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## **Queering a Postcolonial Call for Sovereignty: Case Ugandan Anti-Gay Bill**

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### ***Introduction***

This paper will discuss the world-wide interest in the Ugandan case of legislation on homosexual acts – how to understand such unexpected interest in African politics and gay rights? What does the interest tell us about the symbolic significance of gay rights as a marker of “modernity”? What are the themes that emerge through this case? The murder of the Ugandan gay rights activist David Kato on January 26th 2011 further accentuated the urgency of the Ugandan case and international social movements’ need to take a stand. As even Hillary Clinton, the United States Secretary of State, commented on the murder, the matter is clearly about larger political issues than sexual orientation and private desires.

The study examines different arguments used by different parties involved in the heated debates about the anti-homosexuality bill in Uganda since 2007. The Ugandan bill is not an isolated case but similar arguments were used around the Malawi arrests in May 2010, and several highly publicized political leaders’ statements, including Jacob Zuma’s, Robert Mugabe’s and Morgan Zwangirai’s. The international and local gay and human rights movements have not been the only ones to react, and governments’, like the Swedish threats to cut development funding, add a larger political and economic dimension to the local debates about decency, sex and gender. What are the different discursive constructs of "Africa", "Africanness", rights and culture that are exploited in

these rhetorics? How are gender, citizenship and sovereignty defined? How to theorize a reading that would help us beyond dichotomous thinking? Local actors' statements, media documents and international campaigns will be examined.

The interests of the study go beyond the theme of sexualities, as the paper examines uses of modernity, tradition, colonialism, sovereignty, donor rule and democracy in this uniquely specific yet surprisingly revealing debate. The theme is not only about Africa but the contingency of contextualized freedoms and rights.

### ***The context of the activism around the bill***

The world-wide outburst of interest in the Ugandan case of legislation, often called “the anti-homosexuality bill”, in late 2009 is only one example of debates on homophobia and modernity, but an especially revealing one. The bill became widely known all over the world as one of the absurd, baffling news that quickly circulate in the media, but it also gained serious interest among Western governments and African human rights and LGBTI activists. In many ways it is a remarkable illustration of the different tensions in human rights struggles and international feminist involvement in local battles over definitions of “tradition” and “culture”, as analyzed by Drucilla Cornell in 1998. Thus, Cornell’s discussion on how to deal with accusations of Westernness of feminism and the human rights discourse is today, 12 years later, still highly relevant. The Ugandan case shows that now, more than perhaps ever, it is important to seek ways to carve out a space, an “imaginary domain”, where meaningful interventions by different actors in an inflammatory political landscape would be possible.

The proposed bill in Uganda was rather unusual in the range of various issues it suggested. It did not only deal with acts of homosexuality, as “sodomy”, which is often seen as a synonym for homosexual acts, is already criminalized in Uganda (cf. Senyonyo 2007, viii). The sodomy laws are a legacy of the colonial legislation in many Sub-

Saharan African states. In the proposed new bill any person who “fails to report known violation of the law within 24 hours will also be subject to a significant fine and up to 3 years in prison.” This would mean that anyone who knows of someone else’s homosexual acts can be convicted if not reporting to the police. For example if a mother knows her daughter has a woman lover, the mother is obligated to report. The bill demands turning in friends and family members. Furthermore, community and political organizing around non-heteronormative sexuality is criminalized. The bill also includes Ugandans outside the country, meaning gay activists living elsewhere would not be able to visit home without reasonable fear of arrest. Death penalty was suggested for something here named ”aggravated homosexuality” which means acts by ”serial offenders” and people living with HIV.

Thus, the bill attempts to challenge acceptance of homosexuality among a wider circle of people than only those personally identifying as “gay” or engaging in same sex practices. Furthermore it seeks to criminalize a wider range of behaviors, like “knowing” without reporting, rather than conduct of sexual acts themselves. The aim of my analysis here is to investigate the different “frames” deployed by the activists around this case (Goffman 1976). What kinds of frames are used to describe meanings of sexual freedom in this debate around the bill? What is at issue here according to the different actors? The data of this study is a collection of statements for and against the bill, including media reporting and documents of support or lobbying by both African and international organizations, governments and churches collected through activist email lists. The total data comprises over 100 pages of material from 2007-2010.

### ***National pride, imperialism, and “Africanness”***

The debate around the Ugandan bill captures a variety of tensions. Here I am interested in the question of how the relationship between an individual and the community, or nation, is framed in different discourses on an individual’s freedom to sexual preference and practices. Political science has dealt with the different ways of understanding freedom,

rights and self-determination or independence and the role of the state in regulating citizens' sexual behavior and desires increasingly the last 30 years, but the theme is as old as the discipline (Pulkkinen 1996, Brown 1995). An often reoccurring feature in this debate, both among scholars and here, among the public in Uganda, is that sexual freedoms are tied to notions of Western modernity. This is stated by both opponents and defenders of the bill. One interesting feature in the debate is exactly the deployment of the token "Western" as the crucial signifier by the different parties. That freedom to and tolerance of homosexuality has become to be used as the signifier of the Western civilization is an interesting, both an old and a recent, phenomenon (Gunkel 2010). Homophobia, after all, can also be seen a feature specific to the Western culture (e.g. Walle 2007).

Sexual freedoms address a specific set of political questions, but similar discursive constellations of "us" – "them" can be found in other areas. A case of a dangerously inflamed political dead-lock where the theme resistance to Western hegemony by evoking national specificity is central, with seriously damaging consequences is the Zimbabwean crisis since 2001. While it is a major conflict within a state with internal struggles over power and resources, the conflict has drawn fuel from humiliations of the violent colonial history and present-day neo-colonialism that has lead to a contemporary search for national pride and independence from foreign influence (Christiansen 2009), resulting in a country in chaos and human suffering beyond any numerical calculation. The South African President Thabo Mbeki's denialism regarding the national HIV policies is said to have cost 300 000 lives, and one of the explanations for Mbeki's policies has been his resistance to insulting Western notions of African sexualities, and his attempt to restore African dignity and pride by more African solutions to the epidemic (Fassin 2007, Mbali 2007, Hoad 2007).

Outbursts of homophobia have been seen as one particular populist response to the sentiment of "our culture" being threatened by foreign influences and imperialism (Hoad 2007, Epprecht 2009, Gunkel 2010). Such homophobic nationalism has become more and more visible and popular. A well known example is the statement by the Zimbabwean

President Robert Mugabe in 1995 on the Heroes Day, saying that gays are “worse than pigs and dogs” (see Gunkel 2010, 46); yet more recently in 2010 Mugabe was supported on this issue by his long time rival on the issue of freedoms, the former opposition leader, now Prime Minister Morgan Tsvangirai, also stating on the Women’s Day: “I don’t accept that culture”. The South African President-to-be Jacob Zuma stated on the Heritage Day in 2006 stated that same-sex marriages are “disgrace to the nation and God”, thus becoming “the first openly homophobic president” (Gunkel 2010, 48) in a country widely known for its constitution protecting sexual rights. Similar incidents are reported frequently all over Africa, leading to cases of police action – and international appeals. In February 2010 the Western media widely reported that in Kenya the police arrested gay men during their traditional engagement ceremony, and in Malawi two men were arrested in December 2009 and in May 2010 sentenced to 14 years of prison. Soon they were released and international pressure is reported to be behind the release and dropping of charges of the men.

But why does specifically homosexuality emerge now as the way of restoring national pride? Sexuality can be seen as a focal point that captures a wide array of meaning making on a set of key issues for any society (Foucault 1978). There are several interesting themes that emerge in the Ugandan case. Not only does this debate tell us a lot about gender relations and meanings of sexuality and gender that different actors lobby for, but more generally about the imagined ideal relationship between the individual and the state. The statements can be seen as utopias for an ideal state and good society. Through the concept of the state, the role of the law and the state’s monopole on violence become important themes the case highlights. Inevitably, the focus in a lot of the comments to the bill is on the liberal state guaranteeing rights, therefore leading the debate to modernity and whether it is a singular concept. This case can also be used to bring up the failure of the affective economy of Western Modernity and neo-liberal individualism, and shows some ways in how that could be addressed (Ahmed 2006). Thus, the data can also be read as statements about the role of community, tradition and culture; and as interpreted by the defendants of the restrictions, about Africanness and

Africa's relationship to the Western imperialism. Therefore, this debate becomes a battle over post-colony, racism, sovereignty and democracy.

The following quote is from the newspaper *The New Vision*, January 20th, 2010, clearly putting the question of democracy and national sovereignty on the agenda:

"It was a heated debate for over two hours. Those who expressed reservations fear the cutting of aid by western governments," said a source who preferred anonymity.

"Those for it argued that we need to maintain our independence and values as a country," the source added.

...

While broadly supported domestically, the 2009 anti-homosexuality Bill has caused a tempest abroad and anxiety from western donors who fund a large chunk of Uganda's budget.

Those opposed to the Bill say it is discriminatory and violates human rights.

Breaking his silence on the proposed bill drawn by David Bahati, a member of the ruling NRM party, President Yoweri Museveni last week said it had become a "foreign policy issue" and needed further consultation before being voted on in parliament.

(The New Vision, January 20th, 2010)

Here, national sovereignty in the name of democracy is the main frame. Interestingly, democracy frame can include the theme "bold opposition to Western interference". In the data the bill is often legitimized by the promoters as a defense of the sovereignty of the nation, even a bold stand against the attacks of the imperialists who have too much power especially due to global economic inequalities. In this newspaper article the bill is described as widely popular among citizens, yet it cannot be passed due to foreign pressure. This worry about the strength of national democratic order in the face of outside influence and economic considerations is of course a reasonable one, especially in a post-colonial context (Fanon 1961/1963). It is legitimate in any country with a colonial past and a contemporary dependence on foreign donor funding. In Uganda this concern is particularly serious as the country has been unusually successful in attracting foreign donors and projects, leaving the state rather weak in service delivery (Poku 2005). In terms of local democracy that is in itself in crisis after 25 years of President Museveni's rule, a push to ask questions about how democracy and sovereignty really actualize in Uganda is needed. Thus, this frame echoes the material and symbolic concerns in the

country. But, of course, a call for democratic order is case specific, and thus it is interesting and revealing that national sovereignty becomes an issue specifically in the case of jurisdiction over gender and sexuality (Stoler 2002, Ratele 2009, Suttner 2009).

### ***Challenge of sovereignty and democracy***

Thus, even if there is a legitimate call for counter-imperialist framing in neo-colonized democracies, such calls need to be scrutinized. In post-colonial multiethnic societies the question of the “national”, traditional or indigenous is a problematic that can be seen as a starting point, not a conclusion, of an investigation. Especially when challenging liberal freedoms, nation building processes that draw from essentializing or tribalizing sentiments are routinely either dismissed or ridiculed, but my point here is that in such ridiculing, a lot is at stake: if a nation is not granted sovereignty, radical nationalism or fundamentalist essentializing Africanism, is offered fuel to grow from. In the cases of Mugabe’s Zimbabwe (Christiansen 2009) and Mbeki’s HIV politics, such forms of essentializing Africanism have been detrimental. On the other hand, any reading of the politics of intimate and silenced practices is difficult and can fail (cf. Murray 2009). That withstanding it is crucial to approach the relationship between sexuality, democracy, politics and nationalism from a more constructive angle than a dismissive, patronizing or ridiculing one, bearing in mind the ultimate impossibility of the task.

For this, I suggest, Drucilla Cornell’s concept imaginary domain is unusual as it takes the moral order of a community and women’s local commitments seriously without the tendency of romanticizing grass root activism. The radical potential it offers is found especially in Chapter 6 of *At the Heart of Freedom* (Cornell 1998) where the ideals of modernity, often seen as Western, and local struggles for equality are discussed. Cornell in her earlier work discusses the concept freedom from the tradition of Western philosophy and psychoanalysis but this chapter is explicitly devoted to the debate about global feminist challenges to the universality of the equality ideal, often seen as attached

to a Western modernity. Cornell twists the question by asking why the pursuit for freedom and equality would need to be seen as Western at all (1998, 159).

Cornell starts from Frantz Fanon's thinking on post-colonial nationalism. He shows how anti-imperialist struggles end up in old binaries and do not thoroughly challenge the old hegemonic power relations if they substitute imperial power with local patriarchal power (Cornell 1998, 156).

“The struggle for freedom does not give back to the national culture its former value and shapes; this struggle which aims at a fundamentally different set of relations between men cannot leave intact either the form or the content of the people's culture. After the conflict there is not only the disappearance of colonialism but also the disappearance of the colonized man.” (Fanon cited in Cornell 1998, 155-156)

The reference to Fanon is an important reminder of the long roots of this debate and the critique of the Western notions of freedom that need to be included in any discussion on subjectivity and rights. Thus, if the feminist critique of the rights discourse as insensitive to many local women's political projects (Ilumoka 2010) is taken as a starting point, what is needed is not an choice between a “Western” or “local” understanding of rights, but a search for new openings. The entire concept of rights should be re-imagined. Through Cornell's concept “imaginary domain” a vision for local, contextualized struggles can be formulated.

The imaginary domain is normative in the sense that it insists on everyone's right to moral integrity, a space for "re-imagining who one is and who one seeks to become" (Cornell 1998). This imagining is personal but it needs resonance in a public space, it is never solely individual. The imaginary domain is situated in a political contestation, but, Cornell writes: “Women, gays, and lesbians must be given the moral space to re-imagine and reinterpret their religious traditions and cultural practices (Cornell 1998, 165). In cases like the Ugandan homosexuality debate, the crucial question becomes one of assuring the space in which people can work through, clarify, struggle, and debate personal and shared understandings of norms and ideals. In light of my study on Uganda,



it is important to maintain that the imaginary domain is a political space. In untangling the different approaches to the Ugandan case the ideal of negotiation and freedom to seek meaning in local cultural re-invention of tradition is helpful as it unties the binary of assumedly Western individual freedoms and African traditional communality.

The Ugandan case shows that the debate easily gets caught in a war of binary positions, also when post-colonial analysis is deployed. Not so unexpectedly, the traditional human rights discourse also locks the positions. When expanded with the ideal of the imaginary domain as a normative universal, the rights perspective resists such binaries because it leaves the outcome of a political negotiation open (Cornell 1998, 166). Activists do not need to become national traitors or Western allies when defending the right to fantasize about or engage in any sexual act between consenting adults, and even more importantly, they can participate in a discussion that seeks to imagine and define “true Africanness” without needing to be essentializing. What I find unusual and helpful in the concept the imaginary domain is that it leaves room for a discussion of same sex practices as African, without deserting to a fetishizing or quasi-anthropological seeking of true, traditional Africanness.

### ***Three undisputable authorities: the law of God, Nature and Nation***

The major arguments in favor of the bill defend it as a union of three authorities that should not be challenged: the law of God, Nature and Nation. All three are gathered in the statement that homosexuality is un-African and should not be tolerated. It is “insane” and “disgusting” and therefore should be expelled. Such statements rely on the arguments about God creating men and women heterosexual by nature. Biblical citations are frequent, as also stereotypical references to biology. Such arguments are familiar from any Western debate where similar battles over Bible and biology keep on emerging (Kinnari 2010). Same three authorities are everywhere invoked as responses to legislation that attempts to guarantee same rights to everyone, often regarding kinship, intimacy and sexuality. References to God, Nature and Nation fuel each other and are tightly

interlinked everywhere in the world, thus making the distinction between Western and local Christianity problematic.

Opponents of the bill claim that it is US fundamentalist Christian churches that are behind the whole episode of the bill. US fundamentalism and its understanding of the union between religion and biology has gained ground and been translated to Ugandan conditions through relentless funding. Such concerns of American churches making an impact in Ugandan politics are relevant, but to dismiss recent homophobia as a foreign import only keeps the dichotomy Western-National intact. Rather, it can be more interesting to analyze how discourses of God and Nature are both transnational and local. They are products of nationalism and they reproduce nationalism.

The rather familiar explanation for what is going on in the homosexuality as Un-African -argument is the colonial history of the present. The colonial connection between sexuality and race has its roots in the colonial legacy that insisted on a construction where sexuality has for centuries been stigmatizing the black body (Gunkel 2010). Whiteness was connected to decency and superiority, and purity became the symbol of the good nation – and this very same construct is now re-defined as genuinely African. Historically, Africans were in the colonial imaginary either closer to nature, therefore prone to perversions such as exotic practices, masturbation and homosexuality, thus inferior. Or, the black people were depicted as more pure and simple, and therefore inferior. Homosexuality, for example, in 1911 was defined as a vice of the overdeveloped Europe and already then signaling progress, albeit turned bad. Gunkel argues that the anti-homosexuality as “un-African” campaigns are in fact feeding into the very same logic they were initially opposing: the employment of the race=sexuality=hierarchy that racism is built upon (Gunkel 2010).

To read this history is not to excuse the contemporary politicians, but simply to point at the sentiments of longing for secured dignity that signifies any aspiring nation building. In all uncertain political situations there are politicians who use cheap populist means to gain support. But, as Fanon (1963) argued, such politics are still caught in the same logic

of hegemony. Here, is however also a danger. While an important background for the bill, the colonial reading alone can easily end up in being patronizing: we see where your homophobia comes from. The dichotomy is left intact.

***The anti-homonationalism in Uganda and homonationalism in the West: two sides of the same coin?***

Another reading of the incidences of publicity around homophobic attacks focuses on so called homonationalism in the contemporary West. Like the anti-homonationalist explanation, it also can interpret some of the features of the debate, but has limitations. Some aspects of the outrage created by the Ugandan bill can quite easily be addressed by what Jasbir K. Puar (2008, 15) has called US “homonationalism”. Her term was coined to describe the way of using the LGBTI movement as a rhetoric means and actual ally in the “war on terror”. Homophobia is here framed as a feature of “other” cultures, while the West is represented as liberal and tolerant. This way of employing gay rights is thus used to legitimise the ascendancy and supremacy of the western civilization and whiteness. The ignorant “other” with its homophobia becomes an instrument in instigating islamophobia, discursively re-dressing the West as the liberal force and the relentless warrior for individual freedoms everywhere.

Puar’s (2008) concept homonationalism describes a process of building an unlikely alliance between nationalism and gay liberation. The parallel process of homoexceptionalism refers to the way homosexuality is tolerated on the symbolic level as long as it does not threaten the normative heterosexuality. Homoexceptionalism signifies the liberalism of the nation but marks the boundary, the limit for how far gay culture can go in its claim to normality. To accept the status as a tolerated exception is the limit. Homosexuality can be allowed to be part of the national culture as long as it is a safe exception that a clearly defined population practices but it should not threaten the “normal”. The boundaries of the normal must stay intact.

In the case of the international outrage about the Ugandan bill the notions are helpful, and can be translated to describe one aspect of the debate, but at the same time there are elements that do not quite fit. In the same way as how queer rhetoric became high-jacked to serve the interests of the war on terror the logic of racism and nationalism is used by the Western press to sell and amuse. But exceptionalism is a wider phenomenon than US nationalism. Clearly the picture is bigger here when also Sweden and Finland aspire to the same politics. Rather than nationalism, the concept should describe a continual process of securing western epistemic hegemony as a main frame. I will here call the bigger picture of the curiosity and populist scandalizing of African incidents of homophobia in the Western mass media *discursive maintenance work for Westernized moral superiority*.

A lot of the news media used the same mechanisms social porn uses: a fascinating case is exhibited, sentimental values are evoked, but the reasons are left uncovered. The villains are essentialized to certain stereotypical attributes – Africans are religious and homophobic. There is no portrayal of a possible change. Therefore the current order and epistemic power is secured. Such populist framing and maintenance work was probably fuelling a lot of the interest and outrage in the West, and very likely in the popular media, but it is also important to recognize that there is much more at stake in the issue of the Ugandan legislation.

To simply dismiss it through a reading of it as yet another way of discursively projecting our racism onto African politicians, is not quite enough. There was the real threat of a law that issued death penalty for “aggravated homosexuality”. More generally and acutely, the analysis needs to take more complicated positions when we have disasters like Mugabe’s Zimbabwe as a parallel example of a similar dichotomy. When using only the logic of either while supremacy or local tradition one fuels a debate that is a cul-de-sac, and easily ends up potentially supporting a politician like Bahati, Museveni or Mugabe. The critique does not help to identify and challenge actual discrimination and silencing that no doubt happens in social lives and cultural practices, nor to detect possible change (cf. Anzuah 2009, 187).

Western homoexceptionalism thus needs to be kept in mind when analyzing Western responses, but it does not help to identify constructive responses among activists, especially the Western ones. Drucilla Cornell's work on imaginary domain and the rights discourse can be seen as a way of avoiding the logic that clearly becomes increasingly problematic in post-colonial struggles for change. African politicians in different camps in the gay issue all advocate a space for a local debate that does not have to follow orders from the old imperialists. Such a need to secure a political debate rooted in local histories can be seen as a wish to establish and defend the imaginary domain. It makes sense in terms of Cornell's version of feminist post-colonial theory on equality, also when it opens a space for homophobia being expressed in the parliament. The legitimacy of an imaginary domain provides a space for elaborations that are needed in order to have a meaningful counter-argument to the homophobic tendencies in the Ugandan legislative process.

***Voices of opposition: Human rights as a firm grid?***

The activist concern about homophobia instigated from high-level political corners did not begin in 2009 but has been growing for years. The following international petition dates back to 2007 targeting a minister who had signaled that there will be a very straightforward attack on homosexuality from the leading political elite. The blunt message of the activists was that Uganda has signed international treaties guaranteeing gay rights, therefore it simply must obey the international rule:

“As a Government representative you are bound by Uganda's human rights obligations. It is your duty to respect and guarantee the provisions on equality and freedom from discrimination enshrined in the Ugandan constitution (article 21(1)-(2)) and to comply with its international obligations as set forth in the International Covenant on Civil and Political Rights (ICCPR), which prohibits discrimination in its articles 2 and 26. “  
(Petition to Ugandan Minister Buturo by SMUG and allies in 2007)

The petition, however correct in legal terms, from the point of view of my analysis used a rhetoric that fuels the opponents' concern on sovereignty. Is Uganda not a sovereign

democracy free to pass laws that follow the moral of its own people? When countered in this way, the Ugandan democracy, if the bill was truly popular by the citizens and politicians, would be circumscribed by the overruling international treaties. Then, it is not far fetched to go for the argument that the rights discourse is a master's voice, and a Western one. This debate has been going on among African academics and intellectuals for years, trying to show that African politics cannot be simplified through a one truth of universal rights – that are mainly dictated from elsewhere.

A feminist critique of the discourse of rights in the modern world joins this: the rights argument imposes a framework to redefine local women's roles and identities in a colonial manner. In this optic, the dominance of the Global North over the South is ever present, a dominance which is also present within the women's movement, silencing dissent and stifling alternative views and perspectives (Adomako Ampofo & Arnfred 2009, 15). Desiree Lewis points at the growth of moderate rights-based discourses as one of the two central components in the neoliberal cooption of feminist demands into neoliberalism and economic dependency of the global south (Lewis 2009, 206).

The gap that has been identified between a progressive legislation in terms of rights, for example in South Africa, and the realization of them can be understood in Foucauldian terms, as suggested by Amanda Gouws (2004, 43): power is always played out through a multiplicity of discursive elements that come into play in various strategies (see also Lewis 2009, 209). Following Gouws reading, the amazement should not be around the existence of a gap, but rather, there should be a critical inquiry of how the power works as different discursive input that enable action. The uneven allocation of discursive authority is something Lewis wishes to point at, and may be the component that has gained little attention when considering the argument of gay rights and criminalization.

The very concept of rights that underlies these efforts is one of rights as fixed, pre-declared principles, especially those contained in UN conventions, waiting to be put into effect against or by the State through specific legal procedures. People's own spontaneous claims of entitlement and methods of enforcing them – their very

contribution to defining values in their environment – are thus ignored, delegitimized or weakened. Feminist writers have looked for an alternative rights discourse and the way that it might (or might not) interface with the dominant rights discourse to make the enforcement of rights sustainable (Ilumoka 2009, 128).

Interestingly, Ilumoka does not suggest that we do away with the rights discourse but stresses the need to look for alternative rights discourses that stem from spontaneous local initiatives. Here of course lies a risk of romanticizing local activism, but if the risk is acknowledged and paid attention to, it is a call for the imaginary domain as a universal principle. It looks for alternative rights discourses, connected to alternative visions for modernities where a sense of sociality and collective subjects can be developed, including queer rights (Cornell 2010b).

### ***Political analysis as activist approach***

Local activist approaches to the case present a wider set of arguments than opposition to homophobic laws argued with international treaties only. The Ugandan organization Sexual Minorities Uganda (SMUG) that has been active since 2004 published a collection of texts on homosexuality in Uganda in 2007 voicing a plethora of arguments. Again, in the spirit of the imaginary domain opening up a domestic debate, rather than polarizing it, was the goal. The book was edited by law professor Sylvia Tamale, one of the vocal defenders of gay rights (Tamale 2007). The book brings together different arguments in the debate and is an invaluable document of the debate at the time, before the late 2009 legislative crisis.

Also internationally, the challenge was often phrased as a call to understand the complexity of the picture, rather than to condemn the bill only. The following is a letter by a prominent South African gay activist who openly asks for meaningful responses on an e-mail list. The letter can be seen as a call for addressing the problematic with more nuance, yet acknowledging his own puzzlement and dislike:

“29.11. 2009 TAC activist list

I have been receiving posts on the Ugandan criminalisation of homosexuality bill for a while. It has come up quite sharply at the Commonwealth leaders summit – see article below. Its only really been the Canadians who have said something clear. It seems as if in SA we are avoiding this situation in Uganda because its somehow **more than a bit lunatic – to the point of seeming unreal**. But it’s clearly real enough. Zuma, the government, ANC and COSATU should be asked what their position on this is. It feels like a flying picket of the Ugandan Embassy is needed or something. I remember the one we had outside the Zimbabwe embassy many years ago after Mugabe lost the plot. The real question of course, like with Mugabe, is what is the meaning of this at this point? **What stresses in Ugandan society is this a proxy of?** What lies ahead?”

Here the two last questions are important: the African based activists see the importance of trying to figure out why this is now happening in Uganda rather than rushing in to declare it as lunatic, or loudly dismissing it as a violation of human rights. The South African HIV activism has learned a lesson: Any interventions in the debate that consolidate the battle to be about anti-imperialism are seriously dangerous. HIV activists saw the consequences of this in Mbeki’s AIDS medication denialism. While an easy interpretation can point at an insulted ego of a politician (or nation) it is more important to engage in a reading of a complex history and discursive formations of national sovereignty and dignity. Furthermore, an explanation looking at daily political power plays is also relevant: Several opponents point out that this may be simply a diversion tactics from the real issues, the outcome of growing opposition to the ruling elite, thus a domestic political move for a politician in a desperate situation. Often politicians have to deliver what they promise, but here they get easy attention with no real economic or policy promises.

The 2010 round of interventions and petitions went way beyond the “these are rights, you must obey” discourse. One important argument dealt with social cohesion. Another new move was something that can be called strategic essentialism, attempting to demonstrate that the genuine good rights are “our” rights, and truly African.



“The proposed Bill and Penal Code are also irreconcilable with universal and African values of dignity, equality and freedom.” (A joint appeal by African (only) organizations and individuals, May 2010)

One response to such arguments would be that it is telling of the tragic state of nationalist tendencies during power struggles that all parties need to resort to a nationalist rhetoric of African and Christian values, but one can see here also a gesture towards a re-thinking of what counts as traditional. It is a gesture of a needed encounter with the nationalists, a gesture of generosity and dialogue. Some of the campaigns went as far as to demonstrate geographical rootedness, as shown in this call for signatures for a petition:

“Please note that this campaign is open only to organizations with a physical presence on the African continent. With regard to prominent individuals, the campaign is only open to those persons who are from Africa. Aside from the Ugandan Parliament, the statement and list of endorsements will also be submitted to African Governments as well as the African Union. Those behind the Bill have claimed that only international organizations and western bodies are against the Bill. We believe that this campaign will demonstrate that civil society organizations throughout the length and breadth of Africa will stand together as one for the human rights of all Africans.”

Professor Sylvia Tamale gave an interesting statement during a public debate in the Makerere University, also twisting the ideas of what constitutes “our culture” (Christiansen 2009), saying that Ugandans do need to:

“protect the cherished culture of the people of Uganda, particularly the positive aspects of it. .... Perhaps the undisputed value that is a common denominator in all traditional institutions of the family in Africa is the group solidarity that we have embedded in our extended family networks. Unfortunately, the support, stability, love and respect that were the hallmark of this family model are rapidly being eroded and will soon become history. Thus, while I agree with you Hon. Bahati that we must seek ways of dealing with issues that threaten our families, I do not agree that homosexuality is one of those issues. ... In other words, homosexuality was not introduced to Africa from Europe as many would want us to believe. Rather, Europe imported legalized homophobia to Africa.”

### *Imaginary domain in a legal battle – a risky way to go?*

The opponents of the anti-homosexuality bill evoke definitions of “Africanness” and thereby nationalism, a feature that can be seen as unexpected in petitions by internationally linked human rights NGOs and sophisticated scholars. One can argue that this line of thinking easily can end up becoming yet another nationalist, and essentializing, propaganda that intellectuals and scholars instead should try to undermine. But can this be elaborated on in a more interesting way? Can the civil society documents tell another story, using “Africanness” as an allowed, positive utopian frame to play with? There seems to be a need for a counter-discourse against the populist notions that homosexuality is un-African, one that engages with the cultural project of defining Africannesses, both past and present, and not in terms of a relationship to Western notions of freedom and modernity. The activist engagements in defining nationalisms can be seen as a discursive platform for the national, or pan-African “us”, that may be a productive way of clearing space for new framings of sexual freedoms. Such Africanness can be localized and politicized for specific struggles for freedom, but they can also go beyond geographical boundaries and be universalized.

In the following quote, Drucilla Cornell applies Balibar’s and her own thinking to universalize an indigenous African philosophy, uBuntu, thus twisting the question of origin and the transformation of civility:

“For Balibar, the principle of civility, or what I am arguing, uBuntu, breaks up these two forms of cruelty by establishing an all-inclusive principle of humanity which has long been recognized as fundamental to African humanism. Thus, although it is crucial to include South African indigenous values as an ethical demand that is part of the recognition of the indigenous population as human beings, the principle of uBuntu should be understood for its universalizable reach.”  
(Cornell 2010a, 3)

Further, the project of multiple modernities becoming situated in African contexts is a meaningful one, I would argue. That neo-liberal individualism is an unwelcome side-effect of modernity is a claim often made by post-colonial activists and theorists, but the

heroic lone subject ideal is seriously undermined by social theorists across the world, including the West, too. How to marry the utopia of individual freedoms with a society that practices cohesion and relationality is a project that challenges theorists, scholars, politicians and activists everywhere. Cornell's suggestion is the imaginary domain, and more recently, her reading of the African philosophy of uBuntu where social life means the ethical relationship (Cornell 1998, 2010a). In uBuntu "We come into the world obligated to others and, in turn, these others are obligated to us. It is a profound misunderstanding of uBuntu to confuse it with simple-minded communitarianism." (Cornell 2010b, ck)

There are interesting suggestions that the activist responses to the Ugandan bill debate brings forward. They involve a dialogue, also with homophobic politicians and the public, something that neither the homonationalist nor the homoexceptionalist responses offer. Such a space for a dialogue or new imaginaries seems to include a discussion on what is specifically "African" but the contents of it are left entirely open and transformative (cf. Cornell 1993).

It is, however, important to note that Cornell's imaginary domain does not advocate total relativism and endless deliberation. The universal right to self-determination and moral integrity is a key feature and important if the concept is to be used successfully in a legal process. At the same time with openness for negotiations there needs to be a firm defense of democratic processes and minority rights. What I find inspiring in the idea of the imaginary domain is the combination of a search for universal norms and rules, with a space for personal and political deliberation. The concept captures the affective nature of politics.

The melancholic, heteronormative, yet homoexceptionalist white supremacy of this specific framing of Western modernity that emerges in such battles is clearly a problem that Western scholars need to take seriously. Especially in terms of affects, belonging and social recognition this idea of modernity is seriously failing (Butler 1990, 1997, Ahmed 2006). One of the tensions in the homoexceptionalist Western paradox is the inability to

address the affective dimension of homophobia. There is a mismatch between the moral order (we must practice freedom) and affective order (disgust over transgressions and the “constitutive outside” remain intact). Multiple interpretations of traditions, enabling an avenue to define disgust and social bonds and practices, can lead to non-neoliberal theory of subjectivity and recognition where emotional boundaries are real and situated. Perhaps uBuntu is one way, and it needs to be further researched, but the imaginary domain is a concept that clearly offers some tools that the debate can utilize. The imaginary domain is where such dialogues of the affective dimension of freedoms can take place. When imagining sexual freedoms, there needs to be some space for secrets, intimacy, silences and uncertainties too.

“Why should these silences [about African women’s sexualities] simply be condemned, given the historical conditions of imperial expansion and racist fascination with the hypersexuality projected onto Africans by Europeans ... Rather than condemning the silences, would it not be more productive to map them with a view to their future exploration and understanding?” (Perreira 2003: 62)

The lesson of this study for the scholarship on transnational, global rights activism is that framings matter, and the danger of naivety when employing a frame that is seen as “Western” is to be taken seriously. Certain framings may polarize the debate in a way that fuel hostility and limit the space for local activists. Yet, transnational activism, advocacy and support are often invaluable and needed, and can contribute also in seemingly local struggles, and should not be abandoned even when local activists get scared. Even if many of the activists in this case end up using a framing of indigenusness and true Africanness, and demand local affiliation, transnational involvement can play a fruitful role if framed carefully. Context matters but is not deterministic, and international should not be seen as oppositional to local involvement.

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