



Love is Love

The Recent Jason Jones Judgement in Trinidad and Tobago

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Trinidad and Tobago's (T&T) anti-gay laws can be traced back to British colonialism and European imperialism. Their existence today and their consequences for human lives in T&T during the past one hundred years are a local entanglement of historic global hierarchies of power. On 12 April 2018, in the High Court of Port of Spain, capital of T&T, Justice Devindra Rampersad, in a form of judicial activism, trod where local politicians have not dared and intervened in such coloniality by delivering a legal judgement upholding the challenge by Jason Jones to the nineteenth-century colonial laws in T&T that criminalise homosexual relations and same-sex loving.

The judge declared that the laws contravened the T&T Constitution and an individual's fundamental human rights ranging from family life and privacy to freedom of thought and expression. The government of T&T has appealed the judgement to the UK-based Privy Council for a final ruling. As Attorney General Faris Al-Rawi noted at the time, 'The rights of equality in the Constitution are clearly expressed. A first-instance decision is not the only decision to rely upon to settle the law. (An appeal) is only prudent so we can conclusively put the matter to rest.'

As the news of the judgement spilled onto the steps of the Hall of Justice, a fundamental and long-standing division in the larger society around the decision and what it means to be a 'good' citizen locally was plain. On the steps themselves and taking up much of the pavement were large numbers of LGBTQI supporters of various ages, waving rainbow flags and banners, cheering 'Love is love', high-fiving each other, and in between hugs and chants, one or two were crying tears of joy.

On the other side of the street, a much smaller group of multi-religious supporters – also with flags and banners, this time opposing the legal challenge – was for the most part more quiet and subdued. One or two stood with their mouths open, while a few others prayed



aloud for forgiveness, with one or two also shouting out to the sky, ‘Oh God, I am sorry.’

Many LGBTIQI supporters outside the High Court suggested to me that they could have not seen such a judgement and progress even five years ago and that for so long they had felt progress was impossible mainly because of the political, legal and social influence of the country’s Abrahamic religions and morality. One young supporter told me, ‘Trinidad and Tobago is a democracy not a theocracy; I don’t know why people are concerned with what people do behind closed doors in the own bedrooms.’ Yet, it is also the case that the first clause in the T&T Constitution states that the nation is ‘founded upon principles that acknowledge the supremacy of God’. Not to mention that God is regularly called down on hustings and political platforms. This suggests that T&T is not a secular state and that for many here God is held higher than the UN’s Universal Declaration of Human Rights (Kerrigan 2016b).

From twenty years of living and working in T&T as an anthropologist, my general suggestion, however, is that T&T is relatively less homophobic than other Caribbean islands. This sentiment is shared in the work of various social scientists and scholars such as Kamala Kempadoo (2009), Krystal Ghisyawan (2016) and Rhoda Reddock (2003), as well as local activists including Colin Robinson, the head of T&T’s Coalition Advocating for Inclusion of Sexual Orientation (CAISO).

That is not to say that the state and the nation are not homophobic (Wahab 2012), or that it is not dangerous to be openly gay in the society. For example, from 1980 to 2010, CAISO suggests that twenty gay men have been murdered in T&T. Yet, at the same time, since Amerindian times, and certainly during colonial times, there has been an active and long-standing same-sex loving community in T&T (Ghisyawan 2016). The architect and art historian Geoffrey MacLean (2010) has documented a part of the long history of this community from the beginnings of British colonialism in the late eighteenth and early nineteenth centuries in Trinidad which includes the dalliances of various British Governors of Trinidad who enjoyed the company of ‘pretty young men’.

MacLean (2010) also reminds readers of a brief high point for the local gay community in the 1920s and 1930s when many T&T artists and creatives came together in a multi-ethnic and cross-class body under the umbrella of the Society of Trinidad Independents. They also published *The Beacon* magazine – whose design, as the editor Albert Gomes put it, was to debunk ‘bourgeois morality, obscurantist religion, and primitive capitalism’. The society showed great tolerance for ‘the gay and lesbian community’. Many of ‘their leading members’ for example,

self-identified as homosexual, and as a collective ‘they advocated an end to class divisions, capitalism, racism, religious extremism and prejudice against homosexuality.’ .

After this period, there was a general moral pushback against homosexuality locally. Apart from during the Second World War (and the annual Carnival festivities wherein sexual freedom can often be hidden under the excuse of inebriation), most same-sex loving couples and interactions since the 1940s in T&T have taken place in private clubs, homes and gatherings – notwithstanding a few (in)famous bars which have come and gone.

So while, yes, there has long been a general tolerance for homosexuality for many citizens in T&T, and many persons acknowledge friends and family members who are homosexual, the general social norm and religious moral consensus has always been that being gay is permissible only as long as it is not seen in public and in no way impacts others. Yet experiencing shame, silence and invisibility is not acceptance and has had many consequences. Being out of the closet in T&T can impact your ability to get and hold employment. And, in a similar vein, since the judgement there have been numerous cases of parents and guardians asking young, gay men and women to leave their family homes after revealing their sexual orientation.

Another consequence of this invisibility on a public health level is that many men in T&T who have sex with men do not consider themselves ‘gay’, and this has meant that some are deaf to health messages and education about safe sex targeted at gay men, which has contributed to growing levels of HIV transmission across genders (Kempadoo 2009).

Furthermore, while the sentiment and desire to permit homosexuality by making it shameful, silent and invisible may to some seem slightly progressive in a geographic region marked by virulent and deadly homophobia, it still reinforces problematic and violent forms of masculinities. And under the sociocultural pressures to conform to religious expectations about masculinity and femininity in T&T, men reinforce and police non-hegemonic forms of masculinity first through language and discourse around hyper-masculinity and sexism and then with homophobic violence (Kerrigan 2016a; Reddock 2003).

This dominant social logic of such ‘enlightened’ homophobia has many of the same cultural impacts as traditional homophobia does, such as the silencing, stigma and discriminations that same-sex relations and behaviours face; the violent homophobic themes and homophobia of heteronormativity in local music genres such as dancehall, reggae and soca; and the public homophobia of local mainstream media



associating same-sex loving as paedophilia or 'unnatural' – to name just a sample of the sociocultural ways in which homophobia plays out locally.

So no matter a general sociocultural tolerance towards the LGBTQI community, and a large amount of citizens greatly encouraged by this recent legal judgement, the hegemonic narratives of the society, and most of its political leaders, newspaper editors and religious figures, have not yet shifted greatly. Even with this new decision, new divisions laid on top of older divisions within the society are emerging. Meanwhile, some like Colin Robinson have spoken of their great concern that these momentous changes may provoke a violent backlash against openly gay men in the society, and, worryingly, based on recent reports, this does seem to have happened in a handful of cases.

Another point worth mentioning about the coloniality around these laws is that Jason Jones, who brought the legal challenge, is Trinitarian by birth. Yet, he, like myself, is a transnational citizen of T&T and has two passports. As such, he divides his time, life and work between T&T and the United Kingdom – not least because of the dangers of homophobic violence to his personal safety.

This distinction – of being a pseudo outsider – has been manufactured and seized upon by those opposed to a change in the law as evidence of foreign norms and values once again being forced onto the local population. Furthermore, with the Privy Council as the highest court to which T&T can turn and which will have the final say on the constitutionality of these laws, such a narrative of outsiders coming to destroy the moral fibre of the nation and family has taken off amongst many and features in newspaper letter pages.

Yet, the reality that T&T's anti-gay laws are derived from colonialism itself – and now, two hundred years later, some consider it neo-colonialism to remove these laws – is a stark example of the coloniality of power. For many ex-colonial societies around the world, their present social divisions, dehumanising laws and homophobic narratives are local entanglements of global hierarchies set up a long time ago by violent colonisers. The story around the Jason Jones judgement is a contemporary manifestation and consequence of such socio-historical realities, and there is still much more of this story to be told.



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