

REVIEW

Review of
Queer (In)justice: The Criminalization of LGBT People in the United States
by Joey L. Mogul, Andrea J. Ritchie, and Kay Whitlock,
Beacon Press, 2011;

African Sexual Diversity: Politics, Theory, Citizenship
by S.N. Nyeck and Marc Epprecht (eds.),
McGill-Queens University Press, 2013.

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Queer (In)justice is a bold book. There is no discussion of the merits of “gay” marriage or of serving in the U.S. military. Instead it castigates, perhaps at times too harshly, mainstream LGBT academics, lawyers and advocacy organizations for their complicity with the criminal *injustice* complex (noted here for good measure as “criminal legal system”). The authors claim that crime is a social construction as the record shows that certain populations “deserve” to be singled out as criminals; hence justice is an elusive ideal in a web of mutually reinforcing institutions that favor the rich, white, straight, able-bodied, socially connected person.

Despite the authors’ protestations to the contrary, the brief history of sexual terrorization of indigenous peoples certainly recasts Foucault’s famous *History of Sexuality* as a history of European sexuality with its central thesis that as late as the Victorian age “the homosexual” was classified as a species. European were quite adamant about enforcing a gender binary and straight sex behavior among indigenous peoples in the Americas. They committed grave atrocities left unmentioned in standard histories of the conquest.

Mogul, Ritchie, and Whitlock postulate three incriminating archetypes: gleeful gay killers, lethal lesbians, and deceptive gender benders and chronicle violent, humiliating police profiling practices, e.g. for the crime of “walking while trans.”

The show that death penalty cases are replete with overt homophobic statements to the jury that sometimes even includes the defense attorney. Gender nonconforming, not-convicted persons face probing eyes and touch of police even at the point of emergency life-saving intervention by medical personnel. 19th Century sumptuary laws, regulating status-appropriate clothing (along class and gender lines), still haunt the policing imagination. Transwomen and transmen face daily humiliation in the nation’s prisons, being ridiculed, taunted or raped. They may be thrown into solitary confinement for the audacity of asking for a bra for health reasons or for refusing a bra (e.g., after breast removal).

Several myths are discussed and confronted, which alone makes this book an important primer for understanding the processes of criminalization of LGBTQ persons. For instance, there's an old conflation of female sex workers being lesbians, and Freudian anxieties are paraded for such justification. Secondly, "walking while trans" may also bring about an automatic prostitution charge with sometimes lethal consequences for the transgender person. Prosecutors are known to have launched the adage that prisons are queer havens, hence life imprisonment would not be felt as punishment; they have thus asked juries to consider the death penalty! It is known that prisons are extremely dangerous places for LGBTQ and gender non-conforming persons, and unless one hooks up early, one may be prey to gang rapes. Controversially, the authors also bring up the myth of hate crime laws deterring crimes against LGBT persons. They note two problems with these reform laws: there is attention given to individual grievances rather than systematic oppression, and therefore, the laws tend to backfire, as we have seen with anti-Black racism. Instead of prosecuting whites who commit racist acts against Black people, the hate crime laws have disproportionately targeted Black people (p. 126-8). Clearly, laws will not protect us from homophobic or transphobic (speech) acts committed on the streets or in the courtroom.

Turning a queer eye to the evolution of police and prisons from colonial times to the present reveals the scope and impacts of "law and order" agendas—not just on LGBT people, but more broadly on all communities disproportionately impacted by policing and punishment. It reveals that these impacts are intrinsic to a criminal legal system that evolved from oppressive institutions. Even well-intentioned measures aimed at mitigating harms have a chilling way of morphing into new, often worse, forms of violence, begging the question of whether the criminal legal system can ever be sufficiently "reformed" to produce justice for LGBT people, or anyone else. (p. 145)

There are advocacy organizations that are attentive to forge resistance strategies, which also allow for broad-based coalitional organizing. They critique gentrification, policing, and hate crime laws to raise awareness and bring about structural changes in the lives of queer people. Such organizations are Transaction of San Francisco, Gay Liberation Network of Chicago, FIERCE of New York City, the latter also partners with the national Right to the City Alliance (p. 147-8).

This book is an important corrective to the dominant discourse on LGBTQ people, which tends to focus on rights language in a fairly uncritical way and downplay the intertwinement of imperialism/conquest and race, ethnicity, class, and transphobia among queer people in the persecution and prosecution of LGBT persons. It is an important,

clearly written source book for prison or penal abolitionists, critical criminologists, and queer studies activists and scholars.

In a similar vein, *Sexual Diversity in Africa* brings an important corrective to a much-misunderstood discourse, even performed in a preceding volume by Ugandan scholar Sylvia Tamale. Her edited book *African Sexualities* (2011) opens new terrains yet falls short for not providing a queer perspective, let alone tackle homophobia. By contrast, and with Tamale's afterword, *Sexual Diversity* provides rich case studies and comparative discourse analysis that draws from emerging African scholars who have created a network to deal with the precarious legal status and lived experiences of LGBTI people in many of the countries such as Uganda, Nigeria, and The Gambia. In preparation for bringing theory to practice, a network of activists and scholars was launched in Senegal (2007) and is called International Resource Network for Africa (IRN-Africa). One of the editors, Cameroonian political scientist S.N. Nyeck, was elected its coordinator.

The writers are all motivated by a sense of urgency to prevail against a certain backlash climate that is in part driven by religious, neocolonial U.S. actors, e.g., shaping a homophobic climate that lead to a law institute the death penalty for “homosexuals” in Uganda.

The editors clear up a number of misconceptions and myths. First, it is not the case that African scholars have no interest in Queer Studies, and the book showcases critical country-based case studies and theoretical analyses from a number of emerging African scholars, including the first editor, Professor Nyeck. It is a well-rehearsed legitimation crisis, whether dealing with LGBTIQ or traditional subject matter such as philosophy, that an introductory chapter has to make a case for an African-centered perspective. Such legitimation is hardly demanded within a Global North academic context. Secondly, queer and gender nonconforming practices are certainly not a Western import, as various politicians and media outlets like to claim in their homophobic, virulent rhetoric. Thirdly, it is said that Islam is intrinsically homophobic. However, Stella Nyanzi explains that “diverse sexualities were integrated into everyday life in traditional ancient Muslim societies” (p. 82). Finally, stereotypes about “uniform” or normed gender expressions and sexual orientation abound beyond the continent. As Notisha Massaquoi notes, they continue to haunt African LGBTI refugees in Canada where they are quizzed if they are “really” LGBTI, given that their practices, having many children for instance, doesn't compute with the Western stereotype of the childless “homosexual.”

A note on language: The book does an excellent job in contextualizing LGBTI discourses from rural Ghanaian LGBTI persons to a critical media analysis of Olympic winner Caster Semenya whose gender identity was challenged as being incongruent with her expression of “sex”—Semenya's struggle for dignity and privacy haunts us again given

yesteryear's obsession with Sara/Saartjie Baartman, who had to endure the violence of colonial, white supremacist voyeurism. So, it is well taken that the editors note the complexity of drawing on a concept such as LGBTI (the consensus term of all contributors), especially in the absence of queer persons' interest in using labels to identify their sexual orientation or gender expression. Still, it is confusing when reading statements such as this: "The majority of the LGBTI individuals I interviewed adopted a stance as tacit subjects: they viewed their homosexuality as assumed..." (p. 201), when the context clearly indicates men having sex with men. Thus the label "homosexuality" is a term reserved for cisgender men and not for others (i.e., LGBTI).

The thematic approach of the anthology is structured as follows: Framing the Debates; South Africa; Comparative Studies. Overall, the structure makes sense, however, it seems to me that all of the papers participate in a theoretical framing as well as involve a comparative study, as the colonial context proscribing sodomy laws or the neo-colonial bind of "aid" tied to "rights" discourse is referenced in almost all of the papers. The editors note that lusophone and arabophone contributions are missing, yet, the uninformed reader learns very quickly that there is tremendous LGBT organizing outside of South Africa, especially in Accra (Ghana) and Bamako (Mali). While decriminalization is a grave concern, especially in Uganda, to activists, the contributors show that individual rights campaigns are fraught with problems stemming from the colonial period of classifying some as citizens (white people) and others as mere subjects (indigenous Africans). South Africa is a stark case in point where white women were enfranchised at the same time that African men lost the right to vote in 1930 (p. 22). Drawing on the strength of communal subjectivities outside the confines of law that gives individuals "rights," may provide a subterfuge and even flourishing as LGBTI persons without being "named" as such. The case studies show ample cases of WSW (women having sex with women), yet strongly refuting the identity of "lesbian." Living as *obaa barima, supi*, "on the man's side," etc. cannot be easily translated into the Western terms of stone butch, femme, or tombois. Instead Serena Owusua Dankwa talks about relational gender and erotic subjectivity and shows the fluidity of expectations within a WSW relationship in Ghana. Christophe Broqua argues that "coming out of the closet" that is of great importance to gay activists in the North and in some African countries is not a Malian concern. "[T]he silence of 'shame' that visibility seeks as its opponent, with the goal of promoting acceptance, is not the silence of Bamako respect, as for them, silence is a way to receive acceptance" (p. 220). Mali's constitution is silent on "homosexuality" and has no colonially inherited "sodomy laws."

This anthology gives us a rich, nuanced discussion of colonial legacies and comparative case studies that inform the reader of the fluidity and diversity of sexual discursive formations across the continent. Several papers are focused on South Africa, which is still

the only country on the continent guaranteeing full equality and antidiscrimination. Equality is of course contested on the ground, just as homophobia and transphobia lead to murderous violence the world over. I highly recommend this book, especially to queer studies and Africana students and gender studies scholars who wish to engage with anti-racist, anti-colonial analyses and courses of action at the policy level.

References:

Foucault, M. (1990). *History of sexuality: An introduction*. New York: Vintage Books.