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Decolonizing the boomerang effect in global queer politics: A new critical framework for sociological analysis of human rights contestation

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Abstract

This article proposes a new critical framework for analysing transnational human rights-claiming and contestation: a ‘critical model of the boomerang effect’, that can embody sociological understanding and insights from decolonizing analyses. The article develops a critique of Keck and Sikkink’s well-known model of the ‘boomerang effect’, from politics and international relations. The new critical model is needed to analyse contestations including global queer politics, particularly to examine where and how actors in formerly or currently colonized states from the Global South can draw on the United Nations human rights system. The new model requires analysis of four themes, with a decolonizing enquiry applied to each: (1) articulation of human rights; (2) social structures and resources; (3) socio-cultural contexts; and (4) subjectivation. These themes are examined to illuminate two pivotal cases claiming decriminalization of same-sex sexual acts: Caleb Orozco in Belize, and Jason Jones in relation to Trinidad and Tobago – generating a new research agenda.

Keywords

Boomerang, decolonizing, human rights, LGBTI, queer

Introduction

Transnational human rights-claiming is a pivotal strategy of the global lesbian, gay, bisexual trans and intersex (LGBTI)¹ movement, yet we do not have a specifically sociological framework for analysis of the rights-claims involved, particularly in relation to addressing the ‘coloniality of power’ that persists after formal decolonization (Quijano, 2000). While political science and international relations have developed models of the ‘boomerang effect’ (Keck and Sikkink, 1998) and ‘externalization’ (Tarrow, 2005: 145–149), that have begun to be applied in relation to LGBTI politics (e.g. Paternotte et al., 2011), these models are inadequate to grasp global power relations between North and South, shaped by colonialisms. This article therefore offers a sociological analysis of the social processes surrounding transnational human rights-claiming in LGBTI and queer politics; and hence proposes a new *critical* model of the boomerang effect, integrating decolonizing understanding for interpreting human rights contestation. This is explored in two recent

pivotal cases winning decriminalization of same-sex sexual acts – in Belize, and Trinidad and Tobago – to inform a sociological research agenda for future studies.

Contemporary LGBTI and queer studies as research working transnationally are suffering from a polarization between two types of approaches. On the one hand we have the uncritical perspectives of those primarily gay and lesbian scholars who adopt individual human rights as a simple normative truth with fixed content, and imagine global LGBT or LGBTI politics as the ‘progressive’ legal and moral extension or ‘evolution’ of these ideals from European origins via the West to the rest of the world – while lacking an adequate social analysis of when and how this is possible (Wintemute, 2005). Different and more sophisticated versions of human rights approaches come from theorists elsewhere labelled the ‘LGBT progressives’, such as Weeks; these have a sociologically informed worldview in significant respects but affirm human rights normatively while needing more sociological analysis of how such rights are constituted and selectively utilized, particularly by western governments (Weeks, 2007: 107–134, 199–224; Waites, 2017: 646–48).

On the other hand we have the literatures developing from Puar’s (2007) critique of ‘homonationalism’ as a form of nationalist discourse affirming LGBT human rights; Puar has stated that: ‘homonationalism is fundamentally a deep critique of lesbian and gay rights discourses and how those rights discourses produce narratives of progress and modernity that continue to accord some populations access to citizenship ... at the expense of the delimitation and expulsion of other populations’ (Puar, 2013: 337). It is thus explicit that rights are othered and profoundly challenged by this homonationalism analysis; and by related forms of anti-homonationalist queer theory from US-based scholars. Overlapping with this we have seen the rise of decolonizing and decolonial analyses, as in the significant volume *Decolonizing Sexualities*, where the almost complete absence of reference to human rights (or summary dismissal) signals that human rights are not part of that decolonizing politics (Bakshi, 2016: 95). At the extremes, then, there are simplifications on both sides. Let the present article stand as an affirmation of the need for more measured critical social analysis of the global queer politics of human rights, and as a contribution to that project – identifying sociology’s distinctive potential.

The article proceeds as follows. The first section, ‘Sexualities, genders and human rights: colonial criminalization and decolonizing analysis’, introduces literatures on sexualities, genders and human rights, then focuses on the state of the field in research related to historical criminalization of same-sex sexualities and gender diversity, especially by the British Empire. There is discussion of how this history has been put on the agenda as relevant for contemporary political struggles for decriminalization and human rights – with comment on the implications of decolonial perspectives (Quijano, 2000, 2007 [1999]) and the new ‘global historical sociology’ (Go and Lawson, 2017). The

second section, 'Analysing human rights struggles: decolonizing the boomerang effect', offers a critical analysis of theoretical frameworks used in literatures on contemporary struggles for decriminalization, human rights and equality; and discusses how analysis of these should be taken forward, especially in political sociology. Developing from this, a third section proposes 'A critical model of the boomerang effect' as a new analytical framework to inform research on queer human rights struggles. A fourth section, 'Exploring the critical model of the boomerang effect in contexts', then applies this approach to two recent pivotal decriminalization cases: that of Caleb Orozco in Belize, and of Jason Jones in relation to Trinidad and Tobago. These cases, it will be argued, provide evidence of the value of engaging regional and global human rights systems, and LGBTI transnational advocacy networks; a sociological perspective is crucial for interpreting these in relation to coloniality.

Sexualities, genders and human rights: colonial criminalization and decolonizing analysis

The argument here emerges at the juncture of several distinct literatures. First there is the interdisciplinary literature of feminist and queer sexual politics in gender and sexuality studies, which increasingly since the 1990s has focused on debating and claiming human rights (Corrêa et al., 2008; Miller and Vance, 2004), and more specifically LGBTI rights and queer transnational activism, including in relation to legacies of colonial regulation (Wilkinson and Langlois, 2014; Waites, 2009, 2017). Second, there is the literature of anti-colonial politics, postcolonial studies and decolonial theory and politics, where Said's (1978) analysis of Orientalism has suggested how colonial histories imbue culture and discourses, and Quijano's (2007) decolonial studies have mapped the expansion of Eurocentrism; yet many mainstream politics and sociology scholars have lacked engagement with such perspectives. Third, there is the literature of political science and international relations for analysing collective action and contentious politics (Keck and Sikkink, 1998; Tarrow, 2005), which has increasingly been applied to LGBTI politics, yet assumes or idealizes human rights in ways that are inadequate to grasp how human rights are socially experienced in different contexts shaped by power. Fourth, there is the growing literature from the social sciences and social theory analysing human rights, gradually rescuing human rights from law and uncritical normative foundationalism, initially in anthropology and critical theory but increasingly developing in the sociology of human rights where volumes now proliferate (Hynes et al., 2010, 2012). Yet nowhere has there been an application of the sociology of human rights to transnational queer politics, in a manner that might help us grasp the implications of postcolonial and decolonial studies for such rights-claiming political struggles. That is the present task.

Particularly since the 1990s, extensive literatures on rights have emerged from feminist and queer scholarship. Corrêa et al., in their key survey, engaged extensively with discussions of cultural difference and relativism prior to advancing an influential argument for both the ‘indispensability’ and the ‘insufficiency’ of rights (Corrêa et al., 2008). In queer studies critical perspectives nevertheless problematize the limits of human rights universalism for specific contexts; and Rao (2018) notes the problematic flattening effects such discourse can have. However, where such critical queer commentators engage with human rights in detail, there does not seem to be an argument for abandonment of human rights discourse.

It is useful to contextualize the discussion by considering how imperial regulation of same-sex sexualities has emerged as an issue. The British Empire’s criminalization of same-sex sexual acts became a focus in transnational queer and human rights activism, together with research, from around 2008. Scholars and activists became focused on British colonial regulation through offences of ‘carnal intercourse against the order of nature’ and ‘gross indecency’, to challenge such laws remaining in a majority of formally decolonized states. The ground-breaking intervention was the Human Rights Watch (2008) report *This Alien Legacy: The Origins of ‘Sodomy’ Laws in British Colonialism*, written by Indian researcher Alok Gupta, with Scott Long contributing.

This Alien Legacy was, in general terms, a brilliant intervention. It played a major part in changing the game in the global debate over (then) ‘LGBT human rights’, reversing previous terms of debate. The predominant framing of issues by opponents of LGBT human rights, such as then President Mugabe of Zimbabwe, was to frame homosexuality as a western problem, exported elsewhere. *This Alien Legacy* turned the tables, proposing instead that homophobia was the import, which subsequently became the orthodoxy in much international LGBTQ activism and research. The report pointed the way for new decolonizing political framings (though interestingly several ‘recommendations’ were directed to the Commonwealth Secretariat, promoting Commonwealth engagement). *This Alien Legacy* provided much of the intellectual basis for *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth* (Lennox and Waites, 2013a), analysing the persistence and contestation of discriminatory colonial laws – highlighting successful strategies of Global South actors to win decriminalization, including in South Africa, India and the Bahamas.

It is for the investigation of colonial regulation that more engagement with decolonial analysis and with the new global historical sociology is needed. It is important to deepen engagement with decolonizing analysis, as one of the most vibrant and significant bodies of critical theory in recent decades, including works of leading decolonial theorists such as Quijano (2000, 2007) and Mignolo (2007). There is a stronger emphasis on decolonizing than in postcolonial studies.

Postcolonial and decolonizing analyses have somewhat influenced a new wave of global historical sociology (Go and Lawson, 2017). This new wave characterizes itself as distinguished by movement away from the nation-state as a central analytical unit, to interest in empires and ‘transnational’ or rather ‘transboundary’ processes. There is an analytical shift from a focus on the ‘nation-state’ to focus on the ‘imperial-nation-state’, or ‘imperial-nation’ (Shilliam, 2017: 125–126).

Insights from decolonizing analyses and global historical sociology thus need to be applied in analysis of same-sex sexualities and gender diversity, as suggested in our developing work comparing Kenya and Mozambique (Gomes da Costa Santos and Waites, 2019). *This Alien Legacy* painted a picture of universal colonial criminalization regulating both colonizer and colonized (Human Rights Watch, 2008: 5); but this tended to miss customary law, whereby colonized groups were granted some agency. Decolonial feminist Lugones (2008) argues that pre-colonial forms of gender and sexuality varied; so analyses must address how different groups have been positioned in relation to current struggles.

Analysing human rights struggles: decolonizing the boomerang effect

Turning to the present, growing literatures address struggles for decriminalization, human rights and equality. Much literature is either activist or activist academic, with activists sometimes contributing to academic collections. This generates literature that is often strong on empirical detail but sometimes less structured in theory and methodology, lacking developed social theorization of how human rights operate. One example moving towards this is Jjuuko’s account of ‘the incremental approach’ to claiming human rights by Uganda activists (Jjuuko, 2103). Msosa’s (2017) thesis about Malawi discusses the relationship between international human rights and the constitution, but again with scope for more sociological theory. The important recent collection from *Envisioning Global LGBT Human Rights* includes a highly original chapter on Guyana, identifying a seemingly unique British colonial law against ‘wearing of female attire by a man’ or ‘wearing of male attire by a woman’ (DeRoy and Henry, 2018) – struck down on 14 November 2018. These studies exemplify how there is extensive discussion of state contexts in the Global South, with some consideration of the interplay between UN human rights, associated regional human rights systems, and national struggles over LGBTI equality, offering some forms of social analysis. Yet there is scope to draw conceptual insights from research together with wider social theory, into a guiding social model of how human rights operate. To do this, there is a need to critique existing analytical models.

What needs to be discussed, then, is how research literature is conceptualizing the relationship of human rights to sexualities and genders internationally, and whether this can

incorporate insights from anti-colonial, postcolonial or decolonizing perspectives. Much law, politics and international relations research simply assumes the UN human rights system as normatively 'good', and conceptualizes it as a given 'political opportunity structure' (Kitschelt, 1986).

The concept of the 'human rights rainbow' can be briefly introduced here, to refer to an imaginary in mainstream human rights discourse in western liberal internationalism – imagining a top-down model of LGBT human rights, whereby United Nations human rights permeate regional and state institutions. Political sociologist Kate Nash has described such human rights literature as 'global constitutionalism' (Nash, 2012), and we can see examples of western LGBT human rights literature as implicitly assuming such a one-directional model when implicitly endorsing a 'human rights rainbow' approach (e.g. Ayoub and Garretson, 2017). Human rights are imagined as travelling from their home in the West, to somewhere over the rainbow.

To challenge such perspectives, there are more critical, political and sometimes sociologically informed literatures on queer politics offering analytical frameworks. Weiss and Bosia (2013) have developed the concept 'political homophobia' to discuss state and local dynamics where elites generate homophobia, confounding the human rights rainbow (see also Serrano-Amaya, 2018). Rao (2018) and Wilkinson and Langlois (2014) similarly emphasize contextual dynamics. Yet these insightful literatures do not offer a new model of rights-claiming.

In the literature on human rights and social movements from politics and international relations, the concept of the 'boomerang effect' has occupied centre-stage in the interpretation of transnational activism, thus demanding our attention. The concept of the 'boomerang pattern', also known as the 'boomerang effect', originates with Keck and Sikkink's work *Activists Beyond Borders: Advocacy Networks in International Politics* (1998: 12–14). The book introduced the concept 'transnational advocacy networks' and viewed international human rights as a 'political opportunity structure', enabling local activists to strategically access and deploy international norms (Keck and Sikkink, 1998: 7).

When channels between the state and its domestic actors are blocked, the boomerang pattern of influence characteristic of transnational networks may occur: domestic NGOs bypass their state and directly search out international allies to try to bring pressure on their states from outside. This is most obviously the case in human rights campaigns. (Keck and Sikkink, 1998: 12)

Keck and Sikkink supply a diagram of the boomerang pattern with a note clarifying that this occurs when organizations 'within' a state activate an advocacy network including external members, who may apply pressure either on a different state or on an 'intergovernmental' organization, to 'turn pressure' on the original state (Keck and Sikkink, 1998: 13). Advocacy networks include human

rights networks, and intergovernmental organizations obviously include UN and regional human rights institutions – explicit in a revised diagram (Risse and Sikkink, 1999: 19). Notably, Keck and Sikkink explicitly ‘draw on sociological traditions’ (1998: 4) to develop an approach that is ‘both structural and actor-centred’; and they raise ‘power relations’ between ‘less powerful Third World actors’ and ‘northern groups’ (Keck and Sikkink, 1999: 91, 93). They emphasize struggles over ‘power and meaning’ and refer to ‘Western’ human rights as a ‘discourse’, noting ‘how these norms are articulated is transformed in the process of network activity’ (Keck and Sikkink, 1999: 99, 100).

An important feature of the boomerang pattern in analytical terms, relative to research assuming a global constitutionalist or human rights rainbow framework, is that the model locates the agency of local actors as centrally important in initiating change. This implies that the model could potentially attend to the agency of actors in the Global South, rather than assuming human rights change will come from privileged states; a potential positive if empirical findings correspond. This is also a strength relative to the subsequent ‘spiral model’ of Risse and Sikkink (1999: 20, 17–35) in which human rights were problematically conflated with ‘western powers’ at the origin of change (informing Kollman’s research: Kollman, 2013). Hence it can be argued that for a sociology of human rights analysis (Hynes et al., 2010), seeking to be critical and decolonizing, the boomerang pattern’s attention to local agency is a potentially positive feature which makes it worth engaging. This potential to focus on agency from colonized contexts is the reason that the boomerang effect should not be omitted, as in work on homonationalism that represents human rights discourse only coming from western states (Puar, 2007, 2013). Rather, the boomerang model should be engaged, decolonized and rethought.

Tarrow has subsequently identified that Keck and Sikkink’s case studies to explore the boomerang model focused on ‘informational politics’, whereas other forms of ‘externalization’ of claims relate to ‘institutional access’ and ‘direct action’ (Tarrow, 2005: 146, 143–160). Tarrow offers his own model of externalization to encompass these three, also allowing variable state responses and framing strategies (2005: 148–149). He is correct that institutional access relates to formal processes for accessing human rights institutions. However, the purpose here is to focus on the frequent situation where a domestic LGBTI human rights claim is blocked by a state, leading to externalization – corresponding to the original ‘boomerang effect’.

Let us focus here, then, on the ‘boomerang’ – a cultural object originating with the aboriginal people of Australia. The boomerang has been culturally appropriated into wider social use, and into the conceptualizations of international political science and international relations. In this context, the central question is: what would it mean, to decolonize the boomerang effect?

Interestingly Aimé Césaire, a Martinican intellectual, spoke of the ‘boomerang effect of colonialism’ in the 1955 essay ‘Discourse on colonialism’ (Césaire, 1972).

colonization, I repeat, dehumanizes even the most civilized man; that colonial activity ... inevitably tends to change him who undertakes it; that the colonizer, who in order to ease his conscience gets into the habit of seeing the other man as an animal, accustoms himself to treating him like an animal, and tends objectively to transform himself into an animal. It is this result, this boomerang effect of colonization that I wanted to point out. (Césaire, 1972: 5)

Césaire used the concept to suggest that colonization ‘calls for ... its punishment’ (Césaire, 1972: 4). Foucault also discussed boomerang effects in 1976 – commenting that ‘colonization ... had a considerable boomerang effect on the mechanisms of power in the West’ (Foucault, 2003: 103).

These comments from Césaire and Foucault are suggestive of the need to rethink the ‘boomerang effect’. However, it is the question of whether or how human rights claims from the South can be successful that is the central issue requiring attention, and hence for the present analysis the ‘boomerang effect’ will be reserved to investigate that process. The comments of Césaire and Foucault are taken to imply the need to define and contextualize the latter process in relation to colonial power.

Keck and Sikkink’s imaginary of the boomerang effect remains a cause for concern because it has influenced recent western politics and IR scholarship on LGBT politics. In the significant collection *The Lesbian and Gay Movement and the State*, the Introduction foregrounds political science literature on political process theory from the US and Western Europe, that gives centrality to political opportunity structure. What is problematic is the conclusion, where Paternotte et al. centre the ‘boomerang pattern theory’ (2011: 216), extending the boomerang pattern beyond Europe to a general theory for global contexts, without accounting for colonialisms and global power relations. This generalizes the metaphor inappropriately.

The picture that emerges from much influential politics and international relations literature is of local actors using human rights framing to access international political opportunity structures of rights, generating impressive ‘boomerang effects’; but this obfuscates power relations. Perhaps some politics and international relations scholars have been imagining the boomerang travelling in a horizontal exchange from local activists to elite actors in transnational advocacy networks, global funders or judges in international courts. The apparently weightless travelling on the air of the boomerang means the metaphor disguises resources and structural supports required, emphasizing individual agency without social context. By contrast, it is useful to try to imagine the boomerang effect from the perspective of an aboriginal person; to try to understand how many people in

colonized societies experience engagement with the global human rights system as hierarchical and embodying ‘coloniality’ (Quijano, 2000).

Western politics and international relations literatures usually lack sustained attention to transnational colonialism and racism, in relation to the social construction of human rights (Hynes et al, 2012; Waites, 2009). By contrast, developing a critical model of the boomerang effect means drawing on critical, post-structuralist and decolonizing theories. It might be thought that the identified problems of the boomerang metaphor, borne on the air as if without social support, imply the boomerang effect is to be rejected. But it can be suggested, instead, that we need a concept that allows investigation of the possibility for successful transnational action by actors from colonized contexts – with returns.

A critical model of the boomerang effect

Here, then, a new critical model of the boomerang effect can be conceived. While wider processes of ‘externalization’ (Tarrow, 2005: 147) also need rethinking in relation to decolonizing and intersectional politics, the boomerang effect seems to correspond in important ways to social patterns surrounding key legal challenges claiming decriminalization that have become central for global queer politics. Therefore, the focus here remains on the boomerang effect, though perhaps yielding wider insights.

Considering the task of decolonizing the boomerang effect necessarily poses questions about the position and identity of the researcher: who can appropriately instigate decolonizing practices? Decolonizing epistemologies and methodologies are crucial to consider. Here I note my own position as a researcher based in the United Kingdom, a state that has been colonizing; also, that I have been racialized as white and write from a position of structural advantage. Clearly some decolonizing approaches tend to a strong politics of location or essentialism, and these would inherently preclude my playing any part. My own view, however, is that a reflective sociologist who is not from a colonized society – but who is engaged with and drawing on postcolonial and decolonial thought and politics – might make useful specific contributions to aspects of decolonizing research.

In this light it is possible to commence the circumscribed task of decolonizing the boomerang effect. The task is undertaken by recontextualizing the boomerang effect using themes that emphasize its wider social contexts and draw in critical social theory. This conceptual extension, combined with a theme of decolonization throughout, opens space for decolonizing understandings.

The elements of a new critical and sociological model of the boomerang effect for the sexual politics of human rights can be summarized as follows, showing differences from the original model. The basic form of the boomerang effect is maintained, as represented in diagrams from Keck and Sikkink; yet the conceptualization is now to be interpreted and applied with reference to four themes

that extend more widely in demanding social contextualization and social theorization. In the new decolonizing critical model, the theme of decolonization needs to be thought through for each of four thematic elements:

1. *Articulation of human rights*: human rights as a discourse with variable articulations
2. *Social structures and resources*: attention to social structures and resources in rights-claiming processes, launching and sustaining the boomerang
3. *Socio-cultural contexts*: interpretation of social contexts
4. *Subjectivation*: how rights-claimants are changed as subjects through rights processes.

These four themes can be elaborated as follows.

Articulation of human rights refers to a specific articulation theory in the sociology of human rights, proposed by the present author – introduced in previous publications (Waites, 2009, 2010) but more clearly defined here. This approach draws from use of ‘articulation’ by discourse theorists Laclau and Mouffe, and Hall (Waites, 2010: 973). The central significance of this post-structuralist approach for conceptualizing human rights is that it displaces the usual debate between universalist foundationalism and cultural relativism, by emphasizing that the signifiers (words) in human rights instruments – such as ‘sex’, ‘family’ or ‘marriage’ – may become articulated with variable concepts, and hence do not have a given ontology. Decolonization here involves thinking, for example, about languages and translations.

Social structures and resources refers to the social structures and resources involved in a rights-contestation process. This somewhat corresponds to Keck and Sikkink’s focus on three variables – ‘relationships’, ‘resources’ and ‘institutional structures’ – involved in campaigns (1998: 7). Here a key point is that rather than imagine a legal case simply being submitted then independently normatively decided by a judge, critical scholars know that the contested climate of public opinion around a case will usually influence the outcome. Sociologically, we need to identify the forms of social structure and resources involved in keeping a legal contestation process going. Here one can think of both formal human rights institutions and social structures in a wider sense, with reference to various conceptualizations of structure or resources in sociological theory; on resources, theorists might choose to refer to Bourdieu’s capitals for example (Layder, 2006). Decolonization here involves thinking, for example, about coloniality inhering in human rights institutions, and expropriative colonial resource distribution.

Socio-cultural contexts as a theme implies that analysis should develop a decolonizing approach involving a decolonizing understanding of the socio-cultural context from which an actor is commencing action (‘throwing the boomerang’), but also of wider contexts at all stages of the

process – for example, of United Nations tribunals. The approach may need to draw on historical sociology to understand pre-colonial social formations and colonial legacies.

Subjectivation relates to Foucault's concept *assujettissement*, which Butler (1997: 5, 11) helpfully suggests is best translated as 'subjectivation', referring to processes constituting a subject. A central issue of interest here is that engagement with human rights discourse may require a subject to become articulated with wider categories in discourse that are already conjoined with human rights. Key categories include 'sexual orientation' and 'gender identity' which are not originally present in human rights instruments but became associated through case law (Waites, 2009). A central issue is whether the boomerang thrower, rather than being best conceived as an independent entity from the boomerang and its travels, may in fact become reconstituted as a subject as they (metaphorically) launch, watch and receive its returning flight. This implies decolonizing understanding of the 'individual' and 'agency'.

This framework is offered as an initial critical model of the boomerang effect, subject to debate and possible extension or revision. Varying applications may reflect ongoing political debates over what coloniality is and the extent to which decolonizing is beneficial, including debates between postcolonial and decolonial theorists: for example, Mignolo (2007: 452) has argued that 'the de-colonial shift ... is a project of de-linking, while post-colonial criticism and theory is a project of scholarly transformation within the academy'. The approach offered here might be developed through various understandings of decolonization. It is to be emphasized that the main contribution of the present article is a new critical model that opens the possibility of decolonizing the boomerang effect, but this is really the first stage of an analytical process, prior to the task of actually using the critical model.

The next step is to assess the usefulness of this new critical model by exploring whether or how it can represent, and shift interpretation of, key examples of queer human rights contestation. A case for the critical model is built by offering an exploratory discussion in relation to primary sources, to provide a demonstration of the new model's usefulness in reconceptualizing issues – so not simply 'application' here. This discussion is also suggestive, however, of how the new model could be applied in future, although decolonizing methodologies imply distinct perspectives on who should undertake such application, and how.

Exploring the critical model of the boomerang effect in contexts

For a methodology to explore and assess the critical model and its implications, case studies have been selected, with two legal cases decided on the basis of representing recent internationally significant litigations from formerly colonized societies that have won decriminalization of same-sex sexual acts. Choosing two cases from the Caribbean provides a shared regional context. The first

case is that of Caleb Orozco in relation to Belize; and the second case is that of Jason Jones in relation to Trinidad and Tobago. Sources used include autobiographical accounts as well as documentary and online materials. Both cases have been a focus of extensive international interest.

The methodology is decolonizing to the extent that attention is systematically oriented to the experiences of colonized populations. While some decolonizing discussions focus on all populations in colonized states, decolonial studies focus more on indigenous or aboriginal people's experiences (Quijano, 2000); and the following analyses consider both. However, different case studies or a different researcher could reveal more, especially from indigenous politics. Nevertheless, both cases are illuminating.

Caleb Orozco, Belize

Caleb Orozco's case in Belize – *Caleb Orozco v. Attorney General of Belize*² – has been groundbreaking in Central America, eventually achieving the only decriminalization of same-sex sexual acts in the Commonwealth Caribbean since the Bahamas in 1991 (Lennox and Waites, 2013b: 20). Yet despite extensive news reporting, thus far the case has not been the subject of social science analysis. Recently Orozco published his biographical narrative of the case, outlining activist strategies (Orozco, 2018); and analysing this unique primary source offers distinctive insights.

Orozco created the United Belize Advocacy Movement (UNIBAM) which became officially recognized by the Belize state in 2006 – the first organization campaigning for LGBT rights. Within five months UNIBAM won its first funding from an international source: HIV Collaborative Fund, Tides Foundation for the Caribbean. Orozco then filed a constitutional challenge from 2010 against Section 53 of Belize's Criminal Code, a colonial law inherited from the British criminalizing 'carnal intercourse against the order of nature with any person or animal' (Orozco, 2018: 247).

In many respects Orozco's case appears to exemplify some core features of the boomerang effect as set out by Keck and Sikkink, and noticeably it tended to be implicitly regarded in this way by Northern-based mainstream LGBTI human rights organizations such as Human Dignity Trust (2019a), a legal advocacy NGO supporting decriminalization that became a party in the case. The Orozco case's international contestation has been highlighted previously, noting how the Human Dignity Trust launched in 2011 with a *Guardian* interview reporting it 'embark[ing] on a first test case', without mention that Orozco had already commenced his case (Lennox and Waites, 2013b: 40–42). This representation was contested by Caribbean LGBT activist Colin Robinson, of the Coalition Advocating for Inclusion of Sexual Orientation (CAISO) network; he argued that there had been a prior Caribbean regional strategy, seeking to avoid impressions of colonial influences. Hence merits of processes elsewhere imagined as the boomerang effect were disputed (Waites M, in press).

Orozco reports experiencing criminalization and discrimination – ‘physical assault, homophobic slurs, mockery and threats of violence’ (Orozco, 2018: 249) – leading him to form UNIBAM and seek international funding. From participating in a United Nations Development Programme (UNDP) meeting in the Dominican Republic, he initiated the case with support of the University of the West Indies Faculty of Law’s Rights Advocacy Project, which raised the idea (Orozco, 2018: 248–249). The case was thus internationally supported from the start: ‘Regional and international networking was critical to developing strategic alliances, build capacity and take advantage of knowledge mobilisation opportunities’ (2018: 250). However international support was initially on a regional Caribbean basis. The Collaborative Fund for the Caribbean and the American Foundation for AIDS Research (amfAR) then became key funders.

Only in 2011 did organizations beyond the Caribbean become legally involved. Human Dignity Trust, the Commonwealth Lawyers Association and the International Commission of Jurists applied to become interested parties. Opposing Catholic and Anglican churches also submitted applications (Orozco, 2018: 249). Orozco further notes contextually significant Organization of American States (OAS) resolutions on human rights, which were supportive on sexual orientation and gender identity. UNIBAM networked with the Caribbean Forum for Liberation and Acceptance of Genders and Sexualities (CariFLAGS) and Caribbean Vulnerable Communities Coalition (CVC) among others, with a regional strategy from 2008, though this in turn enabled UN meeting opportunities (Orozco, 2018: 251). UNIBAM also engaged with other international groups including ARC-International, which ‘helped to expand our knowledge’ (Orozco, 2018: 250). In 2009 UNIBAM inputted on decriminalization into the civil society shadow report during Universal Periodic Review; and in 2013 UNIBAM jointly authored – with the international Heartland Alliance – a shadow report to the UN Human Rights Council for a country review (Orozco, 2018: 252). With rising right-wing anti-gender politics, Orozco ‘was assaulted and lost two teeth’ (2018: 254).

From 2013 the Belize government position shifted with inclusion of sexual orientation in a new gender policy (Orozco, 2018: 258). Domestically UNIBAM became part of Generation Zero, a coalition concerned with human rights. UNIBAM lobbied the government, opposition politicians and churches. In response, the group Belize Action linked Catholic, Evangelical and Anglican church opposition. US-based Christian fundamentalists were involved.

Orozco’s case was heard from 7 to 10 May 2013. Later that year, the Prime Minister expressed opposition to forms of discrimination (Orozco, 2018: 264). On 10 August 2016 the Supreme Court ruled in favour of Orozco on all grounds claimed – requiring that Section 53 be ‘read down’ to legalize same-sex sexual acts between consenting adults in private (Human Dignity Trust,

2019b). The Belize government appealed, as did church groups; but these appeals were subsequently dropped (Orozco, 2018: 265–266).

What can a critical sociological perspective illuminate, if we consider our four themes? Regarding (1) *articulation of human rights*, the case involved the UN human rights system's previous articulation of human rights in relation to 'sexual orientation' becoming extended to Belize, by the Supreme Court's Chief Justice Benjamin – who also affirmed that the constitution's protection on 'sex' included 'sexual orientation'. Regarding (2) *social structures and resources*, Orozco noticeably emphasizes various routes of UNIBAM discourse, via regional human rights networks (including informal networking), into OAS and UN structures. Also clear is the critical role of resources, initially regionally (Tides Foundation for the Caribbean) and then also further afield, including from the American Foundation for AIDS Research (amfAR). 'Without their support, we would not have been able to advance our advocacy work in Belize' (Orozco, 2018: 250).

Regarding (3) *socio-cultural contexts*, the account gives limited information; Orozco's own ethnic, racial or cultural identity is not stated, so their relationship to coloniality is partly unclear. However, it is stated that the name 'United Belize Advocacy Movement' was consciously chosen to 'reflect Belize's cultural diversity', with reference to 'indigenous languages like Mopan, Ketchi and Garifuna', and 'Creole English'. In light of decolonial analysis emphasizing European domination (Quijano, 2000), analysis is suggestive of how processes might be differently understood from the perspectives of indigenous peoples.

Finally concerning (4) *subjectivation*, Orozco was already working to 'further the vision of the LGBT community' and had experienced 'homophobic' slurs prior to forming UNIBAM with 'members of the LGBT community' (Orozco, 2018: 248). Here it seems significant that Orozco was already identifying with the western identity categories 'LGBT', and this would have enabled him to personally work within concepts of 'LGBT' and 'sexual orientation', operating in international human rights discourse, law and institutions (Waites, 2009). Thus, an individual with a sexual identity outside these categories might not have been able to launch a movement matching international rights discourse, or might have needed to re-narrate their identity to fit available terms.

This analysis illustrates the value of analysing a case through the prism of the critical model of the boomerang effect. A range of issues are raised. It is not possible to immediately draw from this analysis a revised account of the process overall. However, the analysis clearly demonstrates the need to acknowledge successful agency from a formerly colonized context, while enabling us to move away from the original boomerang effect. It can be seen that the human rights-claim as a boomerang does not fly away independently of the actor throwing it. Resources are required to sustain a legal case and social structures (formal and informal) also sustain it. A legal case is not

simply filed and then later decided without further resources being expended; rather, the entire public campaign by a group like UNIBAM is part of the social process through which a judge is influenced. The critical model draws attention to the different positionings and experiences of populations, particularly groups descended from colonizers or the colonized, or of mixed-heritage.

Jason Jones, Trinidad and Tobago

A second ground-breaking case can be considered. After launching a legal case in February 2017 for decriminalization in Trinidad and Tobago, on 12 April 2018 Jason Jones won the case of *Jason Jones v. Attorney General of Trinidad and Tobago*³ (Jones, 2018; Reuters, 2018). Justice Rampersad stated in his High Court ruling: ‘The court declares that sections 13 and 16 of the [Sexual Offences Act] are unconstitutional, illegal, null, void, invalid and of no effect to the extent that these laws criminalise any acts constituting consensual sexual conduct between adults’ (quoted in Stewart, 2018). After a government appeal the High Court confirmed in September 2018 that consenting adults cannot be prosecuted, but the state then appealed to the Privy Council, based in the UK – a case ongoing (as of 6 April 2019).

Several features of this case make it particularly interesting for us to understand the complexity of transnational queer politics and of how we might critically conceptualize the boomerang effect. Firstly, Jones had earlier left Trinidad and Tobago to live in the United Kingdom (reportedly 1985–1992, 1996–2010 and from 2014: Multiple Authors, 2019). He was in the United Kingdom when commencing his legal case. This obviously disrupts the assumption that the thrower of the (legal) boomerang is launching it from their initial location in the Global South. It illustrates how law, citizenship and space may not correspond. It poses questions about who is able to leave a country where same-sex acts are illegal (perhaps with required resources) and whether they remain socially networked with their original LGBTI/queer community.

Secondly, Jones exemplifies one key feature of the original model of the boomerang effect in that he deliberately approached a London-based NGO working transnationally on LGBT human rights, to request support. Yet interestingly, according to Jones, the Human Dignity Trust declined to support his case:

In December 2015 I approached the Human Dignity Trust, a London-based charity whose sole purpose is to bring about the decriminalisation of homosexuality. It said it would help. I was overjoyed, but then it dropped me without explanation, blocking my remaining routes to funding in the process. (Jones, 2018)

This might, speculatively, have reflected the Trust’s judgement about the likelihood of winning the case, or perhaps about the level of support for such a case within Trinidad and Tobago’s LGBT community or wider society – the reasoning is not clear from evidence here. However, Jones

proceeded to work with a legal team including Peter Laverack, who initially worked with Human Dignity Trust before dis-associating and working at a law firm with Jones (Laverack, 2016, 2018). The case thus shows that in a sense the travel of the human rights boomerang was initially blocked in London, although if ‘transnational advocacy networks’ extend to include lawyers, then the model could work. However, it appears that some LGBT activists in Trinidad and Tobago, such as Colin Robinson of CAISO, had preferred to focus on reducing violence and changing attitudes, wary of initiating a decriminalization case (Robinson, 2012) – implying questions about whether representing the South, or the colonized, corresponds to place.

Can our critical model of the boomerang effect helpfully illuminate this case? The theme of *articulation of human rights* may be helpful to conceptualize some of the distinctive discursive formulations developed by Laverack (2016), especially his shift of arguments from a narrow focus on privacy to a wider focus on dignity. This was endorsed by former Human Dignity Trust co-founder Jonathan Cooper, who (after also leaving the Trust) tweeted to Jones on 18 September 2018 @JonathanCooper ‘What you & @peter_laverack are doing for #LGBT rights is extraordinary ... You’ve taken the discourse away from a tired focus on privacy & made it all about dignity & equality.’ Here – interestingly – the contextual decolonizing arguments of Robinson (2012) seems in tension with expansive legal claims used in *Jones*. An analysis here is that the legal discourse of the claim expanded through Laverack’s work in London, which certainly limits the extent to which the boomerang metaphor represents the process – since something different ‘returns’.

The theme of *social structures and resources* helps us focus on how Jones was enabled to launch and pursue the case partly by being in a distinctive structural position in London, from where he sought crowdfunding online – although interestingly despite being unable to convince Human Dignity Trust to resource his case, he was able to access expertise in London’s legal epistemic community. Concerning *socio-cultural contexts*, appreciating how coloniality shapes relations between the United Kingdom and Trinidad and Tobago enables us to appreciate the cultural politics involved, that shaped public and media reception of Jones’s case in each context. Finally, *subjectivation* can help us think about Jones’s contested status as a Trinidad and Tobago citizen, with some domestic hostility to him initiating action from abroad. Jones himself is vocally anti-racist.

Overall the Jones case is clearly more difficult than Orozco’s case to characterize in terms of a boomerang effect, after decolonizing analysis. However, Jones shows how it may be useful to conceptualize different kinds of boomerang effects, some much less akin to the original metaphor as they involve changes – for example – in claims for human rights (the nature of the boomerang) during the process. Thinking in relation to the critical model can be illuminating of its limits and

complex, marginal cases; assisting sociology to reveal the insufficiency of decolonial purism in a complex world of transboundary processes.

Conclusion

The analysis presented in this article has developed a critique of theoretical frameworks in existing research on human rights-claiming, and thus proposed a new ‘critical model of the boomerang effect’ that embodies sociological and decolonizing understandings. This new model has been explored in two contexts, regarding queer activism in relation to Belize and Trinidad and Tobago. The discussion of these two cases demonstrates the value of the critical model to illuminate rights-claiming, but suggests regional and global applicability in some cases (Orozco) that is limited in others (Jones).

The most important and central contribution of the article is to demonstrate the existence of successful human rights-claims by actors in formerly colonized states, using transnational strategies to invoke human rights as defined in the UN system – a phenomenon hardly recognized in sociological or critical literatures. By highlighting such agency, the article refutes both those in political science who focus only on the human rights rainbow or spiral pattern, originating in the West, and theorists of homonationalism (Puar, 2007, 2013) who similarly lack attention to agency from colonized contexts in the articulation of human rights.

Existing research studies, including some reviewed, have certainly identified some of the four themes in the critical model as important for the analysis of human rights-claiming. The originality of the present analysis, however, is that it draws these themes together into a singular model. The critical model is offered here as a basis for discussion, with the expectation that it may need some revision. However, the model provides an initial basis for more methodologically systematic critical investigation of contestations. The framework points to a new research agenda for sociological, critical and decolonizing analysis of rights-claiming in global queer politics. This will need to take place alongside and in close dialogue with research studies and programmes already underway, exploring local resistances that show pathways to change outside human rights, or showing how human rights work problematically through power relations in ways that dispel or refute impressions of ‘boomerang effects’.

The decolonized boomerang effect, it can be said, is a boomerang effect that is identifiable after a decolonizing analysis has been undertaken. There may be several ways that decolonizing the boomerang effect could be taken forward methodologically, but one way to consider is to conceive both the original boomerang effect and the decolonized boomerang effect as ‘ideal type’ analytical concepts, of the well-known kind proposed by Max Weber (1949: 49–112). In this approach an ideal type decolonized boomerang effect might rarely, if ever, be expected to exist in social reality, in its

pure form; yet the ideal type concept might nevertheless be a useful methodological tool – to draw comparisons with, and hence illuminate, real examples.

The case studies discussed here illustrate the complexities of assessing where a boomerang effect can be said to exist when using the critical model, and this will necessarily vary between analysts depending on the interpretation of decolonizing and of contexts. The case studies of Orozco and Jones tend to show that a wide interpretation of decolonizing could use the boomerang effect to conceptualize their actions, using international human rights and funding to get rid of colonial laws – thus enabling greater sexual and gender diversity, including indigenous diversity. Alternatively, from a specific decolonial perspective that sees human rights as inherently linked with modernity and associated humanism (Mignolo, 2007) and/or neoliberalism (Bakshi, 2016), it may not be possible to identify a decolonizing boomerang effect; but this kind of thinking seems to reproduce a static, intransigent interpretation of human rights and related transboundary processes (Waites, in press). Research certainly needs to keep in mind how Southern actors can be drawn into human rights discourse by international funders, but Orozco and Jones are both clearly challenging colonial legacies, with some evidence of considering indigeneity. The present article does not seek to resolve these important ongoing debates; rather, it makes an original contribution specifically by proposing a new critical model of the boomerang effect that could be applied and interpreted in various ways.

The very aboriginal origins of the boomerang make the metaphor useful to keep in mind during analysis, now as a critical reminder of the need for decolonizing analysis. The analysis here has refuted Keck and Sikkink's boomerang effect as an inadequate conceptualization to analyse global processes. Instead, a critical model is proposed to investigate the boomerang effect, requiring careful decolonizing investigation of processes and contexts. A decolonizing critical model of the boomerang effect is a valuable conceptual framework that can help to recognize successful agency deploying human rights, where it exists.

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Notes

1. Specific acronyms such as LGBT and LGBTI are used according to context.
2. *Caleb Orozco v. Attorney General of Belize* [2016]. www.humandignitytrust.org/wp-content/uploads/resources/Judgment-Orozco-v-The-Attorney-General-of-Belize.pdf (accessed 2 April 2019).
3. *Jason Jones v. Attorney General of Trinidad and Tobago* [2018]. HC CV2017-00720. http://webopac.ttlawcourts.org/LibraryJud/Judgments/HC/rampersad/2017/cv_17_00720DD12apr2018.pdf (accessed 6 April 2019).

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