

RETHINKING THE ILLEGALITY OF HOMOSEXUALITY IN ZIMBABWE: A RIPOSTE TO CHEMHURU

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ABSTRACT

The paper critiques an article by Chemhuru which delved into philosophical examination of homosexuality in Zimbabwe and Africa. As point of departure, this paper takes a historical approach and chronicles the long history of homosexuality in many African societies and cultures, tracing the development trajectories from pre-colonial era up to the post-colonial era. The development of homophobic stance in African societies historical is dealt with, and reasons for the continual of such a stance in postcolonial Africa are examined also. Informed by Marxian and Foucauldian theorizing, the paper argues that sexualities are socially and culturally constructed. Power is singled out as the major determinant that shapes how sexualities are viewed in a particular state or culture. The paper concludes by examining the differences between pre-colonial homosexuality and the recent phenomena of same sex marriages and families. There is need to further research into how these same sex marriages are structured and functions within societies that have legalized same sex marriages.

Introduction

This paper is a reaction to a paper by Chemhuru published in *International Journal of Politics and Good Governance Volume 3, No. 3.3 Quarter III 2012* entitled *Rethinking the legality of homosexuality in Zimbabwe: A philosophical perspective*. The aim of this paper is not to dismiss the aforementioned paper, nor to exonerate white colonial settlers from evils and crimes committed during colonization, but to proffer an alternative analysis and understanding of the homosexuality in Zimbabwe and Africa in general. Issues of homosexuality must not only be tackled from philosophical standpoints because such standpoint lacks the rigour and depth of exposing the practice of homosexuality within particular contexts. Studying homosexuality requires a historical approach that can situate the practice within the political economy of the state that accepted or repudiated the practice. Historical and ethnographical studies have put to rest the notion that homosexuality is

unAfrican or imported into African societies by Europeans, on the contrary, homosexuality emanated as an autochthonous practice in pre-colonial African societies as part of cultural practice.

Homosexuality in Pre-colonial African societies

The first point of departure concerns Chemhuru's (2012) title of the paper. The title treats homosexuality as legal in Zimbabwe. "*Rethinking the legality of homosexuality*" gives a false notion that homosexuality is legal in Zimbabwe. The truth of the matter is that homosexuality has never been legal or lawful; hence one can never reconsider the legality of an unlawful act. Possible reasons will be proffered in this paper, on why homosexuality has remained illegal in Zimbabwe and other African and Asian states.

The second contention is on the point raised in aforementioned paper that homosexuality is an alien phenomena to Africa. Basing from his arguments it is clear that same sex relationships never existed or emerged on their own in African societies. Adopting and furthering propagandist philosophies popularised during liberation wars by most nationalists' ideologues, Chemhuru views homosexuality as one of the many evil that came with colonialism or the white men to be precise. In the paper, Chemhuru clearly and boldly asserts that:

Same sex relationships remain alien, travesty, unthinkable and difficult to justify from a Zimbabwean perspective where generally value systems are sacrosanct to the philosophies of communitarianism and 'unhuism' among other values that formed the mainstay of traditional Zimbabwean and African communities at large.

There is need to deconstruct the notion that homosexuality is foreign to Africa. Many studies have confirmed the existence of same sex relationships across Africa. In some societies, the practice was cultural and common that it seemed natural. In Zimbabwe, Epprecht (1998) notes that homosexuality has a long seated history in Zimbabwe. Bushmen painting as noted by Epprecht vividly illustrate males in intimate sexual relations. Furthermore, oral history has accounts of males who engaged in sexual relations for ritual purposes (Epprecht, 1998). Burton has one of the earliest accounts on homosexuals in Africa before Europeans occupied the continent. A number of later studies by anthropologists, such as Evans-Pritchard among

the Azande of Sudan capture the phenomena of boywives. Evans Pritchard (1971:183) posits that:

...homosexuality is indigenous. Azande do not regard it as at all improper, indeed as very sensible for a man to sleep with boys when women are not available

Early anthropologists focused on institutionalized ritual sodomy among the Etoro of Papua New Guinea and the Azande of Sudan as a way of initiating boys into a man. Literature that capture same sex relationships in Africa are many (Nadel ,1947, among the Korongo and Mesakin; Junod, 1927, in South Africa, Epprecht 2004 in Zimbabwe, Herskovits in Gambia). These cases suffice to argue the existence of homosexuality in traditional African societies.

Same sex relations were not only done by males, females engaged in these activities also in pre-colonial Africa. In a blog, Fireeyedboi notes that among the Shona *mbonga*, were female guardian whose celibacy protected the Shona chief, and the *chibanda*, was a caste of male diviners possessed by female spirits and referred to in early European sources as “passive sodomites”. Murray (1997), Evans-Pritchard (1976) and Nadel (1955) give a detailed analysis and accounts of other same sex relations involving women in pre-colonial African societies.

Unintended colonial homosexual havens

The far-fetched notion that homosexuality was brought by Europeans emanate from the increase and or emergence of the practice in colonial urban centres, mine compounds, prisons and settler farms. The colonial creation of male only urban centres had unintended consequences on Africans' sexuality. Professional prostitution is a creation of colonialism while male homosexuality either increased or emerged during this era in some African urban centres which were constituted by males and few females (White 1990 in Kenya; Barnes, 1993 in Rhodesia; Epprecht, 2004). In mines in South Africa, male-boy sexual relations were common due to sexual deprivation after males left their wives in rural areas. The population composition was conducive for the increase and occurrence of same-sex relations among males. Junod (1927) proffers the idea that homosexuality was common in South African mines among the Thonga due to the unavailability of women and also as a matter of homo sexual preference. The *nkhonsthana* (boywife) practice increased in mines and farms. In South Africa, for boys to secure a job in mine or farms, often they had to be *nkhonsthana* to the foreman.

There is need to categorically assert that Europeans did not deliberately make frantic efforts to introduce or encourage homosexuality in colonies. Homosexuality, both emergence and increase, as aforementioned was an unintended consequence. Despite the colonial governments' effort to illegalize homosexuality, it resurfaced due to separation of husbands and wives under the new colonial political economy. The colonial capitalist political economy would never encourage homosexuality because it was detrimental to their economic system. Colonial factories, mines and farms were in dire need of labour to such an extent that there were elaborate mechanisms to recruit African labour. Arrighi (1979) van Onselen (1976) in *Chibaro*, Malaba (1980) details the dire need of labour power in colonial factories and farms that it was not uncommon to have forced or unpaid labour from Africans. Colonial capitalist regime heavily relied on cheap and forced labour force from Africans. To ensure that labour would not be in shortage, reproductive heterosexual liaisons were encouraged. Heterosexual families would produce the much needed labour force. Many children ensured future potential individuals from whom labour power would be expropriated. If children were many, it would also lower even wages.

Apart from the need of labour force in capitalist enterprises, missionaries who also flocked the colonies had a strong abhorrence for homosexuals because it contradicted their religious doctrines and beliefs. Citing the biblical case of Sodom and Gomorrah as their reference point, colonial missionaries and Christians, from Europe, never tolerated homosexuality. Thus, it was a stigmatized sexuality shunned by both colonial capitalists and missionaries during colonial era. This clearly put to rest the idea that Europeans brought with them or intentionally introduced homosexuality in African colonies. In South Africa, Epprecht (2004) notes that there was a commission of enquiry by the Chamber of Mines and Department of Native Affairs in 1906-1907 into, as well as a public campaign by white missionaries on the Rand area in 1915 against homosexuality. Furthermore, there were criminal cases brought before the colonial courts of people who engaged in homosexual relations. If one was found guilty of sodomy, one could pay a fine in the form of a beast. This shows that even colonial laws criminalize same sex relations. Homophobia is the one introduced to Africa by European missionaries and laws, not homosexuality per se (Epprecht, 2004: 225). Ottoson (2007) substantiate Epprecht's view by showing that through the Penal Code of 1886, the Portuguese colonial regime sent indigenous people to labour camp if found guilty of engaging in same sex relations. This code affected people in Mozambique and Angola.

Evidence provided above is sufficient to prove beyond any doubt that Europeans did not introduce homosexuality, on the contrary, same sex relations were stigmatized and treated as "otherized" sexuality, even in societies where it was practiced prior to colonization.

Liberation movements and Nationalist rhetoric on Homosexuality

Nationalist movements which emerged in various African states had strong ideological value systems that aimed to portray, expose and unearth the brutality, oppressiveness and inhuman nature of the white colonial regime. To achieve this, nationalist ideologues created rallying points to unite indigenous people against the foreigners. A number of ills perpetrated by the settler regime were outlined by nationalist ideologue. Racism, state perpetuated inequalities, slavery and homosexuality were noted as some of the ills perpetrated by the white occupiers. Nationalist popularized the notion that Europeans had adulterated the African culture that never accommodated homosexual relations prior to colonization. Masculinity and assertion of social manhood that had taken from African males forced them to disassociate themselves from anything that emasculates them. Homosexuality did not only emasculate males but also feminized them (Epprecht, 2004). As a way of asserting the masculinity and turning the tables, nationalist linked the white men with homosexuality, this made it easy to find the practice as it was perceived western.

While fighting the colonialism, liberation movements were also fighting to reclaim their masculinity after their emasculation by colonial regimes (Epprecht, 2004; 8). Homosexuality was considered one of the ways through which males were emasculated and even feminized. All their social and cultural signifiers of manhood were expropriated and severely threatened during colonization; land, cattle and large families were discouraged by the British settler regime in Rhodesia.

The post-colonial stance

A number of post-colonial African governments have inherited the colonial homophobic stance. Though the stance is the same, the reasons behind post-colonial homophobic differ from the reasons that colonial regimes criminalized homosexuality. Colonial regimes were homophobic because it reduced labour force in colonies and it was against religious dictates.

Post-colonial governments, especially those under the leadership of nationalist movements that fought against colonial rule, have continued to be homophobic either for political reasons or for the sake of glorifying the 'traditional culture' of their society. A number of leaders have argued that homosexuality has never been part of African culture, yet evidence above points to the contrary. These leaders have become neo-traditionalists who mistakenly argue that homosexuality an alien practice yet it is part and parcel of their society. Through this chicanery, the old and the conservatives are easily won as they nostalgically wish to recreate the past.

Politically, in conservative societies homosexuality has been used to blackmail or to assassinate the character of opposition parties' leaders. Homosexual allegations were used in 1992 in Malaysia by Mohamad Mahatir to discredit Anwar Ibrahim. To effectively do away with opposition, Mahatir simply labelled his contender a "homosexual". Ibrahim went through a trial and some electorates were lost due to such allegations (Offord 1999). In Africa, nationalist such as Museveni, Nyerere, Mutharika, Mugabe and Tembo do not accommodate homosexuality within their countries. President Mugabe has publicly, on various occasions attacked gays and lesbians as worse than dogs and pigs. The church has continued to support the post-colonial state in its homophobic stance, on 16 September 1995, ZAOGA marched in solidarity with the President on his anti-gay stance. Tsvangirai the opposition leader in Zimbabwe has vacillated on his position on homosexuality. Tsvangirai has zigzagged, torn between respecting human rights and loosing possible voters. On a visit to England Tsvangirai expressed his tolerance for homosexuals but later dithered when he returned to Zimbabwe. The conservative nature of some section of society has made it difficult for the opposition to clearly declare its standpoint.

Globalization has also added another dimension to the homophobic nature of post-colonial regimes. For many political leaders in Africa homophobia is a postcolonial stance that acts a defence against the threat of perceived Western cultural imperialism, in the form of globalization, brought to the non-Western world through technology and capital. Homophobia is utilised in the battle of cultural, religious and national purity. It is assumed that homophobic stance preserve the indigenusness of the locals. Homosexuality in this sense is regarded as a "globalised" Western virus that corrupts the local (Sanya, 2004). This

brief overview shows that homosexuality is indeed African and also chronicles the mutation of the practice over time.

The much claimed “*communitarianism and unhuism*” by Chemhuru (2012:1) as well as preservation of cultural and national purity is a fallacy. Cultures in African societies have been changing since colonization, urbanization and markedly under globalization. Societies are no longer insulated as they were prior to colonization. The interconnectedness brought by technological advancements has made it impossible for any society to maintain an unadulterated culture untouched by external forces. Culture is portrayed as static and stagnant by scholars and politicians who wish to create a glorified cultural system that never existed even prior to colonialism.

The essence of Foucauldian analysis

Michael Foucault’s analysis of sexuality is important when discussing ‘otherized’ and stigmatized sexualities. Chemhuru (2012:12) correctly points out that

Michel Foucault articulates how understandings of sexuality can vary across time and space, in an attempt to argue for the permissibility of homosexuality.

The first section of the statement is correct but the conclusion drawn misses the essence of Foucault’s work. Foucault writings were not meant to make “an attempt to argue for the permissibility of homosexuality”, on the contrary, Foucault was interested in exposing power dynamic that shape the fashion of “sexual regimes”. Furthermore, Foucault undoubtedly illustrated that sexualities are socially, historically and culturally constructed. This alone exposes the flaws of neo-traditionalist who view their cultures as unchanging. Cultures change in respond to a number of forces, and if people adopt or acquire new practice, cultures can easily borrow, leading to a shift or change.

Foucault’s work examines the link between sexualities, power and knowledge in time and space. In early Greek and Roman societies sex was considered an “*erotic art*” through which an individual could understand the self and construct a sense of being. With time the church and the state became institution which closely regulated the sexualities of followers and citizens. However, around the 17th century arose a new discourse around sexuality. This discourse was based on scientific knowledge and it created what Foucault terms *scietia*

sexualis, this discourse created sexual minorities. Regulation of sexuality by the church, state and science created a ‘disciplinary society’ in which homosexual was viewed as “unnatural and specific dimension of sexuality” (Foucault, 1978). Laws and religious teachings disqualified previously recognized sexualities, relegating the ‘alternative discourse’. Foucault’s analysis expose that sexualities are not given or natural, over time, they evolve. Social power is used by the dominant groups to define acceptable and illicit sexual acts. This forms the repressive hypothesis characterized by censorship, severe control of individual sexuality by institution and professionals such as psychologists and medical doctors. Foucault, (1978: 5) aptly states that “... the history of sexuality must be seen first of all as the chronicle of an increasing repression.” Analysing post-colonial governments’ reactions to homosexuality require insights from Foucault’s theorizing.

In Zimbabwe, the Criminal Code criminalize unnatural sexual acts, and any behaviour that can be interpreted as homosexual is punishable, for example, kissing, hugging or holding hands between people of the same sex. This is against the constitutional rights granted to citizens under sections 19, 20 and 24. This clearly shows that the political elite have the power to define acceptable sexualities within the areas of their jurisdiction. Provisionally, in Zimbabwe the constitution grants citizens their liberties while the interpretation of the law leaves no room for accommodating homosexuals. Such a situation confirms Marx and Engels’ dictum that

The ideas of the ruling class are in every epoch the ruling ideas, i.e. the class which is the ruling material force of society, is at the same time its ruling intellectual force. The class which has the means of material production at its disposal has control at the same time over the means of mental production, so that thereby, generally speaking, the ideas of those who lack the means of mental production are subject to it....”

A Neo-Marxists, Gramsci articulates that the ruling intellectual and cultural forces of the era constitutes a form of hegemony, or a domination through ideas and cultural forms that induce consent to the rules of the leading groups in a society. Gramsci argued that the unity of prevailing groups is usually created through the State, the institutions such as church, schools, police, and the media. This is obtaining in most post-colonial states where ordinary citizens may be willing to engage in homosexuality but the leadership promotes and supports contrary views. Through churches, media and even propaganda, the ideas of the rulers are forced

down the throat of ordinary citizenry. Foucault (1978) argues that sex and the body have been constantly under the gaze, be it medical, legal or religious gaze that are constructed through difference, varying according to society, social group and period. Censorship arose to deter people from talking freely about sex as they used to do in earlier times. Chemhuru (2012;15) cites a respondent who said

Tine nyaya dzokutaura dzakakosha, pane iyi yokutungana kwembudzi¹;

The refusal to discuss issues of homosexuality through an escapist response attest to Foucault's argument that sexual matters have been relegated to the private sphere, which is, the bedroom. Talking about sex is itself, a repressed thing.

Unnatural Acts! According to whom?

Chemhuru (2012; 1) posits that "same-sex relationships are unnatural deviations and hence, a direct contradiction to the natural, normal..." This idea that there are natural laws that govern 'how things must be' has little, if any relevancy in the social world. Sexualities are socially and culturally constructed that they defy uniformity. The idea that there is a natural sexual act is informed by Neo-Darwinist such as Sanderson (2003) and Trivers (1972) who advocate heteronormative in society. These scholars argued that male-female sexual relations were natural because their genitals easily fit into each other. In this instance, biologically genitals are used as the solution to solve how sexual acts must be done. However as argued above, biology alone cannot be used to determine what is sexual or what is not. Each culture and society prescribe different acts sexual and even body parts are differently eroticized. In Nigeria, Wole Soyinka, captures plucking of hair from armpits as a sexual act among the Yoruba (see *The lion and the jewel*). Oloruntoba-Oju (2007) has captured how different body parts have been erotized in different societies. In most societies, Europeans are blamed for erotizing the naked body of a female.

Functionalist school of thought also seems to support heterosexual relations. This theory supports patriarchy which holds that a family consists of a husband; wife and children (see Parsons and Bales, 1955). The universal and natural role of the family is to reproduce and add more members into the society. A homosexual marriage does not reproduce and is composed of males only or females only, thus it is not normal or natural. The imposition of heterosexual

¹ We have other important issues worth discussing rather than discussing issues of homosexuality.

as natural and normal has blinkered many into believing that any other sexuality outside of heterosexual family is unnatural and abnormal. Patriarchal societies have thwarted the emergence of same sex relation because they give unabated liberties and freedom to women and may lead to inversion of both gender and sex roles.

Charting the way forward: debunking same sex marriages

The homosexual problem in Zimbabwe and Africa at large is not an issue of communitarianism, same-sexual relations or culture. It is a problem of a totally new phenomenon which bears no historical parallels. While it has been proved beyond reasonable doubt that homosexuality has been subtly a part and parcel of several African cultures, the emergence of same sex marriages has presented a new challenge in the debate on homosexuality. Though homosexual acts have been allowed to pass with little attention the idea of a marriage can be regarded as a totally new phenomenon. Hence it is the argument of this paper that the dismissal of same sex marriages should be situated within the current context of a globalized culture rather than basing it on a nostalgic view of culture. What is beyond comprehension of the majority is the establishment of a family composed of people of the same sex since, like Foucault points, the heterosexual dogma has permeated the fabric of most societies worldwide hence the likelihood of an outright scorn upon the concept of same sex marriages.

This paper appreciates that the family as an institution has the ability to evolve over time due to circumstances. The family in the past, as understood by Parsons and Bales (1955) was isolated and lived within the same geographical location. However, advancement in technology has led to networked societies that allow a family to cooperate and continue to exist with members scattered across the globe. Circumstances have also called for the rethinking of earlier conceptualizations and definition of a nuclear family as a heterosexual institution composed of a husband (male), a wife (female) and children must be revised to incorporate same sex marriages that consist of members of the same sex and children often adopted. More research into power dynamics, distribution and execution of social roles/chores, resource allocation, inheritance, decision making, child rearing and sexual relations within same sex marriages is needed to elucidate and capture the continuities and discontinuities with the 'traditional' heterosexual family. Same sex marriages and families do

not value reproduction as the main motive of the union, there is need to also establish reason behind the emergence of families whose main goal is not reproduction.

The traditional heterosexual nuclear family as noted by Marxist feminist serves to further the interest of capitalism, that is, reproduction and maintenance and patriarchal inequality. The heterosexual family stands as the epitome of the modern family, the rise of 'geographical scattered families' and same sex families and marriages may be a signal of a paradigm shift into postmodern families.

Conclusion

Homosexuality was a traditionally entrenched practice in some pre-colonial African societies as archaeological, historical and anthropological studies have established. The interaction between the colonizer and the colonized may have led to the misunderstanding of the origin of the practice, with the colonized arguing that it was introduced by the foreigners. Post-colonial governments have maintained a homophobic stance for different reasons from those that informed the structural homophobic stance of the colonial regime. It is imperative for one to understand the historical events and distortions which inform the present day stance on homosexuality in Zimbabwe as well as in most parts of the continent. Foucauldian and Marxian theorization brings to the fore the power dynamics infused in sexualities. Culture is also a fertile ground for power play with struggles from different quotas for their ideas to dominate in various arenas including aspects such as sexuality. Thus a rejection of homosexuality from a cultural standpoint gives a facade over the real power play within societies. Most African academics and politicians are still trying to revive a dying 'African culture' through presenting nostalgic recreations of cultures which have been heavily contaminated by global forces. Its time people acknowledge that though the past might have been good, the process of change is irreversible hence there is need to be more practical and deal with the present conditions.

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