

Center for Strategic and International Studies

TRANSCRIPT

Event

“Addressing Uganda's Crackdown on LGBTQ+ Rights”

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FEATURING

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Maria E.
Burnett:

Everyone, I think we're ready, yeah? Good morning, everyone. And thank you so much for joining us today at the CSIS Africa Program. I'm Maria Burnett. I'm a nonresident senior associate with the African Program here. And I'm really honored to be with an all-star lineup of friends and activists and colleagues for many years. This morning we're going to be talking about the human rights situation in Uganda, and the pending draconian bill, the anti-homosexuality act, which is back having first reared its head many years ago.

I'm going to do brief introductory remarks, and each one of the panelists will share their views on different issues, and then we'll have some time for questions. I'll flag the activists have a long day of meetings, so we are going to jet on time at 11:00. So thank you so much for keeping your questions as concise as possible at the end.

President Museveni has now been in power in Uganda since 1986. At this point, each election has been increasingly violent. The human rights situation remains increasingly troubling and really deteriorating. We've seen a real onslaught of attacks on civil society, particularly groups working on sensitive human rights issues, so including the rights of LGBTI people, but also working on oil and gas and environmental rights, working on electoral reform, and basic human rights like rights to freedom of expression and assembly.

In this context, I think there is really at this point no doubt that there is a small inner circle that really has the ear of the president and is in a position not influence him or to engage with him in meaningful ways. And it raises real questions for where Uganda is heading from a governance perspective, and where we are with Uganda's democratic trajectory at this point. Uganda has a relatively strong constitution when it comes to human rights issues, but we have seen partisan law enforcement and really consistent efforts to undermine the spirit of Uganda's constitution time and time again from legislators, often backed up by the – by the president and the statehouse itself.

At this point, there's no clear transition, even though President Museveni has been in power for almost four decades. There's no obvious contenders for who else might run in a future election, should anyone ever find the space to do so. We've found, unfortunately, that the opposition has really faced endless different kinds of attacks, from cooptation to physical attack, and imprisonment, and criminal charges. And they face their own frustrating challenges with disorganization amongst themselves.

In the midst of all of this, Uganda remains an important ally to the United States in security in the Horn of Africa. Uganda has troops in Somalia, as many of us know, and there's a long history of a relationship between the Ugandan Army and the U.S. Army for different security reasons. In this context, this bill has come back again. It was first tabled in 2009. At the time, there was a long fight over the bill, public consultations, activists did many briefings, and ultimately the bill was passed and signed into law.

In 2013 there was a constitutional challenge and that bill was overturned, but it's important to note, on procedural grounds. So there was no quorum in parliament on the day the bill was passed. So Uganda's constitutional court has, despite having ruled on this bill before, never ruled on the substantive issue of the rights of Uganda's LGBTIQ community, and the issue that is at stake in this bill, which we'll hear more about. Unfortunately, that procedural ruling left open the potential for this bill to come back. And that's where we are today.

So I'm really happy to be able to have this discussion today. And I want to say that I really think this discussion should set up really key questions about how the U.S. government responds to a government that has claimed to be an ally while constantly taking anti-democratic measures. I think it should really be an opportunity to confront what transcontinental hate looks like for a democratic government. We've seen more and more hate taken from the United States overseas. And I think it also tees up the question of how will democracies act in the face of codified bigotry and the criminalization of identity.

So joining us today, and first of our speakers, is Frank Mugisha. Frank is a legendary activist from Uganda. We're honored to have him in D.C. Frank is one of the founders of Sexual Minority Uganda. And we're happy to hear from him. Frank.

Frank
Mugisha:

Thank you so much, Maria, and good morning, everyone. As introduced, I'm Frank Mugisha, from Uganda. I lead an organization called Sexual Minorities Uganda, which is the network of the LGBT groups in Uganda.

I'll give you a bit of the local context at this moment, what is happening in the country, the history of the anti-gay legislation that has just been introduced. It's not only around the legislation, but what we've been seeing in Uganda is the anti-gay groups and anti-gender groups radicalizing the Ugandan society against the LGBT community. We're seeing a lot of hatred. We're seeing a lot of fear for LGBTQ persons. And of course, we just had so many cases of violations from the LGBT community.

This started early last year. And in fact, it led to the shutting down of the organization that I just mentioned in August last year. So it did not only start with the legislation. It started earlier. And we're seeing a very systematic, targeted, organized group that is targeting the LGBT community. And we've seen that Ugandans have sort of been prepared for this legislation. That is why there has been more support for this legislation than it was way back.

What we have seen as well is that there is more response locally than internationally. So the pushback, we are feeling it as activists on the ground. Whereas before there was a lot of international support, now we are seeing more localized radicalism of Ugandans. And we're seeing local social media promoting hatred, for instance, in WhatsApp groups and TikTok. So you can imagine the fear that the LGBT community is feeling at this moment.

Going forward, it's not only the anti-gay legislation that has been introduced in our parliament. There has also been the sexual offenses. And I know they are also trying to introduce a legislation that bans or stops or prohibits women who are not married from getting IVF. So our parliament is getting more and more conservative, thanks to the extreme American Evangelicals who are going to Uganda all the time and promoting this hatred, but also indoctrinating Ugandans with these conservative views.

Just last weekend we had a conference in Uganda that was called The Interparliamentary Conference on Family Values, and the resolution from this parliament was to introduce similar legislation in other countries. We already see Ghana has one. Kenya is trying to introduce one. In fact, a member of parliament who was in Uganda over the weekend for this conference indicated that he's going to introduce a legislation, which you've seen a draft of. We've seen demonstrations in Malawi; LGBTQ persons getting arrested in Burundi, Somaliland, and other countries.

So it is urgent that we respond to stopping the Ugandan anti-gay legislation because it is spreading out. I think, briefly, that is the background. And I am happy to answer any questions. Thank you so much.

Ms. Burnett: Yeah. Thank you, Frank.

So next we'll be joined by Qwin Mbabazi, who works with GLAD, where she's a senior manager of organizational culture and community

partnership. Qwin's going to talk to us a bit about how allyship around this bill has been going so far. So go ahead. Thank you, Qwin.

Qwin Mbabazi: Thank you, Maria. As Maria has mentioned, I'm Qwin Mbabazi. And it is important for me to also mention that I've been part of our Ugandan LGBTQ movement since 2009. So my activism did not start in the U.S. It actually goes all the way back from home. And I continue to be involved in the movement back home. So even though I moved to the U.S. and I currently work with GLAD, I'm still deeply rooted and personally invested in the work back home.

My colleague Frank did mention about some of what happened in the previous years, like 2014, when the bill had been tabled. And what is currently happening that, you know, we're announcing the allyship coming up. One of the superpowers that the Ugandan movement has is that, you know, we have not always only spoken up for LGBTQ rights. We have always spoken up in moments where we felt that, you know, human rights had been violated, whether it came across from demonstration with fellow women about the miniskirt bills, whether it was about supporting sex workers. So we always show up for the other members. And with that, we managed to build such a very strong movement that has given us very good visibility in the – not only in Uganda, but also in our neighboring countries. And that built some good support.

So when it comes to allyship and how that can really benefit us, is that we need more voices to be vocal. In 2014-2013, you know, we had the international voices speaking up. And we are noticing that actually being out there so much, some partners have come on board. A few weeks ago, South Africa, the opposition leader actually did hold a rally and stood with the Ugandan movement. Canada recently had also a gathering that was picking up against this.

But we are not only calling on, you know, fellow LGBTQ movements. We have a lot of multinational corporations that are operating in our country. And we strongly believe that, you know, if you're operating in Uganda, then every single thing about inclusivity, diversity, and inclusion should apply to everyone, irrespective of their sexual orientation. So if multinational companies come on board and speak up and supporting, like, this bill is not only going to be harmful to LGBTQ movement, as well it will also harm the businesses that are operating in the country, that is something important out there.

Still, around allyship, it is important for direct engagement with the president. So we only have 30 days, and the bill was tabled to the president on Wednesday. The clock is ticking. What is happening? We

need the direct engagement, because right now it is just the president's signature and it becomes our law. So we are asking countries like EU, the U.S. be involved. Please speak up. Stand with our community. Put out statements, whether it is going to be a campaign that is out there, whether it is a demonstration. But it is important that we have a unified voice from the locals, from LGBTQ movements, from international, multinational businesses, and everyone that really believes in human rights.

Thank you, Maria.

Ms. Burnett: Thank you so much, Qwin.

I just wanted to mention, for those of you who haven't actually read the bill yet, that there is really a couple of categories of issues that are troubling. And I'm sure people are aware of the criminalization of same-sex conduct, which is currently already on the books in Uganda as a – it was passed down from the British colonial criminal laws, that obviously Uganda as a former British colony imported.

But the other thing that's worth pointing out here, for those of you who are following these issues, is the criminalization of what's called "promotion," which really criminalizes all human rights advocacy related to supporting the rights of LGBTI people in any way. So it's a real crackdown on free expression, the kind of work that these activists do, the kind of work that big, human rights organizations do, even the work of groups like, you know, the Office of the High Commissioner for Human Rights, the U.N. body, and others, could be criminalized. That is, you could not even say that people have these rights without running afoul of this promotion law.

It's important also to point out that that promotion language also would criminalize much, extremely demonstratively effective, public health work. Uganda has a significant HIV challenge. The U.S. has been a massive supporter through PEPFAR and other programs of Uganda's HIV response. There's lots of evidence that criminalization in this way sets countries back when it comes to effective public health responses. And if this bill passes, as it is now, the work that PEPFAR currently funds would be criminalized. And we're talking about people who are implementing U.S.-funded programs who could not do their jobs without potentially running afoul of the law and losing their liberty, right? This is a criminal law. This is not a civil penalty.

So just to be very clear about the stakes here. We're not talking about something that only criminalizes same-sex conduct, which in and of itself,

obviously, shouldn't be on the books. But this is a massive expansion into other areas that allows doctors and landlords to go on kind of witch hunts. So I think it's really important to think through the dynamics of a lot of different kind of international funding that's going into Uganda, particularly around public health but also around a lot of other advocacy efforts that have been proven to be the effective way to address certain key issues for citizens.

So I wanted to tee up the legal issues, because next we're going to hear from Nicholas Opiyo. Nicholas is going to talk to us about some of the legal challenges and the legal challenge to the bill that's already underway, and also the broader human rights context in Uganda. Nicholas is one of Uganda's most prominent human rights lawyers. He is the founder of Chapter Four Uganda. And he was the lawyer who fought the first version of this bill in 2014. So we're very happy to have him here today.

Nicholas.

Nicholas
Opiyo:

Well, thank you very much, Maria. And thank you, everybody. Two quick points, just to tee it off.

All of these discussions happen within a context. It is important to put that context really up front. We are dealing with a government that has a well-documented history of human rights violations. Not too long ago we had elections in Uganda. The government of Uganda, by their own admission, went onto the streets. In a moment of extrajudicial killings, killed by our count more than 100 people in two days. We have young people of Uganda being disappeared, being tortured because of supporting the opposition groups in the country.

You have civil society under extreme strain and stress because of the closing of civic space. Organizations are being suspended, being closed, being denied permits to operate in the country. Foreign nationals working in Uganda are being expelled or declared persona non grata. The last election, a couple of them were sent out of the country. So we're dealing with a difficult situation already, a situation of very serious concerns about human rights violations of all manners of groups in the country.

Human Rights Watch and other organizations have documented history upon history of extrajudicial killings in Kasese, on the streets of Kampala in 2009, in what was called the Buganda riots. So we're dealing with an already bad situation. But I think it is important to ground this discussion in that context.

The second point that I want to tee up right up front is that this legislation, like Maria said, was introduced for the first time in Uganda in 2009. So we have been here. The arguments that are being fronted by groups behind this legislation really is threefold. First is they're equating the LGBTIQ community with pedophilia, and making false allegations that there is massive recruitment in schools of children into homosexuality. Again, not backed up by any data. It is just a dog whistle.

The second broad argument that these groups make in support of their hate campaign in Uganda is that they are fighting to protect the African culture. And that being different, or loving somebody different from the rest of the population, is against African values and culture, and therefore they are fighting very hard to preserve African cultures. Again, a false argument. We can have an argument about African culture not being uniform. We can have discussions about precolonial sexual expressions in Uganda that recognized same-sex relations dating way back as old as our society. And so that, for me, I think is really important to point out.

Now, to the legal question, clearly there's going to be a legal challenge if this law is signed into law by the president. We did so in 2009. The court chose the easier route to deal with the procedure problem, and left the broad argument about equality, nondiscrimination. And we will challenge this again. And I think there are four broad preliminary headnotes for this – for this challenge. The first is the question of the principle of legality. If you want to make something criminal, you must make it very clear and sort of easy for all of us to understand the conduct that is prohibited.

Several sections of this law has broad terms which are really a catch-all situation. Anybody and everyone can become a criminal under those provisions. And I'll highlight for you just a couple of them. First is a question of promotion. The promotion aspect deals, covers civil society organizations doing anything related to or connected to the LGBTI movement. And this can be anything including lawyers, advocates, service providers.

The law creates a reporting obligation that if you know somebody to be gay, or lesbian, or trans, you have an obligation to report, failure of which you can go to jail for six months. It creates very broad obligations upon every member of the society almost like a moral police force. We think that these obligations are too broad and makes everybody really a potential criminal. And we must challenge the law on that basis.

The second head of argument really is the elephant in the room, which is the question of the right of Ugandans who are engaged in consensual same-sex relations. We all agree about sexual violence and exploitation of children. That's already covered in the law. But the question is adult Ugandans consenting freely to same-sex relations being criminalized for who they love and who they are. We think that there's a strong argument about discrimination of people on the basis of sexual orientation and gender identity.

The third broad argument, and I'll close with this, Maria, and we are out of time. People need to ask questions. Is the overall question about sentencing. Because the law provides for a death penalty for what is called aggravated homosexuality. That death sentence is mandatory, right? Or, the way it is couched in the law is mandatory. It provides for life imprisonment for anybody who is convicted of being engaged in same-sex relations.

We think on the basis of sentencing decisions, we can challenge the law primarily on the basis of the fact that mandatory death sentencing for any offense in Uganda really has already been – has already been outlawed by the Supreme Court, and this law cannot introduce it in the way that has. So quite briefly, those are the broad headlines. I'm happy to take questions.

Ms. Burnett: Thank you so much, Nicholas. So we're honored today to be joined by President Biden's Special Envoy to Advance the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Persons Jessica Stern. Jessica is a long-time human rights activist and has worked on these issues from really many different stakeholder positions over her career. Special Envoy Stern, as I said, we're honored to have you.

We know there have been a lot of discussions within the USG about this challenge. And, you know, there's a lot of pushback in the Ugandan government about how – when the U.S. issues condemnatory statements about these kinds of topics, you know, this is trying to impose Western values. But as many people have pointed out here on the panel, obviously a lot of the hatred that is coming into Uganda is Western-supported, as well as are the criminalization of same-sex practice that is on Uganda's books already.

So we would love to hear from you a bit about how you see this issue and how the U.S. can most effectively use the leverage it does have to address this kind of anti-democratic backsliding. I think it's worth pointing out that if you look around the world, many autocratic regimes use laws like this to kind of pander to populism, to divide communities and citizen

groups who are trying to unite to oppose, you know, repressive governments.

And that this kind of cracking down on a marginalized community is something that we've seen in many other places. Sadly, Uganda is not the only place. And in fact, some U.S. states have very troubling laws pending right now as we speak. So how do you see this issue playing out and what's – how can the U.S. really use the leverage it has, and this administration use its commitment to the value of protection of human rights most effectively?

Jessica Stern: No easy questions, and no easy answers, as everyone on this panel knows. Hi, everyone. It's a pleasure to be here with you today. Thank you to everyone who came out in person. Thank you to everyone watching online. And, most especially, thank you to CSIS for creating this opportunity. I feel really humbled to speak alongside the experts on this panel.

I want to start out by just kind of summarizing the U.S.'s view of the proposed anti-homosexuality bill. The U.S. has significant concerns about the Anti-Homosexuality Act that the parliament of Uganda passed on March 21st. If the AHA is signed into law and enacted, it would threaten the human rights of Ugandan citizens, jeopardize progress in the fight against HIV/AIDS, deter tourism and investment in Uganda, and damage Uganda's international reputation. And I'll elaborate on each of those concepts.

I think it's important to underscore that Uganda has been a valued partner in the fight against HIV/AIDS, and the PEPFAR program has been critical to our progress towards ending HIV/AIDS as a public health threat by 2030. However, if the Anti-Homosexuality Act is signed into law, the LGBTQI community will be further marginalized, and decades will be lost. Uganda's reputation as a regional leader in health will be damaged. And I want to say that the mere passage of the bill by parliament has already resulted in an increase in harassment and violence against the LGBTQI+ community, which I hope our colleagues will speak more about on this panel. Just the threat of the law is already having a catastrophic effect.

I want to elaborate by talking about a question that Maria asked, which is: What has the U.S. done and what is the U.S. considering in relation to the Anti-Homosexuality Act? The United States continues to raise issues around the Anti-Homosexuality Act with the government of Uganda at all levels. U.S. officials in Washington, in New York, in Geneva, and in Kampala have met with dozens of senior officials to discuss our concerns.

In addition, we are coordinating with diplomatic partners, with the private sector, and with human rights organizations directly.

Specifically, I think one of the greatest resources we have had has been daily communication with some of the LGBTQI activists on this panel, who probably have heard from me more in the past month than over many years combined. But we're in constant contact with the community because they know how severe this issue is, how high the stakes are, how to push, what messages to use, and what consequences the threat of the bill is already having on the community. So I just want to say, LGBTQI human rights defenders and human rights defenders of all stripes in Uganda are some of our greatest partners in this work.

I also want to underscore, we are working with partners to engage at the multilateral level to address this issue. And just to give you very – one very concrete example, the day after the Anti-Homosexuality Act was passed by parliament, the U.S. issued six statements across different platforms expressing our concerns with the proposed bill. One of the questions that we've been getting, that certainly Maria has asked me any number of times, is will the Anti-Homosexuality Act impact U.S. foreign assistance? And I just want to say clearly that we are investigating the potential impact of the Anti-Homosexuality Act on U.S. foreign assistance. I think we know that if this bill is signed into law it will be an action-forcing event.

And then last, but not least, I've gotten a lot of questions from U.S. travelers, LGBTQI people and their loved ones, who are considering, can I go safely to Uganda? I think it would be a mistake to think the U.S. is only concerned about the potential impact of this bill on American citizens, but we also have an obligation to ensure that American citizens are aware of when and where they could be unsafe.

Uganda is currently classified as level three, which means reconsider travel due to crime and terrorism concerns. In addition, our guidance notes, quote, "Consensual same-sex relations are criminalized in Uganda. Social acceptance of homosexuality remains very low. LGBTI individuals or suspected LGBTI individuals could face harassment, imprisonment, blackmail, and violence." And I just want to underscore that should the bill be signed into law, we will review this guidance immediately.

And, Maria, I have the feeling I should wrap up, so let me just end by saying part of the reason that the U.S. government is so deeply concerned about the proposed Anti-Homosexuality Act is not only because of the devastating consequences it would have on all Ugandans, but also because of something Frank alluded to, which is the threat of contagion

across the region. And I also got a copy of the proposed so-called family protection bill from Kenya over the weekend. Some of its concepts and some of its language appear to be almost exact copycats of the Anti-Homosexuality Act in Uganda. So we have to understand this as a bill that would establish a new low when we talk about LGBTQI safety and security. And therefore, it requires a really urgent response.

Thank you, Maria.

Ms. Burnett: Thank you so much, Special Envoy Stern. We're really happy that you are able to join us today. It's critical.

We have a few minutes for some panel discussion, and then we're going to open it up for questions. So, Nicholas, I wanted to kick the first question to you. Special Envoy Stern discussed some of what the U.S. is, you know, thinking about in terms of a response. Many of us were involved in the discussions from 2014 about the U.S. response. We remember that there was the cancellation of an air chiefs conference. That was the military response, was the cancellation of one conference. And there was some changes to some funding for PEPFAR implementors who had voiced support for the discriminatory bill.

I was wondering if you could both reflect on that response, many of us have been critical also of the kind of condemnatory statement approach to diplomacy in Uganda, which I think President Museveni has, you know, developed an appetite for tolerating over the years, since there have been many condemnatory statements issued by Western embassies over many years. Could you reflect a bit on the – on the U.S., and the EU, and others responses to that bill at that time, and think back to what you thought was most and least effective in that engagement? I would include the World Bank also, where the U.S. maintains a tremendous amount of leverage but also is a really key part of this discussion, both on public health by on infrastructure and many other things that the Ugandan government cares about deeply.

So, Nicholas.

Mr. Opiyo: So in 2014 – in 2013, when this law was enacted – similar law was enacted, there was robust, immediate international response. The response was coordinated with different blocs – the EU, the Scandinavians, the U.S. spoke in unison about their objection against this law and, on the advice of local actors, had a progressive process of response. So initially emphasized constructive, individual engagements. And Ambassador Scott DeLisi, who was the U.S. ambassador in Uganda then, will tell you that President Museveni looked him in the face and told

him: I'm not going to sign this law. This law is draconian. You know, I'm not going to sign it.

And yet, he went ahead to sign it. And not just sign it, but sign it publicly. For the first time a law in the country was signed before international press, with certain very unpleasant words being mentioned. So you're dealing with somebody who – don't take him for his word. Admittedly, he has a domestic constituency to deal with that appears to be in support of this law. He needs to hold onto power. So his calculus is going to be what can I do that will make me hold onto power. And my sense would be, we would be forgetting history if we trust him at his word. His actions are more important than his word. So watch those actions.

The second thing was that the diplomatic posture taken prior to Museveni signing the law was that there was a strong message that there are going to be consequences if this law was signed. And these were not empty threats. People made clear their stance, and indeed carried through these threats. We had the World Bank suspending aid to Uganda's health sector at the time. We had the Scandinavian countries and the EU moving their funds from direct government support to other ways, through civil society.

And so don't make threats that you can't carry through, but also do not be taken to be negotiating from a weak position. I think that U.S.-Africa engagement now appear to be, you know, done with, like, fear for Russia and China. And so there's – you can see a sense of hesitation. I think you are better off moving on the point of conviction, values, and systems that you hold dear, as opposed to appearing to be weak.

The third thing is that you had several individuals who were involved in promoting hate in Uganda, really individually and in other ways sanctioned. People were – they were smart, targeted engagements and sanctions against people who were involved in promoting hatred. And I think that this kind of processes we still need to reflect on and see if you can apply them today. And I think we can still apply them, but there are individuals who are involved in heinous human rights violations of the LGBTI community, but also other human rights violations.

Because to only address this with the lens of the recent legislation and in isolation of other past human rights violations would only play into the argument that there was only chaos about the LGBTI community. In fact, that can have a negative impact on the country's LGBTI community. And therefore, the response must be wholesome, must take into account the history of human rights violations. We have evidence upon evidence of extrajudicial killings by the Ugandan state. I think we've got to begin to

raise the cost of human rights violations. And this is an opportunity to do so. This is an entry point to do so. And we must make it clear that there are going to be consequences.

Lastly, Maria, Ambassador Scott DeLisi took a BBC interview. Very rare for a U.S. ambassador to do so. He had a heated interview with the BBC in which he called out Museveni, expressed his disappointment. I think there's going to be a moment in which if this law is signed, and as expected he doesn't keep his word, that you have to confront him and have an honest discussion about the values for which you stand.

Admittedly, Museveni is a useful partner to the U.S. government. We even host refugees from Afghanistan, when the U.S. left Afghanistan hurriedly. (Laughs.) We flew and had refugees in the country. He's used this as a very important foreign policy tool to position himself as a solution to many of the global problems, whether it's refugees or the fight against terrorism. But for all the good things he does in fighting terrorism in Somalia, he's using the same to blockade himself from his increasingly authoritarian – and, I think, totalitarian, in fact, not even just authoritarian – tendencies in the country.

So you've got to be very careful and understand just how he has played the global West and used this to his advantage, and used it to cement his rule in Uganda. And respond with that in mind. I would never trust him. If he shook my hand, I would cut off my fingers.

Ms. Burnett: Thank you, Nicholas. Yeah. And I think it's worth flagging that human rights groups have done a huge amount of documentation work to indicate the kind of individuals, and specific individuals, who should face sanction under Global Magnitsky. And the EU has its own sanctions regime. And, you know, this would really be, I think, a key time for coordination and communication around those issues so that this holistic response that Nicholas mentioned is possible and efficient, because those processes can be quite slow and bureaucratic.

Frank, I wanted to turn to you to both ask about, you know, your thoughts about the U.S. response from 2014 and the response of other stakeholders, what your view is. I know you were very much on the front line in both positive and negative ways, and you've been in a very difficult position over, you know, many years on this issue. So share with us a bit about how your own memories go from 2014, and how you'd like this response to be different this time.

And also, as Special Envoy Stern mentioned, you know, the immediate impact of simply tabling a bill like this, and the impact it has on the

community and individuals in Uganda, I think it's important that we end on the reality of current day Uganda, beyond any speculative policy framework. Talk to us a bit about the reality of the impact on the community today.

Mr. Mugisha: Two questions, the impact on the community and my view of the response. I mean, to sort of echo what Nicholas mentioned, one is when Ambassador Scott DeLisi spoke out strongly in Uganda, it was because some of the high-level engagements we'd had here in the U.S., and because of the support of some of the partners who were working with us. So the embassy in Uganda got very strong and said, you know, if Washington is asking questions, we need to be strong. So I think we need to get Washington to ask questions again. And so maybe the partners in Uganda can be strong. I mean, the embassy is highly engaged on this issue and involved with us, but I think at some point making it a stronger voice.

Some of the recommendations we had in 2014 can still work. And Nicholas has mentioned some of those. If you would, travel advisory, engaging on some trade and investment, and also tourism. And definitely we have so many LGBTQ tourists that reached out to us particularly. They're already contacting us now and asking: Is it safe for us to travel into the country? So that is – that is key. And there was so much international support, as I mentioned earlier, but now we're seeing more pushback locally. We're seeing rather backlash locally than we're seeing – we're getting international support. Back then, there was so much international support, so much international media, and so many partners internationally were involved in speaking against the legislation, but also fighting the legislation.

Now we're getting more backlash on the ground. And for me, that's why I think this is more systematic and targeted. And the anti-gay groups have learned our tricks. They mobilized the Ugandan population because they knew we'd go internationally. So it's so dangerous for us on the ground if the international community stays quiet. So I think some of what – getting a lot of international voices speaking out is very key. But that ties into what we're seeing on the ground. And, like I mentioned earlier, we're seeing more increased violations, negative media.

And this goes way back. It's not new. Nicholas and I were tied together as funding opposition at some point during the elections. And I think that's when the conversation started. You know, we're always – LGBTQ persons are always scapegoated for something. It was the elections, we're funding the opposition. Recently, there was massive corruption of – some government officials had stolen some sheep and goats that I don't even

know the details of. And then we saw the anti-gay legislation. So we could get scapegoated for something else, you know, before signing of this legislation. And then the president might be forced to sign this legislation.

So whenever there are public statements like that in the media, we see an increase in the violations of LGBTQ persons. We just had cases of people getting arrested, blackmail, and extortion. People are getting undressed on national television, transgender persons. It's happening every day. And a lot more of backlash. And also my colleague – you mentioned founding of SMUG. Actually, Kasha is here, one of the founders of SMUG as well, and maybe will also contribute on some of the – of what is happening on the ground in Uganda. Thank you.

Ms. Burnett: Great. Thank you so much.

I want to make time for our community of people here to ask questions, so maybe we'll turn to the mic, which is over here. And people can go to the mic to ask their question. We'll take maybe two or three questions, and then the panelists can respond. Get your questions ready. And I'll flag again, being concise would be great. We have a tight 11:00 departure.

Q: Hi. I'm Asia Russell from Health GAP. It's a pleasure to see everyone today.

My question is the most important one. Like many people in this room who were part of the effort to beat back this odious legislation and the odious context that it is so intimately married to, as Nicholas described, 10 years ago, were warning the U.S. government 10 months ago that this was coming, when SMUG was shut down. Why is the U.S. less prepared with a more weak response when the consequence and the threat is far greater? Not only for LGBTQ Ugandans, but for minorities who are oppressed throughout the region and across the continent, and for people whose human rights are on the line more generally, for whom the LGBTQ issue is a convenient scapegoat?

The U.S. government just days after President Biden was inaugurated, the February 4th memo could not make it more clear that this is a fundamental issue of the U.S. government's foreign policy – decriminalization, standing up for human rights. We appreciate the statements, but it is outrageous that we are in this position today. So why is the response of the U.S. government so wildly disproportion to the threat that our comrades are experiencing every single day and, frankly, told the U.S. government was the reality 10 months ago? The plan should have been in place from then. So, Special Envoy Stern, we appreciate your

work, but are you satisfied that the U.S. government is doing enough? And why are we in this crisis currently? Thank you.

Ms. Burnett: Thank you, Asia. Do we have another question, and then we'll take – yeah. Can you go to the microphone, please?

Q: Thank you. My name is Daniel Beale. This one goes to Nicholas.

How are you going to induce and inspire judicial activism amongst the bench to attend to the merits of this matter, seeing that it was initially attended to in 2014 on the basis of technicalities with quorum? Because I first see the judiciary avoiding to deal with the merits of the bill. Thank you.

Ms. Burnett: We'll take one more question, and then we'll answer all of them. Go ahead, please.

Q: Hi. My name is Allison Gilmore. I'm here with RFK Human Rights.

I do have a question about the issue that both Frank and Nicholas raised, is that this issue is very clearly spreading throughout Africa. So how do we prevent things like this? How do we prevent the spread? And how do we make sure that this doesn't happen and does not become a precedent? Thank you.

Ms. Burnett: Yeah, last question, go ahead.

Q: Actually, Asia Russell hit on what I wanted to ask. But just to reemphasize the issue of the Americans, because the issue of the Americans, because the signing – the passing of the bill in the parliament is not like – is something that is just new, that they didn't know about. Because the closure of Sexual Minorities should have already sent the world a signal. Why is it that this time is different from 10 years ago? So, Special Envoy Jessica Stern, why is America really this time very shy about really standing out and saying what it has to say? Why is it that even just a statement or a tweet has to go through a lot of protocol? What is really going on?

And to colleagues from Uganda, you've been here 10 years ago. And as the law fellow Nicholas has said, that you're going to go to court. Well, should you go to court and again maybe win, and then after 10 years again the same issue happens. So I just want to know, are you going to keep playing this cat and mouse game? And the bill comes, and then you keep going to court, and all that. Why don't you go for decriminalization

once and for all? I just want to know what is taking you that long? Thank you.

Ms. Burnett: Thank you, Kasha. So that is a range of challenging questions. Maybe, Special Envoy Stern, we should get to your first.

Ms. Stern: Sure. Happy to. Asia, thanks for your question. Kasha, thanks for your question.

For those of us who have been working on LGBTQI solidarity in Uganda for a long time, I would say it's a blessing and a curse. And I would say it's a blessing and a curse because I think there was very strategic coordination with LGBTQI human rights defenders in Uganda a decade ago that tells us the best practices and the lessons learned, which this panel has really spoken to. The world is not in the same place as it was in 2009, 2013, 2014. And so to think that we have the exact same tools at our disposal is to not take into account the way the way the U.S. bilateral relationship with Uganda has shifted over a decade. And there have been significant shifts. I think that – so that's the first thing. It kind of goes back to where Nicholas started his remarks, which is context. What leverage the U.S. has today is not exactly the same as it was a decade ago.

The second thing I want to say is that it would be a misnomer to think that the U.S. hasn't been closely tracking the shrinking space for civil society in Uganda and the heightened risk for LGBTQI Ugandans. I want to say very clearly that there has not been – there has not been – sorry, I just can't find my words – the U.S. has been tracking shrinking civil society space for all Ugandan human rights defenders, and the increased violence and targeting of LGBTQI rights. I think the example of the attacks on SMUG and the deregistration of SMUG is something that has been an enormous concern and was, in fact, a bellwether for a lot of us.

Now the question is, given the current context what can we do to be effective? What I want to say clearly is that the U.S. is committed to evaluating all tools at our disposal to support the LGBTQI community in Uganda. And I'm really happy that there's a delegation of Ugandan human rights defenders in Washington, D.C. this week who are going to be having a suite of meetings to raise their concerns and make sure that we are not just listening to you all in Kampala, but we are also listening to you at the level of capital.

And I want to conclude by saying that the U.S. doesn't have the ability to determine the fate of another country, right? That's the notion of national sovereignty. We have a set of bilateral relationships at our disposal. And the question needs to be, how is the U.S. leveraging the tools within the

bilateral relationship to make this a priority? And I want to make very clear that we are using everything that we have to make sure the government of Uganda knows this is a top priority for the Biden administration, across all of our points of contact.

Ms. Burnett: Thank you, Special Envoy Stern.

Nicholas, you had a couple of questions on judicial activism and, yeah, other strategies. We should flag that Nicholas' Chapter Four was also forcibly shut down by the government. SMUG is not alone there. But there were attacks on civil society the year before. So this tactic of shutting down groups that are critical of the government and that are pushing on human rights issues has been going on for many years, including actually going back to 2012 when land rights groups were also forcibly shut down for criticizing government deals over land. So go ahead, Nicholas. Thank you for sharing your answers to these questions.

Mr. Opiyo: The Biden administration give out what they call the African Policy in a speech by the secretary of state. In it, there are languages about human rights. Could have been stronger, but that's the text we have to deal with. The guidance note that Asia mentioned is important as a document. It is now time for action. This is – take it as a challenge, that I think it was a spokesperson for the State Department who said, "you can pursue your interests as well as your values." You can chew gum as you run. Chew it now. It's here before us. Let's deal with it, right? And there are many ways in which we can offer advice, views on what we think it can do in the country. And I hope we can use this time in D.C. to do exactly that.

Now, Daniel, first, it's good to see you, as a young lawyer, getting involved in this kind of discussion. It's really important. You are in a place where I was about 15 years ago, not to tell you how old I am. But just to say, it's important to have young people engaged in this discussion. As you may learn as you go along the path, it is not a good thing to put a lawyer against judges – talk about judges, because I have to go before them and argue my case. So I don't want to prejudice them. But just to say, the judges are part of the society. They are part of the fabric of the Ugandan community, a largely homophobic Ugandan community.

We hope that they can be able to check their religious beliefs, their cultural beliefs, outside the door when they get into a courthouse, and engage with the legal arguments, the point of law that we put before them when this matters goes before the courts. In the past, there has been some lightbulb moment where judicial officers have given interesting decisions on the rights of the LGBTI community. Kasha is here. There's a decision that came out of a court case that she filed, and

it's been useful. And so we hope that there is – this is one of those moments where the court will engage with these legal arguments, because it's really an important legal argument.

On the question of judicial activism, why we're going back and forth, we have to work with what we have, and I think we have to be strategic as well. Part of the reason we go to court and part of the things we have to think about is, is this the right moment? Is this the right opportunity to engage this matter before the courts? And I think that there have been moments when the desire has been very strong, but the strategic decision has been that it's just not the right moment because you might go up – you know, go to court and get a bad decision, and tie everybody else for decades.

And so we continuously make the analysis whether it is an important discussion to reopen now, or – because in the U.S. you're talking about marriage. In Uganda, you'd be a fool to talk about marriage, OK? We're talking about safety. We're talking about basic human rights to employment, to jobs, to exist. And so we have to make that strategic decision when we get there.

And lastly, let me just say this. The anti-LGBTI groups have super professional. In the last 10 years, they have formed organizations across the continent. The African Bar Association used as a platform to promote their agenda. The Parliamentary Forum on Family Values, strange as it is, is a very organized, well-funded group. In Uganda, we have Christian lawyers groups, religious-based groups that are well-funded, well-organized and, to be frank, outwitted all of us in the way that they were organized in the last 10 years. And so maybe it's time to reflect on how we can respond.

Ms. Burnett: Thank you, Nicholas. Qwin, I wanted to give you just a minute. We only have a few minutes left here. Do you have any final remarks you'd like to share on any of the questions or other discussion points that came up?

Ms. Mbabazi: Yeah. There was a question, I'm sorry I didn't get your name. And I would like to respond to that question, alongside with Kasha's question when it comes to, you know, how we are seeing this being spread on the continent. I think it is important, and I'll take this to the last point that Nicholas just mentioned that, you know, this exported homophobia that is coming from, you know, places like the U.S., and taking advantage of, you know, African or Uganda's – we're a very religious country. And we are also very cultural. And these are some of the tickets that are being played on.

If you come and you tell my Ugandan community this goes against family values, this prohibits everything around religion, God does, blah, blah, blah – (laughs) – sorry about that expression – the community will take it on. So I feel that it's important to have an action plan around these assumptions and travel advisory, because it is a mix. Since the example that Frank mentioned, the meeting that happened over the weekend, the panelists that were actually leading this meeting were four white people from America in Africa, telling us this, and this, and, you know, promoting all that kind of homophobia. So we feel it is important to actually, as the American government is keeping an eye and watching what is happening, also keep an eye on the people that are exporting this homophobia back home.

And then to Kasha's question, I feel that we as a community, we may have relaxed a little bit. You know, when it happened in 2014, I was 20. And now it's a decade. I'm 30. And I don't want to go through this. I don't want another decade of where we are up here trying to fight for our lives and for our rights. So I feel like this gives, much as, like, we have over 30 countries on the African continent that still have this as a law, we also do have a few countries that have actually been able to successfully decriminalize the anti-homosexuality old laws. So it gives us an opportunity to learn from them.

And I think, as the Ugandan LGBTQ community, this is a wakeup call for us to go back on the table and make, you know, we cannot always be a scapegoat. We cannot always just be everything as we are coming back to the same conversation. So let us just try to have it decriminalized once and for all. It may not be an easy step, but I think we may be moving in the right direction.

Ms. Burnett: Thank you, Qwin. Thirty seconds, last point.

Mr. Mugisha: Very briefly. First of all, thank you, Asia. Very happy to see you here. Spreading out throughout Africa, I think for me it's religious leaders, especially in Africa, have a lot of impunity and support from politicians and government officials. So it is important to hold them accountable in any way we can. We went after Scott Lively, and exposing Scott Lively in our way. At that moment, I exposed some of these extreme anti-gay groups, who then reduced their travel to Africa.

As Qwin mentioned, travel advisory can present – can stop them from entering. That would be key for us. Naming and shaming them on different platforms, that is key. And supporting activists on the ground directly. You know, speak out. For instance, in 2009, when Scott Lively came to Uganda and Lou Engle came another time from America, we put

up a lot of resistance. Now we have the most extreme anti-gay activists in Uganda, and the resistance wasn't as much as it was back then.

And finally, on Kasha's question of decrim, I think I'm one of the activists who think that we could make that analysis and think if we can go for it. But also, working with our legal partners. And I think Nicholas and the team that work within Uganda can think about this. There are loopholes again in some of these laws that are being made. For example, I know that the outlawing of marriage, they said that motion was moved on parliament. It wasn't an original bill. So if we are thinking about taking up challenges who could encompass some of these irregularities that have been in some of the drafting of the laws.

But I'm also seeing that if we attack the merit of the AHA because it recommends for deleting of Section 145. Similarly, the final draft for sexual offenses does recommend the same as well. So we may end up getting one package, but it all depends on analysis of working with the legal team in Uganda and saying, is this the right moment to do this? Because we're seeing – I don't want to say that – I don't want to be in the choir saying the backlash we're seeing is because of this, because many of us are saying the backlash we're seeing in Kenya is because of what happened in Kenya. Whereas, as an activist in Uganda, I know this is a very, very well-planned, targeted, activism, the anti-gay groups.

Even if Kenya didn't have this win, it still would have happened. So I think it is worth thinking, going to the drawing board, and to think and see is this the right moment. Where I feel we need to have that conversation, because SMUG was shut down because of the penal code, not because of the law that we have. You know, all the abuse, the blackmail, the extortion, raiding of our workshops has been because of the penal code that is there. So I think that conversation we should start having. Thank you.

Ms. Burnett: Thank you all so much for joining us. I'll just say that we've heard a lot about real harm. Not speculative harm if the bill is passed, but real harm. And one of the first things that happened after the bill was passed last time was that the Walter Reed Health Clinic in Kampala was raided, patients' files were exposed. It was a really dramatic impact on public health response in Uganda. And I think it's really important to remember that these are very real harms. This is not a policy challenge. This is an identity and real-life challenge to the activists on the ground and to the community that Frank and others here today represent.

So thank you all for joining us. We look forward to staying in dialogue.
And we're grateful to CSIS for hosting us today. Thank you all so much.
(Applause.)

(END)