

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
SPRINGFIELD DIVISION

SEXUAL MINORITIES UGANDA

Plaintiff,

v.

SCOTT LIVELY, individually and as President
of Abiding Truth Ministries

Defendant.

Civil Action

**COMPLAINT
FOR CRIME
AGAINST
HUMANITY OF
PERSECUTION**

**DEMAND
FOR JURY TRIAL**

INTRODUCTION

1 This case is brought by Sexual Minorities Uganda (“SMUG”), an umbrella organization located in Kampala, Uganda, which represents the interests of its constituent member organizations in advocating for the rights of lesbian, gay, bisexual, transgender and intersex people (“LGBTI”) in Uganda. It is brought against defendant Scott LIVELY, a U.S.-based attorney, author, evangelical minister and self-described world-leading expert on the “gay movement,” for the decade-long campaign he has waged, in coordination with his Ugandan counterparts, to persecute persons on the basis of their gender and/or sexual orientation and gender identity.

2 The case is brought under the Alien Tort Statute (“ATS”), 28 U.S.C. §1350, which provides federal jurisdiction for “any civil action by an alien, for a tort only, committed in violation of the law of nations or a treaty of the United States.” The United States Supreme Court has affirmed the use of the ATS as a remedy for serious

violations of international law norms that are “widely accepted and clearly defined.”

Sosa v. Alvarez-Machain, 542 U.S. 692 (2004).

3. Persecution, as a crime against humanity that is universally proscribed and clearly defined in international law, is such a violation. Persecution is defined in international law as the “intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.” *Rome Statute of the International Criminal Court*, Art. 7(2)(G). The prohibition on persecution protects individuals on the basis of their identity and punishes those who act in concert to deprive the rights of others on the basis of that identity.¹ Persecution, by definition, is a group crime; it cannot be committed by one person acting alone.

4. In large part due to defendant LIVELY’s contributions to the conspiracy to persecute LGBTII persons in Uganda, plaintiff SMUG, as an entity, as well as its individual staff-members and member organizations, have suffered severe deprivations of fundamental rights. Their very existence has been demonized through a coordinated campaign, which LIVELY has largely initiated, instigated and directed, to attribute to the “genocidal” “gay movement” an irrepressible predilection to commit rape and child sexual abuse. As set out in more detail below, they have endured severe discrimination in virtually every meaningful aspect of their civil and political lives; their association has been criminalized; their advocacy on issues central to their health and political participation has been suppressed and punished; and they have been subjected to cruel, inhuman and degrading treatment. As a result, many individual members of SMUG and

¹ Although Plaintiff’s claims are directly cognizable under the ATS, the claims find strong domestic-law parallel in the Ku Klux Klan Act of 1871, 42 U.S.C. § 1985(3), which punishes private conspiracies to deprive citizens of the equal protection of the law or of certain privileges and immunities, such as freedom of expression or association, if it is motivated by a group-based animus

its constituent organizations live in persistent fear of harassment, arbitrary arrest and physical harm, including death.

5. According to LIVELY'S own admissions, his influence and work in Uganda date back at least a decade when he visited Uganda twice in 2002 to coordinate with his Ugandan counterparts, Stephen LANGA, a prominent anti-gay community leader and pastor, and Martin SSEMPA, also an anti-gay activist and minister, to implement his strategies to dehumanize, demonize, silence, and further criminalize the LGBTII community. While their efforts were largely effective between 2002 and 2009, LIVELY's work took on a whole new level of urgency after a December 2008 court victory for LGBTII advocates which affirmed that they are entitled to the basic protections of law.

6. Spurred to action to counter the prospect of basic legal protections for LGBTII individuals, LIVELY and his co-conspirators, LANGA, SSEMPA, Minister of Ethics and Integrity James BUTURO and Member of Parliament David BAHATI, coordinated a dramatic, far-reaching response, which LIVELY and LANGA would later boast had the "effect of a nuclear bomb." LIVELY'S 2009 work in Uganda and his call to arms to fight against an "evil" and "genocidal," "pedophilic" "gay movement," which he likened to the Nazis and Rwandan murderers, ignited a cultural panic and atmosphere of terror that radically intensified the climate of hatred in which LIVELY's goals of persecution could advance. Shortly after LIVELY'S pivotal 2009 work in Uganda, one Member of Parliament expressed, "We must exterminate homosexuals before they exterminate society."²

² Statement of Shadow Minister of Information and National Guidance, Mr. Christopher Kibansanga, Hansard, Proceedings of the Parliament of Uganda (Apr. 15, 2009), *available at*

7. Among the shocking, repressive measures undertaken after 2009, is the introduction of the Anti-Homosexuality Bill (also referred to as the “Kill the Gays Bill”), which proposed the *death penalty* for a second conviction of consensual sex between adults of the same gender, and imprisonment for failure to report on others suspected of being ‘homosexual,’ and for advocacy in any way on issues related to homosexuality. While LIVELY has half-heartedly tried to distance himself from the death penalty provision of the bill, he still considers it the “lesser of two evils” as compared to recognizing the humanity of LGBTI individuals or permitting their speech or advocacy.³

8. In 2010, a tabloid newspaper – parroting characterizations of gays and lesbians repeatedly made to Ugandan officials by LIVELY – published an article “outing” SMUG Advocacy Officer David Kato (and others), under the headline, “HANG THEM”⁴ Four months later, Mr. Kato was bludgeoned to death in his home. On February 14, 2012, a private training on human rights and public health conducted by SMUG and one of its member organizations was raided by Ugandan government officials who declared the gathering “illegal” and called those gathered there “terrorists.” The member organization’s Executive Director had to flee in order to avoid arrest and detention.

9. This case seeks only to challenge LIVELY’S conduct through his involvement in a conspiracy to severely deprive people of their fundamental rights on the basis of their identity. It is not, therefore, premised on his anti-gay speech or writings

http://www.parliament.go.ug/hansard/hans_view_date.jsp?dateYYYY=2009&dateMM=04&dateDD=16 (last visited Mar. 13, 2012).

³ *Vanguard: Missionaries of Hate*, (Current TV broadcast Jun. 3, 2010), available at http://current.com/shows/vanguard/92468669_missionaries-of-hate.htm (last visited Mar. 12, 2012).

⁴ *Hang Them: They Are After Our Children*, Rolling Stone, Oct. 2-9, 2010, at 6. This publication is unrelated to the U.S. publication

LIVELY'S prolific and inflammatory rhetoric about the "evil" gay movement with his frequent depictions of gay people as "genocidal," "psychopathic," "exceptionally brutal and savage" and as child predators in Uganda and elsewhere, are relevant pieces of evidence demonstrating his overall discriminatory purpose and the shared intent of the conspiracy to persecute in which he is intimately involved.

10. The context of LIVELY's actions is important. His insidious rhetoric and attempts at overt discrimination against, and ultimately eradication of, a minority community might not take hold in many places not also struggling in the way Uganda has been in the battle against the spread of HIV/AIDS, poverty and armed conflict. Yet, it is specifically because he knew Uganda presented fertile ground and – through his willing accomplices with access to political power – a realistic opportunity to meaningfully provoke the persecution of the LGBTI community, that he focused much of his decade-long efforts there.

11 Sexual Minorities Uganda seeks a judgment declaring that LIVELY's actions are illegal, in violation of international law and Plaintiff's fundamental human rights. Sexual Minorities Uganda also seeks compensatory and punitive damages for violations of their fundamental rights.

12. By seeking to enjoin, punish, and deter LIVELY's actions, SMUG acts now to prevent the further escalation of persecution in Uganda before it reaches an even more lethal stage.

JURISDICTION AND VENUE

13. This Court has jurisdiction over Plaintiff's claims under 28 U.S.C. §1331 (federal question jurisdiction) and 28 U.S.C. §1350 (the Alien Tort Statute) which

provides federal jurisdiction for “any civil action by an alien, for a tort only, committed in violation of the law of nations or a treaty of the United States.”

14. Venue is proper in the Springfield Division of the District of Massachusetts pursuant to 28 U.S.C. §1391(b)(1) and (2), and this Court has personal jurisdiction over Defendant who resides and does business in the district.

JURY DEMAND

15. Plaintiff demands a trial by jury on each and every one of its claims.

THE PARTIES

Plaintiff

16. Plaintiff, Sexual Minorities Uganda (“SMUG”), is an umbrella organization that was founded in 2004 by a coalition of Ugandan organizations advocating on behalf of lesbian, gay, bisexual, transgender, and intersex (“LGBTI”) communities, to unify and support sexual minority groups in Uganda. SMUG’s objectives are to advocate and lobby for equality for all, to bolster LGBTI visibility through media and literature, and to empower activists through leadership and social entrepreneurship trainings. The organization also fights against HIV/AIDS in LGBTI communities and speaks out against discrimination and violence based on sexual orientation and/or gender identity.

17. SMUG and its individual staff members have suffered persecution as a result of LIVELY’s actions, as have individual members of SMUG’s constituent organizations.

Defendant

18. Scott LIVELY is a writer, attorney, evangelical minister and anti-gay activist who resides in Springfield, Massachusetts. He is a founder and President of the conservative evangelical Abiding Truth Ministries (“ATM”), which operates DefendtheFamily.com and the Pro-Family Resource Center – entities that publish and disseminate LIVELY’S writings and speeches on the internet. LIVELY also lists himself as President of Defend the Family International, which is in turn referred to as a subsidiary of ATM. Defend the Family also has an affiliate in Latvia co-founded by LIVELY.

19. LIVELY proclaims himself one of the world’s leading experts on “the gay movement,” which he describes as an “evil,” “highly organized army of social engineers with a single purpose” and “the most dangerous social and political movement of our time.”⁵ He has written a number of books in support of his goal to deny the humanity of gays and lesbians and to strip them of their fundamental rights.

20. In *The Pink Swastika: Homosexuality in the Nazi Party*, he and his co-author argue that the rise of Nazism – with its resultant horrors – was engineered and driven by a violent and fascistic gay movement in Germany. In *The Poisoned Stream*, he claims to have discovered, “through various leads, a dark and powerful homosexual presence in other historical periods: the Spanish Inquisition, the French ‘Reign of Terror,’ the era of South African apartheid, and the two centuries of American slavery.”⁶ He has also written and published *Redeeming the Rainbow*, which he describes as a

⁵ Scott Lively, *Defend the Family Activist Handbook* at p. 5 (2007), available at http://www.defendthefamily.com/_docs/resources/1096737.pdf (last visited Mar. 12, 2012) [hereinafter *Lively Activist Handbook*]

⁶ Scott Lively, *The Poisoned Stream: “Gay” Influence in Human History, Volume 1: Germany 1890-1945* i (Founders Publishing 1997)

comprehensive textbook that explains, among other things, “the urgent, escalating and imminent danger this movement represents to all aspects of Christian civilization through the world” and identifies comprehensive strategies for how to combat it.⁷ Elsewhere, he has blithely attributed the genocide in Rwanda to the “gay movement ”

FACTUAL ALLEGATIONS

An Overview of Persecution in Uganda

21. Over the past decade, there has been a coordinated and sustained campaign to target and demonize the LGBTI community in Uganda that has in many cases successfully removed and isolated LGBTI people from basic human rights protections, counter to the foundational principle of the Universal Declaration of Human Rights, that the “inherent dignity and equal and inalienable rights” belong to all as members of the human family. Defendant LIVELY and his Ugandan co-conspirators have been the principle strategists and actors behind this decade-long persecutory campaign

22. In 2002, coinciding with LIVELY’s first visits to Uganda to participate in the first national anti-gay conference, substantial media attention began to report on and further sensationalize LIVELY’s characterization of pornography as a “tool of ‘gay’ social engineering” designed to advance its goal of sexual anarchy.⁸

23. In 2004, Ugandan officials – in particular LIVELY co-conspirator Minister of Information James BUTURO – begin efforts to exclude LGBTI persons from

⁷ Scott Lively, *Redeeming the Rainbow: A Christian Response to the Gay Agenda* (Veritas Aeterna Press 2009)

⁸ Scott Lively, *The Pink Swastika: Homosexuality in the Nazi Party* 307 (Veritas Aeterna Press 1995)

HIV/AIDS prevention outreach and services in the country. This effort denied individuals critical public health education and awareness around LGBTII-specific HIV/AIDS transmission and prevention, and access to health services.

24. On July 6, 2005, the state-owned newspaper, *New Vision*, ran an article urging that “[t]he police should visit the holes [*sic*] mentioned in the press, spy on the perverts, arrest and prosecute them. Relevant government departments must outlaw or restrict websites, magazines, newspapers and television channels promoting immorality – including homosexuality, lesbianism, pornography, etc.”⁹

24. Two weeks later, on July 20, 2005, the police raided the home of Victor Mukasa, a transgender LGBTII rights advocate and a founder of SMUG. The authorities unlawfully forced their way into Mukasa's home, arrested his guest, Yvonne Oyo, and seized a number of documents and hard-copy and electronic files. Oyo was then taken to the police station where she was forced to strip naked in front of the male authorities to “prove her sex.” Police then sexually assaulted her, by touching and fondling her breasts

25. In 2006, Ugandan anti-gay leaders defeated an initiative proposed to include basic anti-discrimination protections for sexual orientation and gender identity in a bill under consideration intended to provide protections for minorities. LIVELY'S co-conspirator LANGA took credit for defeating this effort.

26. In 2007, LIVELY'S associate, Martin SSEMPA, a minister and special representative of the government on HIV/AIDS policy, began to publicize the names,

⁹ Human Rights Watch, *Uganda State Homophobia Threatens Health and Human Rights, Government Persecution Contributing to HIV Pandemic*, Aug. 23, 2007, available at <http://www.hrw.org/news/2007/08/21/uganda-state-homophobia-threatens-health-and-human-rights> (last visited Mar. 12, 2012).

photos and address information of LGBTI advocates in a climate in which they would be considered targets – a practice that is picked up by different media outlets.

Also in 2007, Minister of Ethics and Integrity James BUTURO, another LIVELY associate, called for government to maintain “catalogues of people we [the government] think are involved in perpetuating the vice of homosexuality” and later acknowledged on a radio program “We know them; we have details of who they are.”

27. In June 2008, three LGBTI activists are arrested for peacefully protesting the exclusion of LGBTI people from the government’s HIV/AIDS policies and programs. While in detention they were subject to cruel, inhuman and degrading treatment

28. On December 22, 2008, the High Court of Uganda issued a high-profile ruling arising out of the unlawful arrest and abuse of Victor Mukasa and Yvonne Oyo. In *Victor Mukasa and Yvonne Oyo v Attorney General*, the Court held that gays and lesbians – like anyone else – could challenge the unlawful conduct of the authorities – *i.e.*, that they simply enjoyed the basic protections of law. The Court awarded damages to Oyo for the violation of her right to protection from torture, cruel, inhuman and degrading treatment under Art. 24 of the Ugandan Constitution. The Court also awarded damages to Mukasa for the violation of his right to privacy of person, home and property guaranteed by Art. 27 of the Constitution.

29. Rather than usher in protections to the LGBTI community from wanton denials of their fundamental rights, the decision had the *opposite* effect. It spurred LIVELY’s closest associate and ministry partner, Stephen LANGA, to sound an alarm and dramatically escalate the campaign of persecution – with the critical assistance of defendant LIVELY.

30. Less than three months after the High Court's ruling, LANGA hosted the March 2009, anti-gay conference entitled "Seminar on Exposing the Homosexual Agenda" (the "Conference" or "Anti-Gay Conference"). As described in more detail below, this Conference prominently featured LIVELY, where based on his self-proclaimed world-leading expertise on the "gay movement," who consistently attributed to gays and lesbians "genocidal" tendencies, a predilection for child sexual abuse and a campaign to "recruit" Ugandan children. LANGA also coordinated meetings with parliamentarians and members of government as well as seminars at schools and churches, all of which LIVELY headlined and used as a platform to promote strategies aimed at further depriving the LGBTI community of their basic human rights and remedies for violations thereof.

31. On April 29, 2009, little more than one month after the Anti-Gay Conference at which LIVELY equated homosexuality with sexual violence against children, the Anti-Homosexuality Bill was introduced in the Ugandan Parliament. The bill proposes the *death penalty* for crimes of "aggravated homosexuality," including for "repeat offenders" of "homosexuality." Under the bill, adults who engaged in consensual sex with someone of the same gender could be executed. Consistent with LIVELY's strategy espoused in the Anti-Gay Conference and elsewhere, the bill also proposed criminalizing LGBTI advocacy, as the "promotion of homosexuality."

32. The April 2009 Anti-Homosexuality Bill was revised and expanded, and on October 14, 2009, Member of Parliament David BAHATI introduced the version of the bill that has been in play since then, which retains the punishment of death but expands the criminalization of association with or advocacy for LGBTI individuals.

LIVELY'S work was so effective that advocates of the bill routinely invoked concerns about protecting Ugandan children from rape and sexual violence

The Conspiracy/Joint Criminal Enterprise to Commit Persecution

A Group of Persons Acting with a Common Purpose

33. LIVELY has worked extensively with key anti-gay political and religious leaders in Uganda with the overall purpose and objective of depriving LGBTI persons of their fundamental rights. Among the key people with whom LIVELY has worked in these efforts are Stephen LANGA, Martin SSEMPA, James BUTURO and David BAHITI. With LIVELY, these persons, described more fully below, have formed the core of the conspiracy to persecute LGBTI persons in Uganda, though they have involved and engaged with others who have also helped carry that mantle forward.

Scott Lively

34. LIVELY has worked with others in Uganda for at least the past ten years, during which he has aligned with the persons who would eventually surface as key players and close associates in the anti-gay efforts and persecution that continue to deprive LGBTI individuals of their fundamental rights and put them in persistent danger of physical harm – in particular Stephen LANGA and Martin SSEMPA.

Lively's Foundational Contributions to the Persecution Campaign

35. In 2002, LIVELY traveled to Uganda twice – in March and in June – at the behest of Stephen LANGA. During both visits, he espoused and promoted his theories about the purported dangerousness of the “gay movement” and its strategic use of pornography as a way to soften society's resistance to the sexual anarchy he said the

movement sought to impose. He also promoted strategies, including censorship of LGBTII activists, to combat it.

36. During his March 2002 visit, he spoke at length at a conference organized by LANA about pornography and homosexuality because he views pornography as a distinctive tool of gay social engineering and as a “gateway into the ‘gay’ lifestyle.”¹⁰

37. When LIVELY returned to Uganda in June 2002, LANA organized additional speaking events and media appearances for LIVELY on the anti-gay/anti-porn topic.

38. Also, during the June 2002 trip, LIVELY and LANA held an all-day pastors' conference which was a “closed-door meeting with no media or guests who had not been specifically invited.” LIVELY did boast, however, that the pastors in attendance “were very grateful for the insights I was able to give them about the way in which America was brought low by homosexual activism.”¹¹

39. LIVELY also addressed students at Nkumbe University on the “Dangers of the Culture of Porn,” led a service at the Ugandan Christian University, and conducted a seminar on abstinence for about 550 students and staff of local high schools where he again attributed dangerous effects of a “porn culture” exclusively to the gay movement.

40. During LIVELY's June visit, LIVELY also met with the Kampala City Council and notes that they had a “very frank and profitable discussion” during which he “offered a number of practical suggestions” for dealing with porn. Prominent among his proposals was to use Uganda's “power of censorship to protect the public morals.”¹²

¹⁰ *Redeeming the Rainbow*, *supra* note 7, at 60.

¹¹ *Id.*

¹² *Id.*

41. By the time of his 2002 visits to Uganda, Lively had already written his book, *The Pink Swastika: Homosexuality in the Nazi Party*, in which he argues that the Nazi movement – and its consequent horrors – was essentially a gay movement. He notes having spoken to others about the book and making copies broadly available in Uganda.¹³

42. Lively described his visits as very successful and as having made a deep impact among key players in Uganda. Subsequent to the June 2002 trips, Lively maintained his relationship to Langa, whom Lively refers to as his “ministry partner,” and Martin Ssempe. ¹⁴

Lively’s Strategic Vision for the Persecution of LGBTI Persons

43. Lively deepened and expanded his anti-gay efforts internationally and continued to develop and refine strategies for promoting discrimination against LGBTI communities and restricting their rights.

44. In 2007, Lively published *Defend the Family Activist Handbook* (“Activist Handbook”). It presents a comprehensive plan for building a multi-pronged attack against the “gay movement,” by employing governmental, media and social spheres. According to Lively, the *Activist Handbook* was written for activists in Latvia where Lively had co-founded Watchmen on the Walls – an organization Lively describes as a global coalition that coordinates “opposition to the international homosexual movement,” through strategies designed to eradicate the rights of gays and lesbians which Lively believes could be applied anywhere.

¹³

Id

¹⁴

Scott Lively, *Report from Uganda. Comments about March 3-9 Pro-Family Mission to Uganda*, Mar 17, 2009, available at <http://www.defendthefamily.com/pfrc/archives.php?id=2345952> (last visited Mar. 13, 2012) [hereinafter *Lively Report from Uganda*]

45. In *Activist Handbook*, Lively describes the “gay movement” as a “highly organized army of social engineers with a single purpose” and as “the most dangerous social and political movement of our time.”¹⁵ It is with this characterization that he justifies, broadly promotes, and intends to provoke the denial of fundamental rights to LGBTI individuals

46. Lively regularly characterizes efforts of the LGBTI community to advocate equal rights as a nefarious, conspiratorial movement. For example, he characterized efforts in Moldova to guarantee equal rights for LGBT people as, “the first move of a secret plan by the homosexual powers of the EU to push an anti-discrimination law based on sexual orientation through the Moldovan government.”¹⁶ Heightening the hysteria around guaranteeing fundamental rights to gays and lesbians, Lively explained to audiences in Moldova: “I guarantee you, if this bill passes, all the evil that struck the European Union, the collapse, will come to the Republic of Moldova.”¹⁷

47. Lively also elaborated on why he believes it is important to deny gays and lesbians equal protection of the laws via express, non-discrimination legislation:

What I know now, and have taught the Moldovans, is that the anti-discrimination law is the seed that contains the entire tree of the homosexual agenda, with all of its poisonous fruit. It is the cornerstone of their legal and political strategy, putting the power of the government [*sic*] behind the legal premise that the practice of homosexuality deserves public approval and that opposition to homosexuality, including that which is rooted in the biblical world view, must be discouraged.¹⁸

¹⁵ *Lively Activist Handbook*, *supra* note 5.

¹⁶ Jim Burroway, *Scott Lively Warns of ‘Outbreak of Homosexuality’ in Moldova, Part of a ‘Secret Plan by the Homosexual Powers of the EU,’* Box Turtle Bulletin (Mar. 6, 2011), <http://www.boxturtlebulletin.com/2011/03/06/31159>.

¹⁷ *Id.*

¹⁸ *Id.*

48. In 2009, LIVELY expanded upon the *Activist Handbook* when he published *Redeeming the Rainbow*. Foremost among his strategies to overcome the “gay movement” is broad-based and systematic discrimination against people on the basis of sexual orientation and gender identity. According to LIVELY, “It is perfectly reasonable and responsible to discriminate against homosexuality on religious, moral, sociological and public health grounds.”¹⁹

49. In *Redeeming the Rainbow*, LIVELY identifies two primary tactics to be used in disposing of “the gay movement:” (1) criminalize advocacy undertaken by LGBTII rights advocates; and (2) sound alarms about supposed dangers to children posed by gays and the gay movement, and thus conflate sexual violence against children with LGBTII orientation or identity.

50. In a January 2010 press statement, LIVELY acknowledged that his 2009 efforts and “teachings in Uganda were drawn from” *Redeeming the Rainbow*.²⁰

Criminalizing Advocacy

51. LIVELY identified the need to silence advocacy by LGBTII individuals in *Redeeming the Rainbow*.²¹ As early as 2006, he had begun to advocate more forcefully in Uganda and elsewhere for the criminalization of advocacy, as necessary for silencing individuals who support the rights of LGBTII individuals. As he advised allies in Russia in 2007:

[C]riminalize the public *advocacy of homosexuality* . . .
[h]omosexuality is destructive to individuals and to society and it
should never publicly promoted. The easiest way to discourage

¹⁹ *Redeeming the Rainbow*, *supra* note 7, at 6.

²⁰ Press Statement, Defend the Family Int’l Endorses Revised Uganda Bill (Jan 10, 2010), *available at* <http://www.defendthefamily.com/pfrc/newsarchives.php?id=4331082>

²¹ *Redeeming the Rainbow*, *supra* note 7, at 9

“gay pride” parades and other homosexual advocacy is to make such activity illegal in the interest of public health and morality.²²

52. LIVELY again emphasized the need to employ his strategy when he was in Uganda in 2009. Thus, the Anti-Homosexuality Bill proposed shortly after the March 2009 Anti-Gay Conference would render Plaintiff’s work and mere existence illegal. Clause 13 of the Bill would criminalize and jail anyone who:

- (a) participates in the production, procuring, marketing, broadcasting, disseminating, publishing of pornographic materials for the purposes of promoting homosexuality;
- (b) funds or sponsors homosexuality or other related activities;
- (c) offers premises and other related fixed or movable assets for purposes of homosexuality or promoting homosexuality;
- (d) uses electronic devices which include internet, films, mobile phones for purposes of homosexuality or promoting homosexuality and;
- (e) who acts as an accomplice or attempts to promote or in any way abets homosexuality and related practices.

53. Clause 13, paragraph 2 of the bill would shut down a corporate body, business, association or non-governmental organization if guilty of any “promoting,” and the director or proprietor would face imprisonment for seven years.

Conflating Gay Sexual Identity with Predilection for Child Sexual Violence

54. In *Redeeming the Rainbow*, LIVELY records what has been the most effective and chilling of his contributions to the persecution in Uganda – a tactic he himself directly employs as part of the broader campaign of persecution there: to attribute

²² Letter from Scott Lively, president, Defend the People International, to the Russian People (Oct 15, 2007), available at <http://www.defendthefamily.com/pfrc/archives.php?id=5225300> (last visited Mar 12 2012) (emphasis added).

to gays the goal of “recruitment” of children and a corresponding predisposition toward rape and sexual violence toward children.

Public sympathy for “gays” as victims is not grounded in logic, but in emotion. This is one reason why more women (who tend to be interested in emotional and relationship factors) than men embrace the “gay” cause. ... Long ago I stopped trying to educate pro-“gay” sympathizers about the unpleasant particulars of “gay” behavior, because it only made them angrier.

*An effective strategy is to emphasize the issue of homosexual recruitment of children. The protection of children trumps any argument for “gays” as societal victims. Once parents and grandparents accept that recruitment of children is possible, they become interested in seeing all the evidence against the idea of “gay” legitimacy...*²³ (emphasis added)

55 The premise of LIVELY’S most effective and most-used strategy has been shown to be utterly baseless and without merit. Not only is there no evidence of a connection between adult homosexuality and child molestation, studies have shown that adult males who identify as gay are actually less likely to commit acts of child molestation than adult males who identify as heterosexual.²⁴ Nevertheless, demonizing this community and spreading sensationalistic myths about the violent (not merely moral) dangers posed by the LGBTI community was necessary to the campaign of persecution and to instill sufficient fear to justify wholesale denial of rights to this community.

The Anti-Gay Conference and Its Aftermath

56 The Anti-Gay Conference was organized by Stephen LANGA, the long-time friend and associate of LIVELY and Executive Director of the Family Life Network. It was held from March 5-7, 2009, at the Kampala Triangle Hotel. The Conference was

²³ *Redeeming the Rainbow*, *supra* note 7, at 113.

²⁴ See, e.g. Jim Burroway, *Testing the Premise: Are Gays a Threat to Our Children?*, Box Turtle Bulletin (Oct 16, 2006), available at <http://www.boxturtlebulletin.com/Articles/000,002.pdf>

attended by high-profile religious and government leaders, parliamentarians, police officers, teachers, and parents.

57. LIVELY wrote a blog while in Kampala for the Anti-Gay Conference in which he advertised that he was “teaching about the ‘gay’ agenda in churches, schools, colleges, community groups and in parliament.”²⁵

58. He noted that his time there began with a meeting of about fifty members of the Ugandan Christian Lawyers Association, then an address to members of the Parliament the following morning with about “fifty to one hundred persons in attendance, including numerous legislators and the Minister of Ethics and Integrity ”

59. At one point during this trip, he met with members of Parliament for over four hours.

60. LIVELY notes that, at the Anti-Gay Conference, he gave a series of three lectures, lasting most of the day and also “had private conversations with several influential leaders.” He ended his week there with a strategy and brainstorming session with a small group of key Christian activist leaders.

61. LIVELY was the headliner at the Anti-Gay Conference and told the audience that he had been focusing on the topic of the gay movement for more than twenty years. As a result, he claimed, he knew “more about this than almost anyone in the world.”²⁶

62. LIVELY implemented his central strategy to conflate LGBTII orientation and identity with sexual violence against children and attribute criminal, violent behavior to LGBTII individuals throughout his lectures. He argued:

²⁵ *Lively Report from Uganda, supra* note 16.

²⁶ Transcript of Seminar on Exposing the Homosexual Agenda, Uganda (Mar 5-7, 2009) (on file with plaintiff)

There are a number of people that are very **predatory**; they are very sexually oriented, that want to satisfy their sexual desires. And, often these are people that were molested themselves. And they're turning it around and they are **looking for other people to be able to prey upon, and that they, when they see a child that's from a broken home, it's like they have a flashing neon sign over their head.**

and

Male homosexuality has historically been not adult to adult; it's been adult to teenager. It's called pederasty. And uh, this is not uncommon. And it's very common. That's the thing; I was hearing testimonies last night at the meeting that I was in of people standing up and saying the height of homosexuality that um that is often, **that we are dealing with in Uganda is pederasty, adults sodomizing teenage boys**²⁷

63. At the Anti-Gay conference, LIVELY attempted to substantiate his assertion about a gay propensity toward sexual violence toward children with authoritative references to his book, *The Pink Swastika*. He attributed the genocides in Germany and Rwanda to "supermacho" gays and thereby insinuated that Uganda may be subject to similar genocidal fates unless it followed his strategy for the eradication of LGBTII identity and advocacy. LIVELY stated:

A large number of Hitler's inner circle were [sic] homosexual, and Hitler was himself, uh, homosexual ...

[...]

The Nazis were super macho. ... you also see them in prisons. The super machos are very often **brutish, brutish, animalistic**, uh **men that want to hurt other people**. You know, there is no mercy in them. These are men who are so far from normalcy that they're **killers, they're serial killers, mass murderers**. They're **sociopaths**. There's no mercy at all, there's no nurturing, no caring about anybody else. **This is the kind of person it takes to run a gas chamber or to do a mass murder - you know like the Rwandan stuff**, probably involved these guys.²⁸ (emphasis added)

²⁷ *Id*
²⁸ *Id*

64. Subsequent to the strategy laid out in the Anti-Gay conference, and as set forth below, LANGA, SSEMPA, BUTURO, and BAHATI began to sensationalize the purported threat gays posed to children as the primary reason for suppressing the rights of LGBTI individuals

65. Consistent with LIVELY's strategy, the association of gays with sexualized violence against children is picked up and amplified by others that join the cause, both in Parliament and among civil society. Several newspapers seize this message to begin campaigns to "out" LGBTI individuals and run sensationalistic headlines about the supposed dangers gays present to Ugandan children

66. Shortly after the Conference, LIVELY wrote about the impact of his time in Uganda in provocative terms:

[M]y host and ministry partner in Kampala, Stephen LANGA, was overjoyed with the results of our efforts and predicted confidently that the coming weeks would see significant improvement in the moral climate of the nation, and a massive increase in pro-family activism in every social sphere. He said that a respected observer of society in Kampala had told him that our campaign was like a nuclear bomb against the "gay" agenda in Uganda. I pray that this, and the predictions, are true²⁹

67. LIVELY later stated, "I'm proud of that, and I hope the nuclear bomb spreads across the whole world, against the gay movement."³⁰

68. LIVELY has continued to use violent fear-mongering to impact the situation in Uganda long after the Anti-Gay Conference in order to help sustain and build

²⁹ *Lively Report from Uganda, supra* note 16

³⁰ *Anti-Homosexual Bill in Uganda causes Global Uproar*, ABC News/Nightline (Mar. 10, 2010), <http://abcnews.go.com/Nightline/anti-homosexuality-bill-uganda-global-uproar/story?id=10045436&page=3#.TlVw3IePXw0>

support inside Uganda for the effort to criminalize advocacy and eliminate fundamental human rights protections for LGBTI individuals.

69. In February 2011, LIVELY wrote a blog piece entitled “Murdering Uganda” where he provocatively challenged Ugandans to fight back against the “rape” and “murder” of their culture by the “lavender Marxists,” *i.e.*, LGBTI people who advocate for their rights³¹

70. By repeatedly characterizing the LGBTI community as rapists and murderers and child abusers – not to mention possessing the genocidal tendencies of the Nazis and Rwandan conspirators – LIVELY deliberately invited, induced and encouraged a proportional response from Ugandans – *i.e.*, severe repression, arrest and certainly even violence.

71. LIVELY has said he is honored to be considered the “father” of what he characterizes as Uganda’s “pro-family movement.” But, he attributes “real” fatherhood to his co-conspirator – *i.e.*, “my good friend Stephen LANGA who organized the first national pro-family conference there in 2002 of which I was the keynote speaker.”³²

Stephen Langa

72. STEPHEN LANGA is Executive Director of the Family Life Network in Uganda, and Director of the Uganda branch of the Arizona-based Disciple Nations Alliance. LIVELY has referred to LANGA as his “good friend” and “ministry partner”³³. Since 2002, LANGA has worked in concert with LIVELY and other co-conspirators

³¹ Defend the Family International, *Murdering Uganda*, Feb. 5, 2011, available at <http://www.defendthefamily.com/pfrc/newsarchives.php?id=5422609> (last visited Mar. 13, 2012)

³² Scott Lively, *Father of Uganda’s Pro-Family Movement*, Jul. 6 2010, available at <http://www.defendthefamily.com/pfrc/newsarchives.php?id=1310183> (last visited Mar. 13, 2012)

³³ *Id.*; *Lively Report from Uganda*, *supra* note 16; Scott Lively, *Witness to Revival in Africa: A Report of the Ministry of Scott and Anne Lively in Uganda, Kenya and Egypt*, June 12-25, 2002 (Abiding Truth Ministries 2002), available at <http://www.defendthefamily.com/docs/resources/3038513.pdf> (last visited Mar. 13, 2012).

named in this Complaint on a campaign to systematically persecute LGBTI individuals and deny them fundamental human rights by attempting to criminalize their advocacy and their very status, denying them equality under the law and intimidating them from participation in civic life.

73. Following LIVELY's strategic direction, LANGA and LIVELY and others accomplished this goal by demonizing gays and lesbians, attributing to them criminal propensities to recruit and sexually abuse children.

74. As set forth above, LANGA has played a key role in setting and implementing the anti-gay agenda in Uganda.

75. In 2004, LANGA launched the Uganda National Parents Network because, according to LANGA, "children are indiscriminately exposed to pornography" which he described as a "silent deadly virus" and noted that "the damaging effects are already evidence in many schools. . . homosexuality and lesbianism are spreading like wild fire in schools."³⁴

76. In 2006, LANGA worked very closely with James BUTURO to beat back a Commonwealth Initiative as part of an Equality Bill aimed at providing protections for minorities, including LGBTI persons, and boasted about his influence and effectiveness in doing so.

77. In December 2008, when the Ugandan High Court ruled in the case of *Victor Mukasa and Yvonne Oyo v Attorney General* that two individuals who were victims of outrageous police conduct were entitled to have *rights*, including the right to

³⁴ Denis Oewich, *Children Exposed to Pornography. Is Your Child Safe from Pornography?*, New Vision (Kampala) (Sept. 22, 2004), available at <http://tg-media.blogspot.com/2004/09/children-exposed-to-pornography.html>

privacy and freedom from unlawful search and arbitrary detention and cruel treatment, despite being cast as “homosexual,” LANGA sounded the alarm.

78. Within three months of this ruling, LANGA organized the March 2009 Anti-Gay Conference in Kampala. The Anti-Gay Conference emerged in reaction to the prospect that LGBTI members might receive the protection of law for the most basic of rights.

79. In organizing the Anti-Gay Conference, LANGA equated the protection of law with what he described nefariously as “the gay agenda – that whole hidden and dark agenda.”³⁵ LANGA ensured that LIVELY and his strategies would be prominently featured to defeat this “dark agenda” to secure human rights for LGBTI individuals.

80. To open the Conference, LANGA stated that existing Ugandan law, which provides the possibility of life imprisonment for those convicted of homosexual acts, was not strong enough. In other words, he was advocating for penalties *tougher* than life imprisonment. LANGA repeatedly referred throughout the conference to the *Mukasa* case as illustrating why the law was not strong enough.

81. LANGA, along with LIVELY, met with parliamentarians at length, in conjunction with the Anti-Gay Conference, as well as other political leaders, schools and churches. LANGA also organized a media blitz while LIVELY was in town and some of the proceedings from the conference were aired on national television.

82. At the conclusion of the Conference, LANGA stated that participants at the meeting were moved by what he termed shocking and worrying revelations LIVELY

³⁵ Jeffrey Gettleman, *Americans' Role Seen in Uganda Anti-Gay Push*, NY Times, Jan. 3, 2010, available at http://www.nytimes.com/2010/01/04/world/africa/04uganda.html?_r=1.

made about the level of defilement and recruitment of school boys and girls into homosexuality and lesbianism.

83. Immediately after the Anti-Gay Conference, LANGA called for urgent follow-up meetings which were held on March 15 and March 22, 2009.

84. In the meetings, LANGA drew in large part from LIVELY'S book, *The Pink Swastika*, as well as LIVELY'S talks at the Conference and emphasized LIVELY'S theory about the violent and fascist tendencies of the "gay movement" and the danger it poses to children and society. LANGA led participants in identifying strategies and goals to strengthen laws on homosexuality to fight the "gay agenda," including pressuring the government and stop any funding to promote equality and human rights in Uganda.

85. Members of Parliament attended and actively participated at the strategy meetings. Members openly stated that they were deeply alarmed and affected by LIVELY'S interventions and that he made it clear they needed to strengthen their laws along the lines suggested by LIVELY.

86. On March 25, 2009, LANGA held a press conference that was aired live on local television stations and covered in the print media to agitate concerns over what he claimed were increasing levels of homosexuality, defilement and sexual harassment of children and to warning that there were agents involved in recruiting children into homosexuality and lesbianism.

87. On or about April 21, 2009, LANGA and a group of his anti-gay supporters marched on Parliament and met with Deputy Speaker of Parliament Rebecca Kadaga. LANGA and his followers demanded the government conduct an investigation

into private lives to determine the prominence and impact of homosexuality in Uganda and pass severe laws to punish people involved in acts of homosexuality.

88. LANGA reportedly took offense that homosexuals had “continued to roam the country freely” even where “homosexuality is illegal according to the Constitution and Penal Code.”³⁶

89. LANGA also reportedly pointed out that while same-sex marriage was prohibited, the act of officiating or assisting with such marriages had not been criminalized, but needed to be. Kadaga reportedly commended LANGA and his followers for their solidarity against homosexuality and agreed that Parliament would strengthen current legislation.³⁷

90. On April 29, 2009, Member of Parliament David BAHATI sought and obtained approval to table the legislation LANGA had been advocating for and assisting with. The draft of the legislation, entitled the Anti-Homosexuality Bill, reflected much of LIVELY’S theory and content from the sessions at the conference and associated meetings.

91. LANGA was present in the parliamentary session when BAHATI introduced the bill, and his presence, along with that of Martin SSEMPA, was noted by the speaker and other parliamentarians and is reflected in the official report of the session.³⁸

³⁶ *Uganda Government News: Civil Society Petitions Parliament Over Homosexuality Vice*, Ultimate Media, (Apr 23, 2009, 9:33:06 AM), <http://www.ugpulse.com/uganda-news/government/civil-society-petitions-parliament-over-homosexuality-vice/9749.aspx>

³⁷ *Id.*

³⁸ Initial Parliamentary discussion about Uganda’s Anti-Homosexuality Bill 2009, Parliament House, Kampala, Uganda (Apr 29, 2009), *available at* <http://wthrockmorton.com/initial-parliamentary-discussion-about-ugandas-anti-homosexuality-bill-2009/>

92. Promoting LIVELY's strategy of criminalizing advocacy, LAGA was quoted in the press as saying: "Providing literature, writing books about it, standing up and saying it is OK – you should be arrested. Even if you are not in the act, you should be arrested. Anybody who tries to promote it should be arrested. That's why we need a stronger law."³⁹

93. On May 6, 2011, LAGA testified before the Legal and Parliamentary Affairs committee of the Ugandan Parliament in support of passage of the bill and reportedly told the committee members to have it "passed immediately in order to protect children from being violated by what he called homosexual promoters."⁴⁰ LAGA stressed that the Committee should not to "listen to gays who say the new bill will abuse their human rights" because "homosexuality has never been a human right."⁴¹

94. In September 6, 2011, LAGA, spearheading a combined effort of the Family Life Network and the Uganda Coalition for Moral Values, launched another campaign demanding passage of the Bill. This effort was simply called "Pass the BILL Now." At the launch of the campaign, LAGA stated: "We sound a serious warning that we will recall any MP who betrays our children, our people and our nation."⁴²

95. On February 7, 2012, the bill was introduced again in its original form, and punishes consensual, adult homosexual activity with life imprisonment or death.

³⁹ Gwen Thompkins, *Taboos Silence Opponents of Uganda Anti-Gay Bill*, NPR (Dec 16, 2009), available at <http://www.npr.org/templates/story/story.php?storyId=121485018>

⁴⁰ *Uganda Parliament Starts Public Hearings on Anti Homosexuality Bill*, Welenformers (May 6, 2011), available at <http://www.weinformers.net/2011/05/06/uganda-parliament-starts-public-hearings-on-anti-homosexuality-bill/>.

⁴¹ *Id.*

⁴² *Parents Launch Bid to Pass Shelved Gays Bill*, Daily Monitor (Dec 5, 2011), available at <http://www.monitor.co.ug/News/National/-/688334/1230484/-/bjcckmz/-/>

Martin Ssempe

96. Martin SSEMPA is an anti-gay activist, pastor and founder of the Makerere Community Church in Kampala. As with LANGA, LIVELY has known and worked with SSEMPA at least since 2002, we SSEMPA co-sponsored the conference at which LIVELY was the keynote speaker. LIVELY then described him “as one of the leading media figures in the nation.”⁴³

97. SSEMPA is known for employing forced outings, “homosexual exorcisms,” and showing graphic pornography to his church congregation as well as for other controversial, vitriolic and threatening actions, in order to further his efforts to deny the humanity of LGBTII individuals.

98. As early as 2003, SSEMPA was involved in building government policy to exclude LGBTII persons from HIV/AIDS prevention programs and policies.

99. On or about August 16, 2007, LGBTII groups attempted to counter the mounting denials of their rights and increasing private and public harassment. They held a press conference to launch a campaign entitled “Let Us Live in Peace.”

100. SSEMPA answered their plea to “live in peace” by organizing a rally on or about August 21, 2007, as “a call for action on behalf of victims of homosexuality.”

101. Minister of Ethics and Integrity James BUTURO addressed those in attendance at the rally to show his support and stated, “Must press freedom be used to subvert one of our cardinal founding laws (prohibition of homosexuality)?”⁴⁴

102. SSEMPA, who had previously testified before the U.S. Congress on the HIV/AIDS situation in Uganda as a Special Representative of First Lady Janet

⁴³ *Lively Report from Uganda* *supra* note 16.

⁴⁴ Katherine Roubos, *Uganda: Rally Denounces Homosexuality*, *The Monitor* (Aug. 22, 2007)

Museveni's Task Force on AIDS and whose church received HIV-prevention funding through the U.S. Plan for AIDS Relief program (PEPFAR), further declared at the rally that, "Homosexuals should absolutely *not* be included in Uganda's HIV/AIDS framework. It is a crime, and when you are trying to stamp out a crime you don't include it in your programmes."⁴⁵

103. In conjunction with the August 21, 2007 rally, SSEMPA issued a statement on behalf of the rally organizers, that was posted on a website listing Ugandan LGBTI rights advocates by name, along with their photos and contact information and labeling them "homosexual promoters."⁴⁶

104. Following SSEMPA's public identification of the activists, officials of the Museveni government, including BUTURO, condemned the activists and demanded their arrest.

105. The combination of the forced outings, naming of the activists with photos and contact information, and the calls for arrests of LGBTI people had its intended effect – it terrified the LGBTI community and forced many LGBTI-rights advocates into hiding.

106. SSEMPA took part in the March 2009 Anti-Gay Conference and meetings that LAGA organized to showcase LIVELY and his strategies to eradicate the rights of the LGBTI community.

107. SSEMPA further took part in the planning and strategizing around the effort to further criminalize sexual orientation and gender identity in the aftermath of the

⁴⁵ *Uganda: State Homophobia Putting Gays at HIV risk*, PlusNews (Aug. 24, 2007), available at <http://www.plusnews.org/report.aspx?ReportID=73931>.

⁴⁶ Human Rights Watch, Letter to Congressional Caucus about US support for Ugandan Homophobia (Oct 12, 2007), available at <http://www.hrw.org/news/2007/10/10/letter-congressional-caucus-about-us-support-ugandan-homophobia> [hereinafter HRW Letter to Congress].

meetings, including the march on Parliament organized by Stephen LANGA on April 24, 2009, when they demanded an investigation into homosexual practices and strengthening the laws.

108. On or about February 15, 2010, SSEMPA and two other pastors led demonstrations in the town of Jinja. At the rally, SSEMPA again stressed that children in schools were the biggest victims of gay acts. He told an angry crowd: "They are raped violently by bullies in the school."⁴⁷

109. In February 2010, SSEMPA began showing graphic gay pornography to those congregated at his church. By way of justification, he stated: "The major argument homosexuals have is that what people do in the privacy of their bedrooms is nobody's business but do you know what they do in their bedrooms?"⁴⁸

110. During this first screening of porn at the church, SSEMPA also railed against human rights organizations for attempting to "convert people to lesbianism."⁴⁹

111. In October 2010, SSEMPA was featured in an exclusive interview in *The Rolling Stone* newspaper issue that displayed photos of SMUG Advocacy Officer David Kato under the banner "HANG THEM."

112. The tabloid was started up by two students at Makerere University who were affiliated with SSEMPA and who are also believed to belong to his church. They continued the "outing" practices begun by SSEMPA and the "pedophilia scare" strategies of LIVELY.

⁴⁷ Jim Burroway, *Despite Protest Ban, Hundreds of Ugandans Call for Killing Gays*, Box Turtle Bulletin (Feb. 16, 2010), available at <http://www.boxturtlebulletin.com/2010/02/16/20320>.

⁴⁸ *Uganda Pastor Screens Gay Porn In Church*, AFP (Feb. 17, 2010), available at <http://www.google.com/hostednews/afp/article/ALeqM5hyJex4vkO1MYbS3sVu8PBYCml2Lg>.

⁴⁹ *Id.*

113. The centerfold of the tabloid contained the large headline: “HANG THEM; THEY ARE AFTER OUR KIDS!!”

114. SSEMPA gave an “exclusive” interview which was published in the issue in which he was quoted as saying, “We shall fight on until we rescue our country from the hands of evil . . . This war has just started ”⁵⁰

115. Subsequently, the tabloid published its November 1-8, 2010, issue which was also devoted to outing more “homos” and included their photos. The sub-headings on the cover page this time asserted: “Homosexuality Escalates Cases of HIV/AIDS, Gonorrhea [sic] and Syphilis,” “Sodomy Honchos Plot Downfall of Catholic-Founded Schools,” and “Chilling Confession: ‘Heartless Lesbians Destroyed My Life At Age 16’.”

116. When asked about SSEMPA’S involvement in the anti-gay campaigns, LIVELY responded that he thinks SSEMPA is a “good man – he’s trying to protect all of the children of his country from being homosexualized.”⁵¹

117. In late 2010, LIVELY also acknowledged that he has used SSEMPA to communicate with the leadership in the Uganda Parliament about the Anti-Homosexuality Bill by channeling correspondence through him.

James Nsaba Buturo

118. James BUTURO served as President Museveni’s Minister for Information and Broadcasting from 2001 until 2006, at which time he was appointed Minister for Ethics and Integrity in the Office of the Vice-President.

⁵⁰ Rolling Stone Article, *supra* note 4.

⁵¹ *Missionaries of Hate*, *supra* note 3

119. BUTURO had been one of the most prominent anti-gay voices in the government of President Museveni by the time of the 2009 Anti-Gay Conference that showcased LIVELY and was closely allied with LANGA and SSEMPA in their combined efforts to eradicate “homosexuality” before and after the Conference

120. LIVELY met with BUTURO at length when he was in Uganda in March, 2009

121. BUTURO, who was Minister of Ethics and Integrity at the time, told those in attendance at the conference that he would be submitting a bill on homosexuality and that the government would not end at making laws against homosexuality but would further engage schools and churches in the fight against this vice.

122. Subsequently, BUTURO raised publicly in the media the possibility of adding a clause providing for forced conversion therapy, a measure first advocated by LIVELY.

123. Following LIVELY’s goals of criminalizing advocacy, BUTURO has used his positions as Minister of Information and Broadcasting and Minister of Ethics and Integrity to silence and censor media relating to LGBTI advocacy, as well as to block access to other government services.

124. In 2004, as Minister of Information, BUTURO warned the UN AIDS and the Uganda AIDS Commission against including LGBTI members and messaging in HIV/AIDS initiatives and mechanisms, stating that homosexual conduct was illegal in Uganda.⁵²

⁵² HRW Letter to Congress, *supra* note 54; *Uganda Stuck in the Closet: Gays Left out of HIV/AIDS Strategy*, Plus News, Mar 17, 2006, available at <http://www.plusnews.org/report.aspx?reportid=39429> (last visited Mar 13, 2012)

125. Also in 2004, BUTURO ordered police to “take appropriate action against” a gay organization that had allegedly started up at Makerere University.⁵³

126. BUTURO also severely criticized the media in 2004 for misusing press freedom to “promote pornography,” which he claimed “breeds homosexuality.”⁵⁴

127. In October of 2007, as Minister of Ethics, in response to recommendations by the Commonwealth Peoples’ Forum to better address issues of minority rights, including those of LGBTI persons, he asserted, “The Government shall do whatever it takes to block the spread of homosexuality. . . . They are trying to impose a strange, ungodly, unhealthy, unnatural, and immoral way of life on the rest of our society I will endeavor to block it. I can assure you on that. Let them go to another country, and not here.”⁵⁵

128. In December, 2010, as Minister of Ethics, he blocked a showing of a documentary about gay rights which was sponsored by the United Nations Office of the High Commission for Human Rights, the Uganda Human Rights Commission and the Human Rights Centre, Uganda. The film, which BUTURO labeled “promotion of homosexuality,” depicted some of the difficulties in dealing with anti-gay discrimination in Uganda.

129. In 2007, as Minister of Ethics and Integrity, BUTURO announced that there would be work on a tough new law aimed at criminalizing the “promotion of

⁵³ Mwanguhya Charles Mpigi and Hussein Bogere, *Police Told to Probe MUK Gays*, The Monitor, Oct 29, 2004.

⁵⁴ *Id.*

⁵⁵ Conan Businge, *Buturo Vows to Fight Homosexuality*, African Vie (Oct 8, 2007), http://72.249.167.221/~ndanjiv/index.php?option=com_content&view=article&id=1008:buturo-vows-to-fight-homosexuality&catid=62:uganda (last visited Mar 13, 2012); *see also Uganda Ethics Minister Advises Gays to Leave the Country*, Rod 2 0 (Sept. 4, 2007), available at <http://rodonline.typepad.com/rodonline/2007/09/uganda-ethics-m.html> (last visited Mar 13, 2012).

homosexuality” and that the government was “interested in having catalogues of people we think are involved in perpetuating the vice of homosexuality.”⁵⁶

130. In response to the launch of the “Let Us Live in Peace” campaign initiated by LGBTII groups, BUTURO denied that there had been harassment of the LGBTII community, but stated “We know them, we have details of who they are.”⁵⁷

131. BUTURO also expressed outrage that “homosexuals are working through the electronic and print media” and advised that the government would “not hesitate to deal with those we think are part of the conspiracy [to infiltrate the media].”⁵⁸

132. Subsequent to the March 2009 Anti-Gay Conference, BUTURO appeared in tandem with LANGA to continue advocating for laws to further suppress the rights of LGBTII individuals.

133. In September 2010, BUTURO stated to press that, “the days of homosexuals are over.”⁵⁹

David Bahati

134. David BAHATI is a Member of Parliament from the district of Ndoorwa West in Uganda and belongs to the National Resistance Movement, the ruling party of Uganda founded by President Museveni

135. BAHATI attended the 2009 Anti-Gay Conference and met at length with LIVELY, LANGA, SSEMPA, and BUTURO.

⁵⁶ Tough Anti-Gay Law Due, Interview by Alfred Wasike with Minister for Ethics and Integrity, James Nsaba Butro, Sunday Vision (Aug. 25, 2007), <http://sundayvision.co.ug/detail.php?mainNewsCategoryId=7&newsCategoryId=130&newsId=583179> (last visited Mar. 13, 2012) [hereinafter Butro Interview]

⁵⁷ HRW Letter to Congress, *supra* note 54.

⁵⁸ Buturo Interview, *supra* note 65.

⁵⁹ Anna Smith and Geof Magga, *Uganda's Anti-Pornography Law to Fight Homosexual Vice*, Afrik News, Sep. 8, 2010, available at <http://www.afrik-news.com/article18213.html> (last visited Mar. 13, 2012).

136 Approximately one month after the Anti-Gay Conference, BAHATI introduced the Anti-Homosexuality Bill as a private member's bill after making a special motion to introduce the legislation, at which time the first draft of the bill was tabled.

137 BAHATI did so with the full support and encouragement of BUTURO, LANGA, LIVELY and SSEMPA.

138 LIVELY continued to correspond with BAHATI subsequent to the introduction of the bill to advise on the contents of the legislation.

139 Following LIVELY'S lead, and like LANGA, SSEMPA and BUTURO, BAHATI too has repeatedly justified the Bill on the basis of the need to protect children from sexual predation and recruitment, and thereby conflating sexual orientation with sexual violence.

140 To justify the Anti-Homosexuality Bill, BAHATI presented an 11-year-old boy who had been raped and was present in the gallery. BAHATI did not bother to discuss whether the alleged perpetrator was actually gay but assumed it for purposes of his presentation of the Bill. He went on to state:

Reports of this nature have come out in the recent past and I know that for each [name of victim]⁶⁰ we read about, there are thousands whose stories are unexposed and never make it to the headlines. Many people have been crying for our help and no more should we be silent about this creeping threat of homosexuality to our children and our families.⁶¹

141 In December 2011, BAHATI stated: "This is a defining bill for our country, for our generation. You are either anti-homosexual or you're for homosexuals, because

⁶⁰ Victim's name has been omitted by Plaintiff in order to protect him from further traumatization.

⁶¹ Parliament of Uganda, Hansard, *supra* note 2.

there's no middle point. Anybody who does not believe that homosexuality is a crime is a sympathizer."⁶²

Severe Deprivation of Fundamental Rights
By Reason of the Identity of the Group or Collectivity

February 14, 2012 Raid

104. On February 14, 2012, a SMUG member organization, Freedom and Roam Uganda, was wrapping up a two-week conference on LGBTII issues that drew together approximately thirty participants at the Imperial Resort Hotel in Entebbe, a major city in Central Uganda, approximately forty minutes from Kampala, the Capital.

105. The conference was not advertised and was by invitation only. Organizers had requested that the hotel employees not send anyone to the conference room unless previously approved.

106. The conference was aimed at empowering members with essential life skills and provided training on leadership skills, self-improvement, and human rights advocacy.

107. Around noon on February 14, 2012, during a session that was being facilitated by Dr. Hilda Tadia, co-founder of the African Women's Development Fund, the Minister of Ethics and Integrity, Simon Lokodo, accompanied by the police, entered the conference room and declared the meeting "illegal."

108. Lokodo demanded to see conference materials and seized what was there.

109. When the conference organizer, Kasha Jacqueline Nabagasera, challenged Lokodo the legality of his actions, he ordered that she be arrested.

⁶² Thompsons, *supra* note 39.

110. Nabagasera had to flee the hotel to avoid the unlawful arrest and feared for her safety.

111. Lokodo justified his actions by asserting that the association among gays and lesbians was illegal and by equating LGBTI individuals with terrorists:

We found out the meeting was being organized by people from within and without.... They were recruiting people to go out and divulge the ideology of LGBTI. In Uganda, the culture, tradition and laws do not support bestiality and lesbianism. They were illegally associating.⁶³

You should not allow people to plan the destruction of your country. You cannot allow terrorists to organize to destroy your country.⁶⁴

112. In a worrying sign of future persecution in Uganda, Lokodo threatened: "In the past they were stoned to death. In my own culture they are fired on by the firing squad, because that is total perversion."⁶⁵

June 4, 2008 Arrest of LGBTI Rights Activists

113. On June 4, 2008, three LGBTI rights activists were arrested as they were attempting to peacefully protest at the 2008 HIV/AIDS Implementers Meeting in Kampala against the policy of the Uganda AIDS Commission excluding LGBTI persons from the commission's programs.

114. SMUG staff member Pepe Onziema and Val Kalende, a founding member of Freedom and Roam Uganda, were arrested and charged with trespass even though they

⁶³ David Smith, *Ugandan minister Shuts Down Gay Rights Conference*, The Guardian, Feb. 15, 2012, available at <http://www.guardian.co.uk/world/2012/feb/15/ugandan-minister-gay-rights-conference?newsfeed=true>.

⁶⁴ *Id.*

⁶⁵ Josh Kron, *Resentment Toward the West Bolsters Uganda's New Anti-Gay Bill*, NY Times, Feb 28, 2012, available at http://www.nytimes.com/2012/02/29/world/africa/ugandan-lawmakers-push-anti-homosexuality-bill-again.html?_r=1&pagewanted=all

had been invited to the meeting and hosts provided accreditation. The activists were detained for two days and then released on bail

115 While detained, Onziema's clothing was forcibly removed, and an officer touched Onziema's genitals "for confirmation."⁶⁶

116 The advocates were trying to raise awareness about the discrimination against LGBTI persons inherent in Uganda's HIV/AIDS program in the wake of public comments by Director General of the Uganda AIDS Commission. Kihumuro Apuuli, who had stated "gays are one of the drivers of HIV in Uganda, but because of meagre resources we cannot direct our programmes at them at this time."

117 Apuuli's comments were consistent with previous statements by a Uganda AIDS Commission spokesperson, who stated "There's no mention of gays and lesbians in the national strategic framework, because the practice of homosexuality is illegal."⁶⁷

118 Apuuli's statements followed those of Martin SSEMPA and James BUTURO the year before when they stated that because homosexuality was evil, state HIV/AIDS programs would not be available to them

2007 Crack-down on Media, Advocacy and Threats of Arrest

121 On August 16, 2007, SMUG and its member organizations held a press conference where they launched their "Let Us Live in Peace" campaign.

122 Less than a week later, Deputy Attorney General Fred Ruhindi called upon "the relevant agencies to take appropriate action because homosexuality is an offence

⁶⁶ Glenna Gordon, *Being Gay in Uganda. One Couple's Story*, Time World, Mar. 8, 2010, available at <http://www.time.com/time/world/article/0,8599,1969667,00.html>

⁶⁷ *Uganda Stuck in the Closet*, *supra* note 60.

under the laws of Uganda. The penal code in no uncertain terms punishes homosexuality and other unnatural offenses ”⁶⁸

123. Minister of Ethics and Integrity BUTURO also stated that the government was “considering changing the laws so that promotion itself becomes a crime” and to have “catalogues of people we think are involved in perpetuating the vice of homosexuality.”

124. Martin SSEMPA called the “Let Us Live in Peace” campaign “a well-orchestrated effort by homosexuals to intimidate the government” and organized an anti-gay rally which was held on August 21, 2007, and which BUTURO joined to show his support

125. SSEMPA demanded stronger government actions against LGBTI people and called homosexual conduct “a criminal act against the laws of nature.”

126. In connection with the rally, SSEMPA released “The Official Statement of Inter Faith, Culture and Family Coalition Against Homosexuality in Uganda to the Uganda Government,” which listed Uganda LGBTI rights activists by name and posted their photos and contact information and labeled them “homosexual promoters.”⁶⁹

127. In August 2007, the Ugandan Broadcasting Council suspended Gaetano Kaggwa, the manager of Capital FM radio station, for interviewing a lesbian activist on air. The Council alleged a violation of “minimum broadcasting standards” for unacceptable language used by the activist.⁷⁰

⁶⁸ HRW Letter to Congress, *supra* note 54.

⁶⁹ *Id.*

⁷⁰ *Id.*

128. On September 9, 2007, the *Red Pepper* also published names and photos of LGBTII activists with the headline on the cover that stated “Homo Terror! We Name and Shame the Top Gays in the City.”⁷¹

129. In the wake of the onslaught of outings, calls for harsher tactics on the part of the government, and information that police were actively looking for gay rights activists, a number of activists, including current SMUG Executive Director Frank Mugisha, were forced to leave the country or go into hiding.

2005 Raid of Activist's Home

130. As described above, on July 20, 2005, local Ugandan authorities unlawfully forced their way into the home of Victor Mukasa, a transgender activist and founding member of Sexual Minorities Uganda.

131. Mukasa was not present at the residence when authorities arrived, but they arrested his guest Yvonne Oyo and seized a number of documents and hard copy and electronic files.

119. Oyo was then taken to the police station where she was forced to urinate on herself and then to strip naked in front of the male authorities to “prove her sex.” She was then assaulted when they touched and fondled her breasts. Eventually, Oyo was released the same day and no charges were ever filed against either Mukasa or Oyo.

120. The raid of Mukasa's home took place only two weeks after an article ran in the July 6, 2005 edition of the state-owned newspaper, *New Vision*, urging that “[t]he police should visit the holes mentioned in the press, spy on the perverts, arrest and prosecute them. Relevant government departments must outlaw or restrict websites,

⁷¹

Id

magazines, newspapers and television channels promoting immorality -- including homosexuality, lesbianism, pornography, etc.”

Arbitrary Interference with Privacy, and Attacks Upon Honor and Reputation Resulting in Violence and Death

121. The combination of anti-gay forces within and outside government have created a culture of impunity upon which different media representatives have been able to capitalize.

122. Frequent and sensationalistic outings of LGBTI persons as well as lurid and sensationalistic stories about LGBTI rights activists, along with photos and information about their residences, have contributed to the climate. The “outing” tactic by newspapers has helped to escalate exponentially the degradation, intimidation and fear that SSEMPA’s “outings” had initiated months earlier.

123. The Uganda tabloid, the *Red Pepper*, has continuously run stories that signal alarm about the supposed dangers posed by LGBTI people to Uganda:

- a) In 2007, after Martin SSEMPA posted the names, photos and contact information of LGBTI activists, the *Red Pepper* followed suit in the September 9, 2007 issue with a cover stating “Homo Terror! We Name and Shame the Top Gays in the City ”
- b) On April 19, 2009, ten days before the first draft of the Anti-Homosexuality Bill was introduced, the cover of the *Red Pepper* claimed “TOP HOMOS IN UGANDA NAMED.”
- c) On April 26, 2009, the cover of the *Red Pepper* declared “MORE HOMOS IN UGANDA NAMED ” In this issue, the tabloid included

coverage of Stephen LANGA'S press conference where he supposedly "outed" a rival catholic priest.

- d) On April 27, 2009, the cover headline was: "HOMOS WANT TO KILL ME: Sodomy Whistle-Blower Gets Death Threats, Wants To Flee Country." This issue also covered another press conference organized by LANGA.
- e) On June 18, 2009, the *Red Pepper* ran a story entitled "Homos Invade Schools."

126. As described above, in October 2010, a new Ugandan tabloid associated with SSEMPA, the *Rolling Stone*, was published. It contained the most explicit call to violence that had been made in a newspaper to that point, including a call to "HANG THEM" – next to a picture of SMUG Advocacy Director David Kato. The paper published the names, identifying information and photos of LGBTI rights activists, including Pepe Onziema, another SMUG staff member, and Kasha Jacqueline Nabagasera, director of Freedom and Roam.

127. Below the headlines, were sub-headlines that stated "We Shall Recruit 1000,000 [*sic*] Innocent Kids by 2012 – Homos" and "Parents Now Face Heart-breaks As Homos Raid Schools." The centerfold of the tabloid contained the large headline: "HANG THEM; THEY ARE AFTER OUR KIDS!!"

128. Kato, Onziema and Nabagasera and others named in the tabloid received death threats and harassment subsequent to the release.

129. After the December 2008 High Court's ruling, Kato, Onziema and Nabagasera continued to received death threats.

130. Kato was killed in his home, just over one year ago, on January 26, 2011.

Invidious Discrimination

131. The combination of legal proscriptions against and criminalization of homosexuality, along with discriminatory policies and practices relating to government services, media outings and statements and policies of government officials and their non-governmental counterparts have served to create a climate of hostility and prejudice against LGBTI persons in Uganda, that contributes to and reinforces discrimination by private actors in housing, employment, health and education.

132. SMUG has also had to devote a substantial amount of time and resources to assisting LGBTI persons who have been arbitrarily arrested and harassed and/or mistreated by the police, including responding to urgent calls about arrests or harassment and arranging for legal representation and advocating on their behalf. SMUG has also expended substantial time and resources in helping LGBTI persons to find safe places for them to reside in emergent situations, and also in assisting when LGBTI persons have been forcibly evicted from their homes by landlords who suspect them of being homosexual.

**GENERAL ALLEGATIONS
COMMON TO ALL CLAIMS FOR RELIEF**

133. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 132 of this Complaint as if the same were fully set forth herein.

134. Plaintiff, its member organizations, and their staff members suffered severe deprivations of fundamental rights, including the rights to:

- equality and non-discrimination;

- freedom of expression, association, assembly, and the press;
- to be free from arbitrary arrest and detention;
- to be free from torture, and other cruel, inhuman and degrading treatment;
- the right to respect for human dignity;
- the right to privacy of the person and home;
- to be free from attacks upon one's honor and reputation;

135. These deprivations of Plaintiff's fundamental rights were severe.

136. Plaintiff, its member organizations, and staff were deprived of these rights on the basis of gender and/or sexual orientation and gender identity.

137. The actions and/or omissions of Defendant were intentional.

138. The actions and/or omissions of Defendant were committed as part of a widespread or systematic attack against a civilian population and were committed with knowledge of the attack.

139. The conduct alleged violates customary international law and is actionable under the Alien Tort Statute.

FIRST CLAIM FOR RELIEF

Crime Against Humanity of Persecution: Individual Responsibility

140. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 139 of this Complaint as if the same were fully set forth herein.

141. Defendant is liable for the aforementioned severe deprivation of Plaintiff's fundamental rights on the basis of gender and/or sexual orientation and gender identity in that he committed, solicited, and/or induced the commission or attempted commission of the crime of persecution.

142. Defendant is further liable for the aforementioned severe deprivation of Plaintiff's fundamental rights on the basis of gender and/or sexual orientation and gender identity in that, for purposes of facilitating the commission or attempted commission of the crime of persecution, he aided, abetted or otherwise assisted in the commission or attempted commission of the crime, including by providing the means for its commission.

143. As a result of Defendant's actions and/or omissions, Plaintiff, its member organizations, and staff members have suffered damages as a result in an amount to be determined at trial.

SECOND CLAIM FOR RELIEF

Crime Against Humanity of Persecution: Joint Criminal Enterprise

144. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 143 of this Complaint as if the same were fully set forth herein.

145. Defendant is liable for the aforementioned severe deprivation of fundamental rights on the basis of gender and/or sexual orientation and gender identity in that he contributed to the commission or attempted commission of the crime of persecution by a group of persons acting with a common purpose, including Stephen LANGA, Martin SSEMPA, James BUTURO and David BAHATI.

146. Defendant's contributions to the joint criminal enterprise were intentional and made with the aim of furthering the criminal activity or criminal purpose of the group comprised of LANGA, SSEMPA, BUTURO and BAHATI.

147. The criminal activity or criminal purpose of the group of persons acting as alleged herein involved the commission of the crime of persecution, *i e*, the intentional and severe deprivation of Plaintiff's fundamental rights, contrary to international law, by reason of the identity of the group or collectivity.

148. Defendant's contribution to the joint criminal enterprise was made in the knowledge of the intention of the group to commit the crime of persecution, *i e* , to intentionally and severely deprive the group or collectivity of their fundamental rights on the basis of their gender and/or sexual orientation and gender identity.

149. As a result of Defendant's actions and/or omissions, Plaintiff, its member organizations, and staff persons have suffered damages as a result in an amount to be determined at trial.

THIRD CLAIM FOR RELIEF
Crime Against Humanity of Persecution: Conspiracy

150. Plaintiff re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 149 of this Complaint as if the same were fully set forth herein.

151. Defendant is liable for the severe deprivation of fundamental rights on the basis of gender and/or sexual orientation and gender identity in that he conspired with others to commit the unlawful act of persecution.

152. The Defendant entered into an unlawful agreement with LANGA, SSEMPA, BUTURO and BAHATI knowing that the goal of the conspiracy was to severely deprive persons of fundamental rights on the basis of their gender and/or sexual orientation and gender identity and intended to help accomplish that end.

153. Defendant and/or his co-conspirators LANGA, SSEMPA, BUTURO and BAHATI made overt acts in furtherance of the agreement or conspiracy and caused the deprivation of Plaintiff's fundamental rights alleged herein.

154. As a result of Defendant's actions and/or omissions, Plaintiff, its member organizations, and staff persons have suffered damages as a result in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- a. For compensatory damages in an amount to be proven at trial;
- b. For punitive and exemplary damages in an amount to be proven at trial;
- c. For reasonable attorneys' fees and costs of suit;
- d. For a declaratory judgment holding that Defendant's conduct was in violation of the law of nations;
- e. For all such other and further relief as the Court may deem just and proper.

A jury trial is demanded on all issues

Dated: March 14, 2012

Respectfully submitted,

/s/Luke Ryan
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