also felt the donor response was more directed at satisfying domestic audiences than concerns about human rights in Uganda. Writing after Museveni signed the AHA, Mwenda (2014) argued:

I am aware that in issuing his threat, Obama was addressing himself to his constituency at home. Maybe he needed to show them that he has done something tough to threaten the Ugandan leader into not signing the bill. However, this action was not helpful to the LGBTI cause in Uganda.

It is worth noting that despite the public threats, in practice suspending aid proved problematic for some donors. A central concern was the harm this would inflict on vulnerable people, which became apparent to donors such as the US when they sought to withdraw aid:

For the Americans, this [cutting aid] was a much more difficult problem because they don't have things like budget support. Virtually all their aid is provided through various implementing partners, and usually it's outside Government circles. So, the question was, 'what the hell do we do?'. I mean, a lot of American money goes to paying for antiretrovirals. You cut those things off, and people are going to die.<sup>40</sup>

Kampala-based donor officials typically sought to resist pressure from their governments to withdraw aid because it would result in the cancellation of projects supporting vulnerable people and promoting human rights.<sup>41</sup> Donor governments that provided budget support faced difficulties because many had already suspended budget support in 2012 due to a corruption scandal (Guardian 2012). Some officials, particularly from smaller donor agencies, argued, ‘stopping aid ends the conversation’, and that it was by continuing this dialogue, they would influence the Ugandan Government.<sup>42</sup> Donor staff also argued that cutting aid could generate a backlash against LGBT activists. Instead, they felt it would be more effective to divert funds towards organisations that opposed the AHB. Indeed, donors such as the UK decided not to reduce overall ODA levels to Uganda, but instead to review aid spending, and ensure ODA was being used effectively to protect the rights of vulnerable Ugandans, and was directed away from the AHA’s supporters.<sup>43</sup> Therefore, as a USAID official explained, ‘with the linking of aid to the AHA, there was a lot more bluster to it than action, but there was certainly the perception of aid being linked to the AHA [...] it was a perception that some people found useful, even if there wasn’t much substance to it’.<sup>44</sup> Yet it is far from clear that public threats to cut aid were useful in the fight against the AHA. These public threats, again, triggered the domestic level of the two-level game (see **Figure 1**) – and had negative reverberations that led to greater domestic pressure on the Ugandan Government and Museveni to sign the AHA into law.

### ***Overturning the AHA***

After the Anti-Homosexuality Act was signed by Museveni, a petition to overturn it was quickly filed with Uganda’s Constitutional Court in March 2014 on the basis that it violated the constitutionally guaranteed human rights of Ugandan citizens.<sup>45</sup> The petition was filed by CSOs, LGBT activists, NRM and opposition MPs, and other public figures in Uganda. In August 2014, the Constitutional Court overturned the AHA on a technicality – the lack of a quorum when legislators voted. Soon after this, Museveni (2014) publicly warned against attempts to reintroduce it. Donor opposition continued

in the period after the AHA was signed and before it was overturned. Some donors suspended aid or diverted it away from the Ugandan Government and the AHA's supporters, as noted. However, the response went beyond aid decisions, focusing on two areas in particular. The first involved trying to minimise the impact of the AHA on the LGBT community, and the second was continuing efforts in private to persuade Museveni and the Ugandan Government to repeal the law.

Donors sought to minimise the AHA's impact by facilitating meetings between state officials and representatives of the LGBT community, and by trying to persuade government officials not to enforce the AHA while it was being appealed. Donors, for example, convinced the Minister of Health to issue public guidelines to all health facilities that stated everyone had the right to access medical services regardless of their sexual orientation. They also engaged with the Inspector General of the Police (IGP) to try to prevent the police from targeting LGBT people. According to one donor official, 'the IGP did a fair amount to restrain his troops'.<sup>46</sup> Donors also facilitated dialogue between the police and the CSCHRCL. Despite this, however, the AHA negatively affected LGBT people during this period. Human Rights Watch (2014) describes an increase in arrests and evictions of LGBT Ugandans, a rise in LGBT people fleeing the country, and – despite the Minister's statement – reduced access to health services.

Donors also continued efforts to convince Ugandan officials to overturn the AHA. This involved conversations with a wide range of actors, using different arguments about the negative impact the AHA would have.<sup>47</sup> For example, an airline executive was brought in to explain to MPs that bookings in North America and Europe for trips to Uganda had fallen dramatically. Another argument focused on the public health implications of the AHA. Donors organised a meeting with a Ugandan public health specialist who explained that the AHA could undo progress in lowering HIV/AIDS prevalence. They also brought in lawyers to discuss human rights implications of the law. Donor officials also sustained efforts privately to convince President Museveni to repeal the AHA. It was raised in all meetings that different ambassadors and officials from donor countries had with him during this time. Indeed, Museveni's (2014) commentary in a Ugandan newspaper noted that

‘privately, however, our [development] partners still raise it [the AHA], all the time’. An advisor to Museveni described how regular meetings with Western ambassadors at this time focused on the AHA, and often went from standard diplomatic dialogue to long conversations about ethics and morality.<sup>48</sup>

It is widely acknowledged that Museveni played a central role in ensuring the AHA was overturned. The fact that the case went to the Constitutional Court less than six months after the petition was filed, and was overturned in days, is attributed to Museveni. As a lawyer in the CSCHRCL explained, appeals usually take years to be heard.<sup>49</sup> By signing the Bill publicly and then ensuring the Court overturned it, Museveni managed to remove the AHA, while showing NRM members and the Ugandan public he had stood up to Western pressure, thereby addressing both levels of the ‘two-level game’.

Donor staff felt the economic argument – in terms of reduced trade and business – convinced Museveni to remove the AHA. This argument, interviewees explained, was helped by an incident during this period, when a Chinese firm cancelled plans to build a garment manufacturing factory in Uganda because their main client, a Western clothing company, warned of a consumer backlash because of the AHA.<sup>50</sup> Museveni alluded to this in an op-ed, explaining that many companies viewed Uganda as an attractive location for textiles manufacturing, but the AHA had threatened this by generating bad publicity. He argued that while the country should not be influenced by aid cuts, ‘we should remember that other peoples are also sovereign [...] they can choose whom to trade with and whom not to trade with’ (Museveni 2014). While donors recognised the effectiveness of the economic argument, it was used only after the AHA was signed. As an official explained, ‘it was an argument that wasn’t used effectively at all [...] in retrospect the economic consequences of the law were something we should have made much more of, and we should have been discussing it from the start’.<sup>51</sup>

These two responses demonstrate arguably the most important aspects of donor engagement. First, donors provided civil society actors with security and support. As a CSCHRCL member

explained, despite some negative consequences of their close ties to donors, they ‘had to compromise for the safety of the community’.<sup>52</sup> Coalition members saw donors’ financial support as crucial. As one member explained, ‘we could not have sustained the fight against this law for five years without donor support [...] we needed them’.<sup>53</sup> Second, while aspects of the donor response had negative effects – particularly the public threats to cut aid – donor engagement was important for the AHA’s removal. Through their close relations with government officials and President Museveni, donors ensured the negative implications of the AHA were understood, which contributed to it being overturned.

## **Discussion and conclusion**

The Anti-Homosexuality Bill generated significant international attention soon after it was tabled in 2009 due to the threat it posed to the basic rights of LGBT Ugandans. Western governments that provided ODA to Uganda, responded swiftly, and over the next five years these donors used various approaches to try to prevent the Bill from being passed, and to overturn it once it became law. The analysis demonstrates the importance of domestic actors in Uganda and donor countries during this process, and the ‘two level game’ that donor and recipient governments engaged with over rights violations. As the framework presented in the article suggests, the effect of different donor responses on the Ugandan Government were dependent on their impact on domestic actors. Furthermore, donor responses were, themselves, strongly influenced by domestic processes in donor countries, as the framework indicates. A number of specific issues emerge from this analysis that are important for understanding how donors respond to human rights violations. While these issues demonstrate the highly contextual and contingent impact of donor responses, they also highlight the broader considerations required, and point to fruitful areas of future research.

First, the analysis shows that the effect of donor responses on domestic actors in recipient countries – and subsequently on the recipient government and rights violations – depends on how citizens perceive the specific human rights violations committed by the government, and how they

interpret donor actions. It is often assumed that citizens oppose rights violations committed by the government, however the Ugandan example demonstrates there are contexts in which this is not always the case. The strong public support for the AHB, together with widespread perception that LGBT rights were a Western imposition on Uganda, significantly influenced the effectiveness of donor responses, and the interaction between donors and the Ugandan Government. The analysis, therefore, highlights the need for donors to pay closer attention to public attitudes in recipient countries, particularly perceptions of specific human rights and of donor interventions.

A second issue is the use of aid conditionality. One might conclude that donors' use of conditionality failed because it generated a public backlash that led to increased pressure on the Ugandan Government to pass the AHA. However, for much of the period examined, donor pressure played a crucial role in ensuring the Ugandan Government did not support the AHA; this pressure was because of the ODA these donors provide. The case, therefore, suggests that it was the public threats to cut aid that were problematic rather than aid conditionality more generally. This highlights the need for greater consideration of how conditionality is employed. The case raises other issues related to aid conditionality, frequently overlooked. First, cutting aid can inflict harms on people in recipient countries, particularly vulnerable groups, as donor staff in Kampala highlighted. Hence, donors face a dilemma with aid withdrawals in response to rights violations, and need to carefully consider the potential harms that may result from continuing or withdrawing aid (see Dasandi and Erez 2019). Second, perceptions of aid conditionality by domestic actors in recipient countries can impact the effectiveness of conditionality, as the Ugandan case shows. The potential for harm, together with the unequal relations between donor and recipient countries, meant that conditionality was seen as an example of Western imperialism that needed to be resisted. In contrast, the potential withdrawal of foreign businesses from Uganda was not interpreted the same way, again highlighting the importance of the perceptions and politics of aid within recipient countries.

The analysis also raises broader questions about the nature of responses. While the public threats to withdraw aid had adverse effects in the Ugandan case due to public support for the Bill, a

key question is whether alternative responses, such as quiet diplomacy, would have been effective without the previous public threats. In other words, would the threats to cut aid have been credible without the public statements? Those interviewed argued that the close relationship between donors and Museveni meant quiet diplomacy alone would have worked – though they suggested this would not be the case with other leaders in the region, highlighting the need for more research on when quiet diplomacy is effective. A further question is what this means for governments speaking out against rights abuses. The risk is that in trying to avoid a backlash, donors remain silent, enabling repressive regimes to commit rights abuses without fear of an international response. This was raised by a British MP during a 2014 UK parliamentary debate on LGBT rights in Uganda:

It is very easy to be cowed in this place and the West by the view that [...] to condemn such legislation is to engage in a form of neo-colonialism and that it is not our place to lecture other countries about their morals and how they do things in their society. If we took that view, we would silence ourselves forever as regards our ability to condemn human rights abuses that we consider completely unjustifiable.<sup>54</sup>

Ugandan opponents of the AHA, however, argue the issue is less about whether or not donors speak out, and more about when public or private engagement is more effective, and the nature of donors' public statements. As Tamale (2013: 34) argues, 'those who commented on Uganda's homophobic bill from the outside often expressed criticism that smacked of arrogance, a stunning lack of historical knowledge about homophobia, and a patronizing and domineering agenda'. While claims by Ugandan government officials about the 'neo-colonial' attitude of donors may be dismissed, civil society activists also felt this was the case.<sup>55</sup> Donor statements made little reference to the struggle for LGBT rights at home – or in the US case, the role of US citizens in promoting homophobia abroad. Downie (2014: 16) explains, 'successive secretaries of state and President Obama have issued statements against homophobic laws in Africa but they have not spoken out against the US-based religious extremists who have worked to get them passed'. Subsequently, donor statements reinforced the notion that LGBT rights were a Western imposition on Uganda's culture, which worked against emphasising the universality of human rights.

This leads to a fourth issue, which is the need for donors to respond to their domestic audiences. One could take the case to highlight the problematic nature of donors responding to human rights violations for ‘expressive’ purposes, particularly as it fostered an inconsistent approach to human rights. Yet, it is important to note that the reason donors pressured the Ugandan Government to the extent they did was because of the domestic pressure they faced to stand up for LGBT rights abroad. However, this raises the question of whether donors had to respond with public threats – despite the adverse effects this had in Uganda – to appease their domestic constituents. This relates to Putnam’s (1988) notion of ‘win-sets’. Signing the AHA, and then having it overturned, was part of Museveni’s win-set to appease donors and domestic audiences. One could argue that the use of expressive conditionality was part of donors’ win-set. However, recent evidence suggests this does not have to be the case, and that as long as donors show their citizens that they are engaging with human rights issues, these citizens will support donor actions (Dasandi et al. 2021). Hence, the win-sets available could potentially have avoided the AHA being passed at all, limiting the harms experienced by LGBT Ugandans.

Given the struggle over the AHA occurred over a five-year period, the case also highlights the need for donors to consider both immediate and longer-term responses to human rights issues in recipient countries – especially when the protection of specific rights requires broader shifts in societal attitudes, as with LGBT rights. This entails more engagement with local actors at the forefront of the fight for human rights, such as CSOs, and greater attention to responses that strengthen these actors rather than hinder them. Indeed, the analysis shows how donors can support local actors in various ways – from providing financial assistance and political support to facilitating meetings between civil society actors and government officials. The importance of supporting local actors over the longer-term is particularly relevant in the Ugandan context, which has seen renewed efforts to introduce repressive legislation targeting LGBT people through the recent Sexual Offences Act, which Museveni has so far resisted signing (Daily Monitor 2021).

The case of the Anti-Homosexuality Bill/Act in Uganda sheds light on the wider politics of donor responses to human rights violations in ‘recipient’ countries. It highlights the need to go beyond focusing only on donor and recipient governments towards considering how domestic actors are impacted by and, in turn, impact donor and recipient governments. The analysis here shows how considering domestic actors – and the ‘two-level games’ that donor and recipient governments face – can inform a better understanding of the effectiveness of donor responses to specific rights abuses. In doing so, the study demonstrates the need to move beyond an exclusive focus on aid conditionality, to a broader consideration of how donors can best support human rights in the Global South with the various tools at their disposal.

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### **Notes**

- <sup>1</sup> This article focuses exclusively on bilateral aid donors, i.e. governments providing ODA. It does not consider multilateral donors or international NGOs.

- <sup>2</sup> The abbreviation ‘LGBT’ for Lesbian, Gay, Bisexual, and Transgender is used throughout the article.
- <sup>3</sup> Aid conditionality refers to aid provided with conditions including economic reform, human rights performance, or foreign policy. Political conditionality refers specifically to conditions on democracy, human rights, and governance. The focus on human rights here means they are used interchangeably.
- <sup>4</sup> There is some evidence to suggest that foreign aid can improve citizens attitudes towards government and donor (see e.g. Dietrich et al. 2017).
- <sup>5</sup> Dasandi and Erez (2019) present a framework of ‘donor dilemmas’, arguing donors have the strongest reason to withdraw aid when facing a ‘complicity dilemma’.
- <sup>6</sup> Additional interviews were conducted via telephone.
- <sup>7</sup> This study went through an ethical review process at the University of Birmingham.
- <sup>8</sup> See the Uganda Antigay Bill Draft, April 2009, available at <http://www.publiceye.org/publications/globalizing-the-culture-wars/uganda-antigay-bill.php#april> (last accessed on 10 April, 2020).
- <sup>9</sup> The Resolution is available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P7-RC-2009-0259+0+DOC+XML+V0//EN> (last accessed on 25 May, 2019).
- <sup>10</sup> Interview with USAID staff.
- <sup>11</sup> For example, see Daily Monitor (2009).
- <sup>12</sup> Interview with CSCHRCL members.
- <sup>13</sup> Interview with advisor to President Museveni.
- <sup>14</sup> Interview with Ugandan civil society activist.
- <sup>15</sup> The full statement is available at <https://www.pambazuka.org/activism/statement-british-aid-cut-threats-african-countries-violate-lbgti-rights> (last accessed on 22 November, 2019).
- <sup>16</sup> This was discussed in most of the interviews.

- <sup>17</sup> The role of domestic politics in driving donor responses was highlighted in all interviews with donor staff.
- <sup>18</sup> This was described as a key factor in all interviews with donor officials.
- <sup>19</sup> Interview with USAID staff member.
- <sup>20</sup> Interview with donor staff.
- <sup>21</sup> Interview with donor staff.
- <sup>22</sup> Staff from various agencies highlighted the close relationship between Western donors and the Ugandan Government, especially Museveni, at this time.
- <sup>23</sup> From interviews with donor staff.
- <sup>24</sup> Interview with donor staff.
- <sup>25</sup> Interview with CSCHRCL member.
- <sup>26</sup> CSCHRCL members stated that prior to 2009 a few smaller donors provided funds to LGBT organisations, most notably the Dutch Government. After 2009, larger donors, including the US and UK, increasingly provided funds to the Coalition. After the AHA was overturned in 2014, there was a sharp decline in donor funding.
- <sup>27</sup> This was expressed in all interviews with CSCHRCL members.
- <sup>28</sup> Baird's full statement is available at <https://www.canada.ca/en/news/archive/2012/10/address-minister-baird-inter-parliamentary-union-assembly.html?=&wbdisable=true> (last accessed on 22 November, 2019).
- <sup>29</sup> Baird was referring to David Kato, a prominent Ugandan LGBT activist, who was murdered in 2011.
- <sup>30</sup> Kadaga's full response is available at <http://www.parliament.go.ug/new/index.php/about-parliament/parliamentary-news/124-speaker-clarifies-uganda-parliament-s-stand-on-homosexuality> (last accessed on 22 November, 2019).
- <sup>31</sup> All interviewees agreed on this.
- <sup>32</sup> Interview with CSCHRCL member.

- <sup>33</sup> Interview with CSCHRCL member.
- <sup>34</sup> Mwenda is editor of the Ugandan newspaper, *The Independent*, and was a prominent opponent of the Bill.
- <sup>35</sup> Interviews with CSCHRCL members.
- <sup>36</sup> The guidelines are available at <https://76crimes.com/2013/12/21/ugandan-activists-advice-on-threats-to-cut-aid/> (last accessed on 22 November, 2019).
- <sup>37</sup> This was expressed in all interviews with CSCHRCL members.
- <sup>38</sup> This was mentioned by all donor staff interviewed.
- <sup>39</sup> Interview with donor staff.
- <sup>40</sup> Interview with USAID implementing partner staff. US aid to Uganda in 2013 provided 500,000 HIV/AIDS patients with antiretroviral drugs (Downie 2014: 3).
- <sup>41</sup> Donor staff provided examples of projects reviewed in response to the AHA.
- <sup>42</sup> Interview with donor staff.
- <sup>43</sup> The full text of the UK parliamentary debate on Uganda's AHA is available at <https://hansard.parliament.uk/Commons/2014-02-12/debates/140212192000002/UgandanAnti-HomosexualityLaw> (last accessed on 17 August, 2019).
- <sup>44</sup> Interview with USAID official.
- <sup>45</sup> See the CSCHRCL press release for information about the petition, available at <https://www.scribd.com/document/211849667/14-03-11-AHA-Petition-Filing-Press-Statement> (last accessed on 2 January, 2020).
- <sup>46</sup> Interview with donor staff.
- <sup>47</sup> Descriptions of these efforts were provided in various interviews with donor staff.
- <sup>48</sup> Interview with advisor to President Museveni.
- <sup>49</sup> Interview with CSCHRCL member.
- <sup>50</sup> Interviews with CSCHRCL note that CSCHRCL members met with businesses and encouraged them to take a stand against the AHA.

- <sup>51</sup> Interview with donor staff.
- <sup>52</sup> Interview with CSCHRCL member.
- <sup>53</sup> Interview with CSCHRCL member.
- <sup>54</sup> This statement was by MP Nick Herbert during the debate on LGBT rights in Uganda on 2 April, 2014, available at [https://hansard.parliament.uk/Commons/2014-04-02/debates/14040272000001/LGBTRights\(Uganda\)](https://hansard.parliament.uk/Commons/2014-04-02/debates/14040272000001/LGBTRights(Uganda)) (last accessed on 15 March, 2020).
- <sup>55</sup> The lack of respect in donor statements was raised in various interviews with Ugandan activists.

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