

GIZ Gender Competition 2018

Promoting Gender Equality for All through our Work with LGBT

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While LGBT are not always included in the discussion on gender equality, both within GIZ and in the broader development community, there are strong linkages between the ongoing marginalization of women and girls and the challenges that LGBT face. The GIZ gender competition is a perfect occasion to draw attention to the need to use a more inclusive definition of gender when talking about the central role of gender equality in international development cooperation. Therefore, our team submits our work with LGBT groups as our program's entry for the GIZ Gender Competition 2018.

To begin, discrimination against women and against LGBT both result from the idea that there are only two sexes, male and female, that every person can only have one sex, biologically determined at birth, and that every person has to behave according to that sex. The idea behind gender equality is not merely to provide free and equal access to goods and services but also to critically reflect on traditional gender roles and to empower people to step beyond these roles to live their lives according to their own preferences and truths. Another connection lies in the power dynamics inherent in the marginalization of women and LGBT, as both are an attempt to restrict people's control over their own lives and their own bodies. For example, a common expression of gender inequality is insufficient access to health care for women, a challenge often shared by LGBT. This is also related to the politicization of very private and intimate issues such as decisions on how to dress, sexual preferences, or sexuality in general. Lastly, the marginalization of women and LGBT has the same consequences, in that it restricts people in living their lives and fulfilling their potential, thereby hindering development and progress not only for the individual, but for society as a whole.

When adopting the sustainable development goals (SDGs), the international community set itself the target to achieve gender equality. It also committed itself to leave no one behind in working towards the realization of the SDGs. Fighting gender stereotypes, promoting participation and condoning harmful practices will certainly benefit women and girls. Such endeavours can, however, have a much larger impact if we include sexual minorities in our discussion on gender equality. If we really mean not to leave anyone behind, we should not withhold from LGBT the possibilities and the potential for improving their lives that lie in the promotion of gender equality. Instead, by adopting an inclusive approach to gender equality, we can combine forces and build synergies in order to challenge gender norms and let as many people as possible benefit from more equality.

It is important to keep in mind that the decisive factor in discriminatory practices directed at LGBT is the gender dimension. For example, if one uses the term gay as an insult, what this really aims at is questioning a man's masculinity as the person's behaviour is considered not to be in line with a certain gender norm. Similarly, transwomen in Uganda often face a lack of understanding and condemnation because the transition from man to woman is considered a downgrade in identity and power as the female sex is seen as the weaker one and it is therefore perceived to be better to be born a man. Accordingly, the transition from woman to man or simply a girl's desire to wear trousers may be understood as hubris since a woman is trying to gain privileges she is not supposed to have. Homo- and transphobia is thus not only an act of discrimination that has to be looked at through a legal lens, but it is also an attempt to define, normalize and impose on others certain gender norms by punishing those who do not conform. This is the exact same logic that lies behind the marginalization of women. Breaking up these gender norms and stereotypes is thus as vital to equality for LGBT as it is for women. Seen that way, supporting the work of LGBT groups who challenge gender norms will eventually also benefit women. Hence, there is a lot of potential for mutual support between those actors fighting for equal access for women and those promoting equality for LGBT. The two issues should therefore not be treated separately, but seen as

two expressions of the same harmful adherence to certain norms and traditions. In the words of American LGBT rights activist, Sarah McBride, “homophobia, transphobia, and sexism, they’re all rooted in the same prejudice: the belief that one perception at birth — the sex we are assigned — should dictate who we are, who we love, how we act, and what we do. And that’s why LGBT equality is gender equality and gender equality is LGBT equality.”¹

1. Context

Situation of LGBT in Uganda

Uganda ratified the nine core treaties of the UN human rights system and the essential African human rights agreements, treaties and conventions but implements them inadequately at the national level. Many people and especially women, people living with disabilities as well as ethnic, religious and sexual minorities are denied the realization of their rights due to discrimination. Yet, the application of international human rights law is guided by the principles of universality and non-discrimination enshrined in article 1 of the Universal Declaration of Human Rights which states that “all human beings are born free and equal in dignity and rights”. “All people, including lesbian, gay, bisexual and transgender (LGBT) persons, are entitled to enjoy the protections provided for by international human rights law, including in respect of rights to life, security of person and privacy, the right to be free from torture, arbitrary arrest and detention, the right to be free from discrimination and the right to freedom of expression, association and peaceful assembly.”²

Although Uganda has ratified the core treaties of the UN human rights system, it does not sufficiently protect the rights of sexual minorities. The situation of sexual minorities shows significant parallels to that of women, in that traditional gender norms stand in the way of the full realization of their human rights entitlements. Homophobia and transphobia are entrenched in the society. Sexual self-determination is not accepted and homo- and transsexuals are discriminated. For example, they risk losing their jobs when outing themselves or being outed by others, they face difficulties in accessing public services, especially when it comes to health care, and they are more likely to be arrested and mistreated during their arrest.

Contrary to widespread belief, homosexuality is, strictly speaking, not outlawed in Uganda. The Ugandan penal code only mentions “carnal knowledge against the order of nature” (section 145) which is often perceived to be criminalizing homosexuality. In 2014, the anti-homosexuality act, which explicitly prohibited homosexuality and also criminalized the promotion of LGBT rights, was passed, but annulled the same year. No one has been convicted in a Ugandan court for engaging in homosexual behavior so far. However, morals and values play an important role in Uganda and are often put above the law, which is why trans- and homophobia is endemic both within the general public and within government and administration.

The “Strengthening Human Rights in Uganda” project (01/2014 – 03/2017) which is now a component under the wider “Strengthening Governance and Civil Society in Uganda” programme (03/2017 – 03/2019) supports Uganda in applying the principles of a human rights based approach in order to fulfil its international human rights obligations. The Focus is on the principle of non-discrimination, especially on the most vulnerable groups. Among those, LGBT as well as women were selected as target groups of our activities and thereby our work explicitly focusses on promoting gender equality. The programme is thus working towards the achievement of tolerance and non-discrimination of LGBT in Uganda. It has started to work with LGBT organizations as part of an NGO facility that was developed to support civil society organizations directly. A focus was put on the work with LGBT as they are one of the most marginalized groups in Uganda. Especially in 2014 when the anti-homosexuality act was in effect, which was annulled the same year, the LGBT community faced numerous attacks ranging from break-ins into their private homes, raids of offices, torture and arrest.

¹ Sarah McBride, TEDx Talk: Why LGBT Equality Is Gender Equality, available at: https://www.huffingtonpost.com/sarah-mcbride/post_12403_b_10691726.html

² Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity. A/HRC/19/41. Paragraph 5.

Achievements and Impact of our Work

When the Human Rights Programme took on its work, we did not start off in an easy environment. With most of the population and also many staff of our state partners being homo- and transphobic, it was not easy to find entry points in working with LGBT organizations. Over the last three years we have found our niche in working with LGBT organizations and such organizations supporting the community. We have achieved that two of our state partners, the Uganda Human Rights Commission (UHRC) and the Equal Opportunities Commission (EOC), have opened up for dialogue on the topic of LGBT. As a result the EOC has even signed a MoU with one of our partners and agreed on continued collaboration on the topic. Due to a constitutional petition by one of our partners, the Human Rights Awareness and Promotion Forum, Section 15(6)(d) of the Equal Opportunities Commission Act was declared null and void by the Constitutional Court. The section had barred EOC from investigating any matter involving behavior which is considered to be 'immoral and socially harmful or unacceptable by the majority of the society in Uganda'. Both commissions have also come out and said that they will handle cases of LGBT.

We have further accomplished that the topic of LGBT found greater attention during the Universal Period Review (UPR) in which Uganda was reviewed in 2016. On the one hand, the shadow report, developed by civil society, included a chapter on the situation of sexual minorities in Uganda. On the other hand a side event was held during the UPR event in Geneva, in which the situation was further elaborated in a panel discussion to which the EOC contributed as well. A great success was to hold trainings of police officers on the human rights of LGBT. The police is the biggest perpetrator of human rights violations. This refers also to rights violations of LGBT. It was therefore key to sensitize police officers on who LGBT people are and to emphasize that they have the same rights as all other human beings. The trainings are well received in the leadership of the police and also the police officers to understand the topic from an informed point of view. By now the police has developed an ownership for the trainings and is even defending them in public emphasizing that police officers need to learn how to respect the rights of minorities and how to treat them in a rightful way.

In a current project, we are shooting a documentary about transgender people in Uganda. The documentary will cover stories from transgender people but also lawyers and health workers to shed light on the situation of transgender in their specific field. The documentary has already caught a lot of attention within Uganda but also outside. For example a clip of it was already screened during the gender focal persons meeting in Addis Ababa in October 2017 and has received positive feedback as an advocacy tool.

Our approach to working with LGBT in Uganda

We are often asked by other colleagues and other organizations how we manage to work on this topic in such a homo- and transphobic country. Our answer here is that we work within the Ugandan law and within the international human rights framework that Uganda is a signatory to and has committed itself to. As described above, our programme uses a legal and human rights based approach to a highly emotional and moral topic. We are not entering a moral or political discussion but base our arguments on the Ugandan Constitution (1995) that emphasizes freedom from discrimination for all persons. Therefore, LGBT should not be treated differently because of who they are. We thus do not generally advocate for the interest of LGBT, but support the Ugandan authorities in fulfilling their human rights obligations towards the most vulnerable groups, such as LGBT. We are using strategic litigation to change some of the discriminatory laws in Uganda and use international mechanisms such as the UPR to advocate for the human rights of LGBT.

2. Human rights and LGBTI work as a unique feature

The decision to work with LGBT was already made in 2013. During the governmental negotiations in 2013, Mr Dirk Niebel, then Minister for Economic Cooperation and Development, and Mr Fred Omach, the then Minister of State Finance of Uganda, agreed that the human rights project should work with vulnerable groups including sexual minorities. This was captured in the protocol of the governmental negotiations. When the project finally started in 2014, the NGO facility was further discussed with the German Embassy and we agreed to work in the thematic area of tolerance and non-

discrimination with a focus on LGBT organizations. Due to the close cooperation with the German Embassy on this topic and the impact the project was able to achieve, the BMZ supported a continuation of our work. Thus the BMZ insisted during the governmental negotiations 2016 that the phrasing of ‘sexual minorities’ will be included again in the protocol.

Our project has a unique feature both within GIZ and among development partners in Uganda. There are few human rights projects in GIZ and few projects within GIZ have taken on the work with LGBT making our project special. Also among other development partners in Uganda, our project has a unique approach toward working with LGBT organizations. The biggest development partner in the governance field, the Democratic Governance Facility, does generally not work with LGBT organizations. Most development partners working on this topic are actually not present in Uganda and work with grant schemes for organizations. Therefore the GIZ approach of technical advice combined with financial support is a unique approach in Uganda and has brought our project a good reputation.

3. Gender und WoM

Our work with civil society organizations, especially on the thematic issue of LGBT, was part of the impact matrix of the Strengthening Human Rights Project (PN: 2013.2203.1). The indicators captured the strengthened capacity of LGBT organizations to advocate for the rights of the LGBT community. Additionally, the project integrated all activities and the impacts mentioned above in the internal M&E system.

Also the new impact matrix of the Governance and Civil Society Programme clearly integrates gender dimension and ensures that women and also LGBT (referred to as marginalized groups) participate in the programme. The indicators capture that women and LGBT organizations participate in subnational consultation processes, that they participate in a mentoring program and that they develop capacity development strategies.

4. Cooperation to achieve our objectives

Cooperation in our work is taking place on many levels. First of all there is a very good cooperation between the German Embassy and the project to decide on the overall direction of the project and to have a common voice on the topic. Together with the German Embassy we are also represented at the Democracy and Human Rights Working Group, consisting of representatives from various embassies to discuss the situation of democracy and human rights in the country. This working group has a common position on the topic of LGBT and can therefore advocate with a united voice on a higher political level. Secondly, cooperation within GIZ, colleagues but also other GIZ projects like the “Reduction of Discrimination based on Sexual Orientation and Gender Identity”. The cooperation with this project supported and exchange between various LGBT organizations in Africa. Thirdly, the cooperation between us and our civil society partners is very important. Most of our partners in the work on LGBT either come from within the LGBT community or are organizations that focus on LGBT. We identified organizations that shared our legal and human rights based approach or that required capacity building in order to carry out their work. Together with these organizations we managed to achieve the impact mentioned above. We have not only cooperated with other stakeholders but also fostered cooperation between our partners. Our programme is known for the “match-making” between our partners. We have achieved that the two commissions support the work of our LGBT partners to the extent that UHRC invites the police for the trainings and facilitates part of the sessions and EOC has supported the same organization during the side event at the UPR.

The biggest challenge in our work is the political situation in the country. The topic of LGBT and an anti-gay speech is often used to mobilize voters. It is a topic that can easily unite people against the common “enemy”, the LGBT community. We therefore need to be very careful in our work not to draw too much attention to the topic but still enough to foster change for the lives of LGBT people in Uganda.

Factors for success were on the one hand the political support from BMZ that we received when they insisted that the topic shall be included again in the protocol of the governmental negotiations. Also our cooperation with the German Embassy contributed a lot to our success. Last but not least it is our fruitful discussions with very valuable organizations that work tirelessly to see the human rights of LGBT protected and to foster gender equality in Uganda.