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A Legacy of Homophobia:
Effects of British Colonization on Queer Rights in Uganda and India

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Introduction

Globally, there are 69 countries where homosexuality is illegal; 36 of these countries, well over half of the total, are former British colonies. There is a connection between the former British Empire and homophobic laws and practices in the modern era. Still, while many former colonies have already, or are in the process of, legalizing homosexuality, many hold firm to the belief that homosexuality, or queer practices in general, are shameful, dirty, or otherwise unnatural (Westcott, 2018). As more and more former colonies begin to accept queer identities, while others still double down on homophobic laws, the question becomes why is there such a large disparity between former colonies and their reactions to queer presences?

As a queer person, I feel the subject of how queer people were targeted and marginalized within their communities is an important, and sadly overlooked, aspect of colonization and post-colonial discussion. Queer people were over time rejected from their communities and families, and forced to conform to identities and social practices that did not align with who they truly were (Miranda, 2010). Even with these restrictions and rejections, queer people continue to exist and fight for the right to exist, though the names we use and identities we ascribe to ourselves may change.

I will note here that this paper, while talking about queer rights as a whole, is going to be focused on the ability for homosexual men and transfeminine men to exist within their homes. The reason for the focus to be on these two groups is that simply they were the ones most easily and often subjected to homophobic laws. This is due to several factors, one of which is that most homophobic laws specify *penetration* to be a key factor in identifying aberrant behavior, which unfortunately leaves people born with a penis to be at greater risk for legal persecution. Additionally, many cultures view women, or people with vaginas, as being non-sexual with the

exception of reproduction, meaning that many people will simply assume that they are not capable of seeking out a sexual relationship outside of the one they have with their husband. While research into how queer women have been specifically targeted and erased from history is vital for understanding both queer and female history, it is with great regret that I must shift my focus away from these people for the time being.

In 2018, India overturned an old British colonial law, Penal Code 377, which made homosexuality illegal, meanwhile the Ugandan President is still adamantly homophobic, claiming homosexuality to be a western import (Buckle, 2019). Despite being subjected to the same laws and restrictions when it comes to homosexuality and queer presence, there is a distinct difference in the way which these two nations were colonized, which led to a difference in modern day queer rights and acceptance. Despite these differences, I found throughout the course of my research that the disparity in queer rights in these countries is not as vast as I initially assumed, and even after legal protections are implemented, the culture of homophobia still lingers. Additionally, the consequences of British colonization and moral regulations may have altered the ways in which queer people, in both countries, are perceived, but have not stopped queer indigenous people from fighting for their right to exist

The Subaltern and Gendercide

The term *subaltern* was coined by Italian scholar Antonio Gramsci to describe those people who did not fit into the socio-economic framework of the modern, western world. These were people whose local history and culture was left out of historical records, people who themselves were removed from the global context and narrative of their own lives. Since the

term was first introduced to academia, it has been discussed in different contexts and changed to include certain groups of people, or to explore them more thoroughly. Gayatri Spivak used the term to explore the ability of low-caste people in India to speak and advocate for themselves in her 1987 article *Can the Subaltern Speak*. In this article, Spivak discusses the hierarchy of who is allowed to speak in a post-colonial world, in this specific case India, with elite groups of both foreign and domestic people at the top, and the average working class Indian person at the bottom, unable to speak or advocate for themselves in the current system.

Building on the work of scholars like Spivak and Arundhati Roy, Shraddha Chatterjee wrote about the existence of the sexual subaltern, those who are doubly prohibited from advocating for themselves due to the nature of their sexual or gender identity. Roy had previously written about the sexual subaltern in reference to how women are suppressed in a post-colonial society, but Chatterjee further opened up the discussion to include people who did not follow the heteronorms put in place by colonial powers and were prevented from speaking and living for themselves as a result. The cornerstone of the sexual subaltern theory is the intersection between the lower class, indigenous people of colonized societies, and queer people.

Another relevant theory that will be explored in this paper is the theory of *gendercide*. Gendercide was a term first coined in 1985 by Mary Ann Warren as a way of discussing situations in which people were killed off en masse based solely on their gender identity. This had previously been discussed in relation to women using terms like ‘femicide’ or ‘gynocide’ but Warren specifically chose to use gendercide as it was a sex neutral term, applicable to women, men, or those who did not fall into either category. While the term still is most often used to refer to mass killings of either men or women, some scholars such as Deborah Miranda, have

used the term to refer specifically to the mass genocides of third gender identities in colonial states.

I have used both these theories of the sexual subaltern and of gendercide in conducting my research and formulating my analysis of the effects of British colonization on the indigenous populations of India and Uganda. In both cases there is a definite suppression of queer people, with them being considered dirty, or criminalized, which places them at a distinct lower place in any social hierarchy. Additionally, alternate gendered people in either case have either been successfully eliminated from the colonized space, or survived attempts to do so, while suffering great loss in safety, social positioning, or ability to publicly exist.

Literature Review

British Morality, Religion, and Colonialism

One of the ways the British Empire spread itself out, and maintained control of both foreign and domestic populaces was through the use of moral regulation. Moral regulation is the practice of problematizing, “the conduct, values or culture of others and seek[ing] to impose regulations upon them” (Hunt, 1999, pg.1). By making themselves the authority on morals and ethics, the British Empire was able to cast anyone who disagreed with them as immoral, sinners, or otherwise sub-human. British morality is based in Christian ideology and ethics, which also means that anyone who was not Christian, and therefore was not beholden to Christian moral values, was inherently a sinner. Using their religion and moral values, the British Empire was able to colonize large swaths of the planet using targeted shame campaigns and enforced repression tactics (Foucault, 1998).

Religion and Morality in Pre-Colonial Uganda

The first thing to understand about pre-colonial Uganda, is that there *was not* a pre-colonial Uganda; modern day Uganda is made up of several different African tribes and kingdoms that were placed together as one country for the ease of the British Empire. Despite the fractal nature of the region, there was an overlaying concept of Ubuntu, which Jechura writes about, saying that “African morality is motivated by one classic word, *Ubuntu*. ‘Whatever happens to the individual happens to the whole group, and whatever happens to the whole group happens to the individual’”(2015, pgs. 923-924). This philosophy was generally accepted and practiced in much of southern and central Africa, and ensured that people would take care of their neighbors and community members. Due to this accepted practice, as well as the lack of overtly conflicting religious values, the many tribes and kingdoms in the region which would become Uganda rarely, if ever, fought over concepts of morality or religion (Leggett, 2001, pg.12).

Queer Presence and Rights in Post-Colonial Uganda

Today, homosexuality in Uganda is punishable by up to 14 years in prison. These anti-homosexual laws are a relic of the British Empire's Penal Code 377 and have remained in place and largely unchanged since the colonial era. One of the main reasons behind the prevailing nature of anti-homosexual laws in Uganda is the perception of homosexuals as a threat to christian values and the traditional African family (DeJong & Long, 2013). In 2009 a bill was introduced into the Ugandan parliament which would offer harsher punishments for homosexual

practices, targeted towards gay men, with repeat offenders being eligible for the death penalty as punishment. Initially, this bill passed into law in 2013, but immense pressure from international forces, as well as a lack of internal governmental support, eventually had the law struck from practice (Han & O'Mahoney, 2018). While this law never came to pass, it had the support of many Ugandans who view homosexuality as a western import and a danger to their way of life, and the prior laws left by the British still exist to punish homosexuals.

Queer Presence in Pre-Colonial Uganda

While there were a variety of queer identities in pre-colonial Uganda, the one focused on here will be the *Mudoko Dako*, an alternative gender identity in which “men were treated like females and could marry men” (Murray & Roscoe, 1998, pg.32). The mudoko dako were a kind of third gender whereby people assigned male at birth would transition socially to take on a more female oriented societal role. While the mudoko dako would dress in women's clothing, act in a feminine manner, and style their hair and jewelry to fit with female standards, they were not known to alter themselves physically. These same-sex relations were not criminalized, or in any way largely discouraged or seen as cause for expulsion from society. In fact, same-sex relations were seen as another way of socializing in pre-colonial Uganda (DeJong & Long, 2013, pg.16). People who identified as mudoko dako were accepted as part of society and held to the same standards of ubuntu as those around them.

Religion and Morality in Pre-Colonial India

As a contrast to the disconnected origins of Uganda, before being colonized by the British Empire, India was already seen as a collective. Although they did not have a centralized

government, much of India practiced the same base religion: Hinduism. While there was undeniably variation in how the religion was practiced throughout the Indian subcontinent, it is an important foundation of Indian society and culture. For these reasons, it had helped shape pre-colonial India's views on morality greatly (Hinchy, 2020). A major part of Hinduism's morality and practice is the concept of Dharma, which is cosmic law that dictates behavior and social order. There are many categories of Dharma depending on a person's social status, age, gender, and general personality. This means that people in different social castes or of different life-stages would be expected to follow different social rules of behavior to fulfill their role in the cosmos (Madan, 1992).

Queer Presence in Pre-Colonial India

Like in Uganda, there were multiple queer identities present in India before British colonization, however the identity focused on here will be the Hijra. The Hijra are third gendered people who are largely assigned male at birth, and transition to a more feminine role (Hinchy, 2020). Unlike the mudoko dako, the Hijra served a cultural and religious purpose, often blessing new couples with prayers for fertility. This is due to the fact that the Hijra were seen as closer to the divine in some ways, as oftentimes the Hindu pantheon would take on the features and characteristics of genders not usually assigned to them, making the gods themselves some kind of third gender (Vanita, 2002). Additionally, the Hijra often castrate themselves and otherwise change their appearance to better fit into a female role, while still maintaining a distinctly third gender identity and pride (Hinchy, 2020).

Queer Presence and Rights in Post-Colonial India

Contrarily, in 2018 India overturned Penal Code 377, thus legalizing homosexuality in practice. Even before homosexuality was legalized, there was a more accepting tone in Indian politics, especially on the local level where Hijra were, and are, semi-regularly elected to local regional or occasionally national office (Reddy, 2003). Despite the law no longer prosecuting homosexuals, or homosexual acts, many Indians retain the belief that homosexuality is taboo or wrong. However, as there is no overarching moral or religious basis for homophobic rhetoric, the prevailing democratic ideas of freedom and liberty allowed these beliefs and fears to be overlooked on a political field (Han & O'Mahoney, 2018).

Methodology

In conducting my research, I used a Postcolonial methodology to guide me. Postcolonial methodology questions the role of western knowledge and the role of knowledge production in colonial societies, which are based on racism and domination. In particular, I focused on the postcolonial subaltern methodology, where the role of people considered “second class” or otherwise lesser, is examined and studied. I began my research by identifying my case studies, the Hijra of India, and the mudoko dako of Uganda. From there, I looked at both historical and current examples of both my case studies in order to understand their past and present, and how their ability to exist has changed due to colonization and imported moral regulations..

Once I had my sources, and examples of my case studies, using Mill's comparative method of differences, I began to compare and contrast the ways in which these two identities

exist in the present day. By comparing these two case studies directly, I was able to identify the differences in how they were colonized, and from there extrapolate the similarities in the impacts of their colonization. I collected both personal testimonies, as well as archival evidence on the existence of alternate gendered identities in both countries and used these together to aid in my comparison of both cases.

Similarities Between India and Uganda

Categories of Comparison	India	Uganda
Pre-colonial Homophobia	Prior to colonization, no major homophobic rhetoric	Prior to colonization, no major homophobic rhetoric
Pre-colonial philosophy or religion	Prior to colonization, presence of a philosophy that preached acceptance and community (Dharma)	Prior to colonization, presence of a philosophy that preached acceptance and community (Ubuntu)
Colonizing Nation	Later colonized by British Empire	Later colonized by British Empire
Treatment of Indigenous people by colonizers	Indigenous people subjugated and treated as second class citizens in their own homes	Indigenous people subjugated and treated as second class citizens in their own homes
Moral Regulations enforced by colonizing nation	Forced to follow British law,	Forced to follow British law,

	including Penal Code 377	including Penal Code 377
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Differences Between India and Uganda

Categories of Contrast	India	Uganda
Pre-colonial National Identity	Prior to colonization, presence of National Identity	Prior to colonization, lack of National Identity
Pre-colonial National Religious Identity	Prior to colonization, presence of pseudo-national religious identity	Prior to colonization, lack of national religious identity
Reason for Colonization	Exploited for resources and materials	Exploited for land and labor
Continued existence of Queer identities throughout colonization	Hijra maintained a specific cultural Niche that could not be replicated	Mudoko Dako over time stopped existing, held no cultural niche
Reaction to Christian Missionaries and Ideology	Rejected Christian missionaries during colonization	Invited Christian missionaries into area before colonization

Similarities in How India and Uganda were Colonized

Both Uganda and India were colonized by the British Empire, and during this time both countries' land, labor, and people were exploited for the colonizers' gain. In both cases the native people became lower class citizens when compared to the wealthy white Europeans who suddenly had vast political importance, if not outright rule. One of the ways the native populations were controlled was by the institutions of the British laws on their colonies; one of which was Penal Code 377, which was originally written and enacted in India, before being spread back to Britain, and then to all the rest of their colonies, including Uganda. It was initially enacted in 1861, and set the precedence for the criminalization of homosexuality and queerness across the British Empire. While the law only vaguely outlaws "carnal intercourse against the order of nature" it has been taken to almost exclusively persecute homosexual men.

This code of law came about as an attempt from the British Empire to protect its citizens from moral corruption by the native queer people whose homes had been invaded. Although British moral regulations were staunchly anti-homosexual, they made no reference to alternate gendered people, because these people were not viewed as alternate or third gendered by the British colonizers, but as effeminate or emasculated men (Han & O'Mahoney, 2018; Jechura, 2015). According to British moral laws, there existed no other genders aside from male and female, therefore the people who existed outside of this binary were forced to conform to the moral regulations pushed on them, or suffer additional abuse at the hands of their ignorant colonizers.

The key to understanding the moral regulations and laws that the British Empire practiced and enacted is knowing that they were based entirely on the idea that sex and sexuality were to be hidden and, in many cases, shamed. In the words of Michel Foucault,

“On the subject of sex, silence became the rule. The legitimate and procreative couple laid down the law. The couple imposed itself as model, enforced the norm, safe-guarded the truth, and reserved the right to speak while retaining the principle of secrecy. A single locus of sexuality was acknowledged in social space as well as at the heart of every household, but it was a utilitarian and fertile one: the parent’s bedroom” (1998, pg. 3).

This idea that sex was only a tool for procreation, and partaking in such an act outside of spousal duty, became the dominant ideology in public spheres during much of the British Empire’s reign, and inevitably was used as a tool to further shame and demean colonized people. By claiming that the white European society had evolved beyond the animalistic needs, they claimed a moral superiority over “lesser” people who still enjoyed carnal pleasures.

In this way they perpetuated and began the practice of making Indigenous people subaltern, by making them feel inferior in their own country, and not allowing them to work in certain sectors based on their ethnicity. Additionally, since sex became about the act of procreation, more than an act of love and enjoyment, any sex that was not able to conceive a child was abnormal, immoral, and shameful (Hunt, 2010). In this way, we can see how shaming a culture for any homosexual practices that exist within it came about, and became an easy way to control and demean entire societies, no matter what the intentions were behind the colonization. It is this common thread of British Colonization, finding sex to be shameful, which has had the greatest impact on queer rights, and the way indigenous queer people are perceived by their own communities.

Differences in How India and Uganda were Colonized

The goals of the British Empire in colonizing these countries were not the same. In India, the overall goal was to achieve control of material resources, and labor to collect and manufacture them. An example of this is the British want for Indian spices and tea, as well as oriental décor. In contrast, the goal of colonizing Uganda was to control the land and water, so that other European nations did not have access to it.

The biggest difference in how India and Uganda were colonized comes from the simple fact that they are vastly different countries. Uganda began as a smattering of kingdoms and tribes and was unified as a single nation under British rule, while India had existed as its own entity for centuries. Additionally, India had a primary national religion, that while having variances and regional offshoots, still maintained an overarching national identity and belief. The British Empire was very aware that this collective identity might reject attempts at colonization and conversion, and actively discouraged Christian missionaries from visiting the Indian subcontinent for much of the 1800's (Copland, 2006).

In contrast, Uganda had vastly different political structures, and while the general religious practices of the region were related, there was not a central or national religion or institution. Due to these differences, when it came to moral regulation and shaming, Uganda was a much easier target. Christian missionaries were invited into Buganda, a kingdom which would form the basis of modern day Uganda, their preaching and rhetoric heard and held by many Bugandans, and they opened the door through which the British Empire followed (Leggatt,

2001). Additionally, since the kingdom of Buganda invited in the missionaries, the British Empire favored them during the colonization and coalescence of Uganda as a whole, creating a social hierarchy near instantly which favored the already British sympathetic Bugandans.

Differences in how Christian missionaries were perceived that had the stage for how these two nations would treat their queer citizens in the coming years. While India rejected christianity and protected Hindu practices that involved queerness, Uganda rejected their queer citizens as being against god. Ultimately these differences would lead to differing legal protections, and punishments, for homosexuality in these two nations.

Effects of British Colonization on Current Queer Rights in Both Countries

Neither India nor Uganda are renowned for their queer rights and acceptance of gender deviance in current times. Both nations have at some point in the last couple of decades claimed that homosexuality is a European import or “White man’s disease”. However, India has begun to take strides towards acceptance, such as legalizing same-sex cohabitations. It was thanks to India’s constitution and its written Right to Equality which allowed a court case to be brought to the national level and overturn the old colonial law (Han & O’Mahoney, 2018). Additionally, India allows people to legally identify as third gendered, largely due to the prevalence and prominence of the Hijra in India, even into modern times. Despite these legal recognitions, there is still a lot of homophobic ideologies and rhetoric spread in modern India that make the nation unsafe to be openly queer in some areas. The Hijra were lucky enough to survive their attempted gendercide during much of the late 1800’s, into the mid 1900’s, largely due to their religious and cultural significance. By filling a specific societal niche, blessing weddings, child births, and other fertility related ceremonies, the Hijra maintained a space in society that could not be

replicated by missionaries or colonizers, making them that much harder to exterminate. Despite this importance, violent and sexual crimes against the Hijra are still extremely common, due to their status as a sexual minority (Hinchy, 2014).

In comparison, Uganda is staunchly anti-queer with recent laws attempting to implement a death penalty on gay men who are “serial offenders”, meaning they have been caught engaging in homosexual activities more than once. (DeJong & Long, 2014). This law was proposed and passed, but quickly overturned by the Ugandan supreme court. As a direct result of the attempted passing of this law, many Ugandans have begun to formalize resistance towards the homophobia embedded in the culture. This is largely because the proposed law declared homosexuality to be “un-African”, but many queer Ugandans tie their queerness directly with their African identity (Nyanzi, 2013). Many queer Ugandans have claimed that their connection to their ancestors and traditional African religion and practices prove that being queer is, in fact, African. In an ethnography written by Stella Nyanzi, she interviewed several Ugandan queer people, one of whom said,

“I don't believe homosexuality isn't part of my culture. As I said, my ancestors chose me out of all the people in my family. I'm the only kuchu(homosexual) out of my father's children. In my extended family, we're two - one of my cousins is also a kuchu lesbian-man. But the ancestors left all the other people who are straight and they chose me to be the medium through whom they communicate to the people in the clan about cultural matters. When the spirits climb on my head, I get into a trance and start dancing Kigisu traditional dances. My family know it's time to take me to the village home. I help people to solve their problems. I'm powerful in that moment. I can even sit in fire and not get burnt. But then if homosexuality was bad, the ancestral spirits wouldn't have chosen me.

Or the power would die when I have sex with a fellow man. This thing is part of our culture. (Marvin, 24-year-old music producer)” (pg. 961).

This is the current state of queer resistance in Uganda, and other homophobic African countries; the homophobic lawmakers try to distance homosexuality from being African, so the response is to tie being African, and African traditions in with one's homosexuality.

Despite this resurgent connection between Africaness and queerness, the *mudoko dako* of the Ugandan region have seen no sign of revival and the identity is likely to be gone forever. As it held no special religious or cultural significance, they existed solely to exist, people living their lives and serving their communities without there being a greater meaning or purpose behind it this meant that when Christian missionaries began to draw lines in the sand of who was moral, who was allowed to exist under British rule, queer Ugandans were quickly thrown out by their communities as a threat to the community as a whole (Murray & Roscoe, 1998). The concept of *ubuntu*, mentioned earlier, extends to the community, but the British made it so that queer people were no longer viewed as part of the community, and instead queer Ugandans have become outside interlopers invading the nation (Epprecht, 2013).

Furthermore, while India overrode and rid themselves of Penal Code 377 as a way to continue to free themselves from British rule, Ugandans see no need to change the current law because it serves its purpose well (Vanita, 2002; Nyanzi, 2013). As much as modern Ugandans do not want interference from European groups now, the British rules that the country was founded on are much harder to get rid of. The idea that homosexuality is a western import comes from a fear of further European influence disrupting and erasing their culture (Epprecht, 2013).

I feel it is important to note that while their communities were not able to protect them, it is not the fault of the colonized that their queer community members were harmed in this way.

The colonizing empire made it clear who was and who was not allowed to exist under their rule. It was already difficult to exist as a colonized person under imperial rule, adding sexuality and gender to the near-crime of not being born white and European just made it harder. Additionally, not complying with the new law of the land could threaten danger to the entire community (Miranda, 2010). The moral regulations implemented on these societies persist long past the national sovereignty returned to them, as despite the greater legal protections afforded to queer Indians over queer Ugandans, there is still plenty of homophobia present in the country and that is something that can only go away with time, patience, and ongoing shows of love and strength.

Conclusion

So why is there such a large disparity between former colonies and their reactions to queer presences? Surprisingly, I have found that there is less disparity than initially thought. While India has decriminalized homosexuality, homophobic rhetoric is still common and the norm. Additionally, while Uganda has homophobic laws in the books which make being gay in public illegal, queer Ugandans still connect their identity as African and queer with each other and fight for equality and acceptance. Essentially, the aftereffects of British colonization and moral regulations have, in both cases, altered the way queer people are perceived, but have not stopped queer indigenous people from fighting for their right to exist.

While in both countries queer people are considered second class citizens, and ranked socially lower than their heterosexual counterparts, they hold onto their identities and conviction that being queer does not negate being Indian or Ugandan. Additionally, while the mudoko dako have died out as an identity that has not stopped modern day Ugandans from seeking their own

truth in themselves, even though the identifiers have changed, the thoughts and feelings associated with being queer have remained unchanged.

In either case, we can see the evidence of accepted queer and homosexual practices before these countries were subjected to Imperial rule and Christian ideology. It was the empire's insistence that sex be between a man and a woman, and for the sole purpose of procreation that led to the subjugation and persecution of queer indigenous people. By claiming this, as well as claiming that desiring sex made a person, or indeed a culture, less evolved, the colonizers were able to create discord within communities that until that point had protected each other, including their queer members. The British were also able to further destabilize these communities by claiming that accepting homosexuals as part of the collective made the community lesser and emasculated.

While Britain no longer has a political hold on either India or Uganda, the damage it has done will take time to fix. In India, steps have already been taken to erase remnants of colonization by overturning old colonial laws which outlawed homosexuality, making it easier for queer people to exist, and for queer rights advocates to push for more equality. However in Uganda, many have doubled down on the moral laws put in place by the British, with much of the country supporting the continued criminalization of homosexuality, while at the same time rejecting European influence. Unfortunately, the success the British Empire had in eradicating queer people in Uganda left much of the country feeling as though queer people were a modern import, a new form of European invasion that they want to protect their nation from.

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