

## BLACKMAIL IN ZIMBABWE: TROUBLING NARRATIVES OF SEXUALITY AND HUMAN RIGHTS

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### INTRODUCTION

Blackmail has been the steady companion of laws prohibiting same-sex sexual acts across jurisdictions,<sup>1</sup> in an association so pervasive that such laws have been labelled “a blackmailer’s charter.”<sup>2</sup> Zimbabwe is no exception to this, as even its Director of Public Prosecutions conceded that the law against homosexual acts is “the easiest, clearest and surest way of blackmail.”<sup>3</sup> Vulnerability to blackmail, however, is not the exclusive preserve of homosexuals and while, “in practice, many prosecutions concern the betrayal or threatened revelation of sexual secrets”<sup>4</sup> the leverage that enables the exertion of a menacing demand can be gained or manufactured through a wide variety of (non-sexual) means. Peter Alldridge suggests that one might usefully distinguish a threat to do something harmful from a threat to disclose some discreditable information.<sup>5</sup> In relation to this latter threat, he draws

- 1 Some indication of the ubiquity of this association of prohibition and vulnerability is offered in West, D.J. and R. Green (eds.), *Socio-legal Control of Homosexuality: A Multi-nation Comparison* (New York: Plenum, 1997), where blackmail by individuals and extortion by police are identified directly or indirectly as problems for sexual minorities in Austria (284), Bolivia (101) England (216), Syria, Lebanon, Islamic countries in North Africa (116), the Netherlands (302), Pakistan (120), Russia (239), Singapore (141), South Africa (24 and 26), and Zimbabwe (49, 52). See also Gupta, A., “Section 377 and the Dignity of Indian Homosexuals,” *Economic and Political Weekly*, 18 November 2006, 4815, 4821, for an incisive analysis of the implications of criminalization of homosexuals in India, including a discussion of blackmail.
- 2 “The Rt Hon. Earl Jowitt, Lord Chancellor of England from 1945 to 1952, made the surprising declaration that when he became attorney general in 1929 he was impressed with the fact that ‘A very large percentage of blackmail cases, nearly ninety per cent of them – were cases in which the person blackmailed had been guilty of homosexual practices with an adult person.’ The Wolfenden Report stated that of seventy-one cases of blackmail reported to the police in the years 1950–3, thirty-two were connected with homosexual activities” (West, D.J., *Homosexuality* [London: Penguin, 1968], 100). Thus, in its 1957 report, the Wolfenden Committee was able to note that the provision criminalizing homosexual acts “was frequently referred to as ‘the blackmailer’s charter’” (Moran, L.J., *The Homosexual(ity) of Law* [London: Routledge, 1996], 52).
- 3 Interview with Yunnus Omerjee, Director of Public Prosecutions, Harare, January 1993. The interview was one conducted as part of the research for this author’s PhD thesis: “Sexual Offences in Zimbabwe: Fetishisms of Procreation, Perversion and Individual Autonomy” (University of Cambridge, 1999).
- 4 Ashworth, A., *Principles of Criminal Law*, 5th edn (Oxford: Oxford University Press, 2006), 390.
- 5 Alldridge, P., “‘Attempted Murder of the Soul’: Blackmail, Privacy and Secrets,” *Oxford Journal of Legal Studies* 13.3 (1993): 370.

attention to the key conjunction of information and power that underlies blackmail: “The power of a secret rests with its potential revelation. Blackmail, which threatens guilt with shame by the revelation of a secret, provides an axis in the relationship between information and power.”<sup>6</sup> The main case of blackmail discussed in this paper is one where threats of both “harm” and “discreditable disclosure” were combined to exert maximum leverage for the extortionists, and yet despite the use of violence and the threat of further “harm,” as well as concerted able disclosure that prevailed throughout the entire scenario, as it was supported by so many conventional markers of guilt. This is because the victims were engaged in sexual relationships that were not only between two persons of the same sex but also transgressed conventional boundaries of race, class, and age. Fuelled with political rhetoric and received through the prism of post-colonial memories, the symbolic significance of these transgressions was so great as to render it impossible for the victims to represent their relationships in a redeeming narrative. Their effect was to exclude any claim the victims might make to “innocence,” as they cast the victims outside particular and multiple definitions of belonging in the context of the Zimbabwean state, and demonstrated how blackmail, while complicit in disguising deviance, actually relies on and reinforces conventional social relationships and sexual hierarchies.

In this paper, I am attempting neither an exegesis of the criminal law of blackmail nor a comprehensive examination of the limited data available on cases of extortion.<sup>7</sup> Rather, I focus selectively on an actual scenario to illustrate the representational dynamics that frame the articulation of sexual relationships into the realm of law. I touch on other accounts of blackmail to consider the extent to which both the criminal law and the surrounding

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6 Ibid., 368.

7 There is very little published research on blackmail in Zimbabwe, but Human Rights Watch, in *More than a Name: State-Sponsored Homophobia and Its Consequences in Southern Africa* (New York: Human Rights Watch, 2003), 92–102, offers some detailed affidavits and accounts of specific cases, while more historical but general information is offered by M. Epprecht in *Hungochani: The History of a Dissident Sexuality in Southern Africa* (Montreal: McGill-Queen’s University Press, 2004) and by Gays and Lesbians of Zimbabwe (GALZ) in *Unspoken Facts: A History of Homosexualities in Africa* (Harare, 2008). This paper draws from these sources, from confidential formal and informal interviews carried out with gay men in Harare during the years 1990–2000, and from personal observation and extensive communications with both the GALZ director and GALZ legal representative. The evident limits of these few authoritative sources and the self-selected nature of the interviews means that this research is far from a comprehensive overview of blackmail in Zimbabwe. Many of the interviews were conducted in confidentiality, and the names of those interviewees are withheld by mutual agreement.

socio-political context facilitate vulnerability to blackmail, and relate them to the scenario in considering how they all preclude the identification of particular sexual agents as victims entitled to access to justice. Clear normative parameters emerge from intersections of sexuality, race, gender, and class to shape Zimbabwean notions of desert and victimisation and to determine the attribution of guilt and innocence to sexual agency. The deliberate selection of sexual relationships that challenge conventional boundaries thus obliges us to consider whether this same tension between sexual agency and the attribution of guilt and innocence inhabits the narratives that frame access to the remedial power of human rights in general. The delivery of greater sexual agency to those subordinated or marginalised in gendered and sexual hierarchies is a precondition of equality and of effective engagement with other problems (such as the transmission of HIV, the exploitation of sex workers, violence against women, etc.). This paper therefore aims to examine the way this tension operates, by considering how their identification as active sexual agents effectively deprives of their rights those marginalised and most in need of recognition and enforcement of those very same rights.

## A CHALLENGING SCENARIO

Joe, a white professional expatriate of about 35 years old, had been living in Harare, Zimbabwe, for about seven years, working for an international development organisation and in receipt of a good salary. For about six months he lived together with a 22-year-old black Zimbabwean man named Farai. Farai was reasonably educated, occasionally employed, and, as he earned far less than Joe, he quite clearly gained materially and substantially from their cohabitation. The huge disparity in their wealth being typical of economic relations both within Zimbabwe and, in the broader global context, between their two countries of origin (Joe was from a former colonial power), they openly acknowledged it to be a factor whose difficult negotiation had brought them together.<sup>8</sup> They explicitly contrasted this with the manner in which both class and race ordinarily served to separate Zimbabweans from one another. Frustrated with the racial segregation so endemic to social existence in Harare,

8 While the names of those concerned have been changed, the details of the scenarios described here have not been altered and are drawn from a series of informal interviews with “Joe,” “Farai,” and “Tendai” conducted in Harare between 1995 and 1997. Additional commentary is informed by my own observations of the unfolding events, email correspondence with “Joe,” and interviews of other gay men in Harare between 1991 and 1997. I also draw on the information in Human Rights Watch, *More than a Name*, 92–102.

Joe was delighted that Farai could introduce him to a Zimbabwean culture that most white people living in Zimbabwe never experienced and in which they rarely had direct participation, and similarly Farai was intrigued to learn about a European culture that was not English. In interviews they described these differences of class and race as fuelling their intimate relationship; they represented the exchanges (economic and cultural) obliged by these differences as continual investments in their mutual social and intellectual capital. They shared many other more ordinary matters of fun and friendship and their relationship was one of mutual enjoyment, so that while they were not about to swear oaths of lifelong fidelity they had fun together until they parted amicably in February/March of 1996.

On 8 May 1996, South Africa promulgated its new constitution, including its prohibition of sexual orientation discrimination. This, along with other provisions, put South Africa in the vanguard of the global recognition of sexual rights. That this is distinctive and unprecedented within a regional context was emphasised by a series of events that began for Joe and Farai that very same day in Zimbabwe. Joe opened his front door in Harare to find Farai beaten and bleeding on his doorstep. He had a deep gash in his forehead, his eyes were glazed, and heavy bruising had caused his neck and cheeks to swell. He would not look directly at Joe. Farai was not alone, but was with two men who claimed to be his brothers, though Joe had seen only one of them before. Farai did not say anything. The “brothers” asked for money to take Farai to the hospital, which Joe, genuinely concerned, unhesitatingly gave. He wanted to accompany them, but they insisted it was not necessary and politely suggested that it might be better if he did not. A day later, the two men returned without Farai, asking for money to take Farai out of town because he was in danger, giving an elaborate story involving witchcraft, gruesome physical harm, and a lack of money. Joe refused, as they were asking for a lot of money, and he suspected that he was being deceived in some way. Two hours later, a man carrying a “press card,” identifying him as a journalist working for a local press agency, visited Joe. He did not want to give Joe too many details but claimed that Farai had told him “a story about Joe and Farai” that he was going to publish in the national press and that he wanted to check a few details with Joe. He made it clear that he expected Joe to pay him some money. Joe took the “journalist’s” name and card number, threatened to sue him if he published any unfounded material, reminded him that blackmail was against the law, and demanded the name of his superior at the newspaper. Later, two other men visited Joe, making

numerous threats to his physical safety, and Joe refused to talk to them. On this occasion, Joe's references to lawyers and human rights organisations and his stubborn resistance kept the extortionists at bay, but he nevertheless spent the following months anxious that they might reappear and fearful for the well-being of Farai, who seemed to have disappeared without trace. Farai's family disapproved strongly of his homosexuality and Joe suspected that one of the men involved was actually a relative of Farai's, so it was unlikely that he would seek shelter with them. In fact, Farai had managed to escape his captors and take refuge in another part of the country. He decided it was safer not to stay in touch with Joe, and he only reappeared in Harare two years later, by which time Joe's contract was over and he had left the country.

Meanwhile, some months after this initial incident, Joe met another young man called Tendai – they established a relationship gradually and Tendai came to live with Joe. However, in May 1997, they both found themselves caught up in the middle of a second attempt to extort money from Joe. It comprised essentially the same elements, but this time there was considerably more violence, serious damage to property (at both Joe's home and, to the alarm of his colleagues, at the office), and the antagonists included a couple of policemen rather than a journalist. This also meant that Tendai and Joe each spent some time being held in a police station – Tendai being physically pressured to provide evidence against Joe, who in turn was threatened with charges for homosexual offences entailing imprisonment. They both had the clear impression that the initial intention was not to put either of them in jail but to extort as much money as possible from the situation, to indulge a fairly straightforward desire to kick the inherently dissident queers about, and a more historically rooted desire to invert the usual racial power dynamics by causing fear and pain to a relatively rich white man. Ironically, the involvement of the police, while initially more intimidating, provided Joe with an opportunity to draw on more formal structures and resources. He contacted the legal representative of the Gays and Lesbians of Zimbabwe (GALZ), whose considerable experience in dealing with these matters meant that slowly and gently he managed to extricate both Joe and Tendai from the situation. Such a clear-cut conclusion was unusual, and was in reality attributable to their refusal to confess to any illegal activities and Joe's access to good legal, material, and political resources on account of his social and economic capital. While details of this account are accurate, names have been changed to protect the identity of those involved. I have chosen to focus on this particular scenario because some of

the parties involved confided in me over the entire course of its unfolding, and because its details bring to the fore the key axes of information/power/narrative and sexuality/rights/innocence that are the subject of this paper. Furthermore, it will become clear that while no homosexual relationship can have conventional legitimacy in the Zimbabwean government's prescriptive cultural scenario,<sup>9</sup> the relationships of Joe, Farai, and Tendai also challenge assumptions of suitability in terms of race, economic class, and, to some extent, age, and so preclude exculpatory narratives of innocence on multiple grounds. For Joe, his access to resources (including a highly educated articulacy) could not overcome one dynamic that he experienced as a great source of frustration for some time afterwards: his inability, within the Zimbabwean discursive field, to represent these relationships as worthy of respect rather than censure. In interviews with the author, he repeatedly expressed great frustration at the impossibility of narrating these stories without invoking signifiers that determinedly attributed blame and censure to himself, Farai, or Tendai, or all three of them (depending on the listener). To understand this fully, and to analyse the scenario properly, it is necessary to locate the key discursive signifiers that produced this effect, through an overview of pertinent elements of the cultural and socio-political context.

## SEX, POWER, AND AN INVITATION TO BLACKMAIL

Our ability to resist the intrusion of public structures and assert the pleasure of our own desire or, more pertinently, our ability to reject an uninvited proposition tends to be a crude but effective measure of our broader social power. It is this which locates sex and pleasure within the realm of political struggle, whether articulated in terms of class, race, or gender, as has been highlighted in recent years by failed attempts to prevent the transmission of HIV.<sup>10</sup> Young women in Southern Africa are

9 Traditional culture actually allows far more space and possibilities for same-sex sexual relations than is reflected in the absolutist statements of Mugabe and other senior Zimbabwean politicians. Their vehement adherence to a binary conception of homo/heterosexuality is a further importation of the Western conceptualisations of sexuality that came with colonial law and Christianity to supplant the "traditional" cultural regulation of sexual behaviours: see Phillips, O., "Constituting the Global Gay: Individual Subjectivity and Sexuality in Southern Africa," in *Sexuality in the Legal Arena*, ed. C. Stychin and D. Herman (London: Athlone Press, 2000), 17; Murray, S. and W. Roscoe (eds.), *Boy Wives and Female Husbands: Studies in African Homosexualities* (New York: St Martin's Press, 1998). Marc Epprecht's *Hungochani* makes clear that the history of same-sex sexual relations in Zimbabwe is far more complex, accommodating, and fluid than simply prohibitory; see also GALZ, *Unspoken Facts*.

10 See Akeroyd, A., "Coercion, Constraints and 'Cultural Entrapments': A Further

disproportionately vulnerable to HIV/AIDS as their cultural and socio-economic powerlessness become key vectors of infection.<sup>11</sup> It has become clear that the capacity to negotiate safe sex is a key factor among other economic and social conditions determining vulnerability to infection.<sup>12</sup> And just as our ability to negotiate safe sex depends on access to power within our intimate relationships, so are our capacities to fulfil desires and experience sexual pleasure, or to resist pressure and refuse sexual advances, all mediated by our access to power in broader social relationships.<sup>13</sup>

Clear illustrations of the way in which sexual relations are symbolic of broader social relations abound in both colonial historiographies and post-colonial narratives of sexual relations. The Ndebele rebellion in Southern Rhodesia in 1896 and the Zulu rebellion in 1906 both included explicit grievances about the British treatment of Ndebele and Zulu women,<sup>14</sup> but soon thereafter the 1906 Immorality Act in Southern Rhodesia imposed serious penalties for any sexual contact between a black man and a white woman. Both parties were subject to punishment, including the death penalty for rape or attempted rape, but there was no legal constraint at all on white men's relations with black women and it is clear that the colonial authorities declined to prosecute white men known to be forcing their attentions on black women.<sup>15</sup> Not for the first time, women's bodies served as the terrain on which specific hierarchies of sexuality and race were mapped out. Such overt privileging of race and gender combined with other legal and historical developments in the colonial context to produce a particular post-colonial

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Look at Gendered and Occupational Factors Pertinent to the Transmission of HIV in Africa," in *HIV & AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni, S. Craddock, J. Oppong, and J. Ghosh (London: Blackwell, 2004), 89.

- 11 Kalipeni, E., S. Craddock, and J. Ghosh, "Mapping the AIDS Pandemic: The Geographical Progression of HIV in Eastern and Southern Africa," in *HIV & AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni, S. Craddock, J. Oppong, and J. Ghosh (London: Blackwell, 2004), 58; Schoepf, B.G., "AIDS in Africa: Structure, Agency, and Risk," in *HIV & AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni, S. Craddock, J. Oppong, and J. Ghosh (London: Blackwell, 2004), 121.
- 12 Lurie, P., P. Hintzen, and R. Lowe, "Socioeconomic Obstacles to HIV Prevention and Treatment in Developing Countries," in *HIV & AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni, S. Craddock, J. Oppong, and J. Ghosh (London: Blackwell, 2004), 209.
- 13 Schoepf, "AIDS in Africa."
- 14 Hyam, R., "Empire and Sexual Opportunity," *Journal of Imperial and Commonwealth History* 14 (1986): 36.
- 15 See Phillips, "Sexual Offences in Zimbabwe," 111–32; see also Jeater, D., *Marriage, Perversion and Power: The Construction of Moral Discourse in Southern Rhodesia 1894–1930* (Oxford: Clarendon Press, 1993), 90; Pape, J., "Black and White: 'The Perils of Sex' in Colonial Zimbabwe," *Journal of Southern African Studies* 16.4 (1990): 699.



legacy. Zimbabwean women's challenges to patriarchal structures have thus led feminism to be characterised by the ruling party as a "new form of cultural imperialism"<sup>16</sup> with sexuality, hetero-normativity, and gendered identity being increasingly invested as determinants of national culture.<sup>17</sup> In building a national identity, culture's explicitly historical and social construction is concealed and it is instead reified through dogmas and then romanticised to serve this ideological function more effectively.<sup>18</sup> Such dogmatic proclamations of "traditional culture" aim to pre-empt critical attempts to historicise "culture" and invariably serve to corroborate the conceit that culture has an organic origin whose definition is untouched by political interference.<sup>19</sup> They also mask the real difficulties that beset the Zimbabwean state's approach to culture and that arise out of a particular post-colonial dynamic. This dynamic consists of a tension between asserting, on one hand, a "traditional" lineage-based culture that prioritises interests presented as collective and is invoked through claims to group rights and ethnic sovereignty, and, on the other hand, the political culture of a "modern" nation-state where individual autonomous citizens are entitled to rights of equality that are construed as universal and guaranteed by numerous international conventions that the state has ratified.<sup>20</sup> John Comaroff explains that the continuing prevalence of these contradictory registers of primal sovereignty and radical individualism derives from the colonial discourse of rights, which created "ethnic subjects, racinated and

16 Seidman, G., "Women in Zimbabwe: Post-independence Struggles," *Feminist Studies* 10.3 (1984): 432.

17 See Phillips, O., "Zimbabwean Law and the Production of a White Man's Disease," *Social & Legal Studies* 6.4 (1997): 471; Hoad, N., "Tradition, Modernity, and Human Rights: An Interrogation of Contemporary Gay and Lesbian Rights' Claims in Southern African Nationalist Discourses," *Development Update* 2.2 (1998): 32; see also Alexander, J., "Not Just (Any) Body Can Be a Citizen: The Politics of Law, Sexuality and Postcoloniality in Trinidad and Tobago and the Bahamas," in *Sexualities and Society: A Reader*, ed. J. Weeks, J. Holland, and M. Waites (Cambridge, UK: Polity Press, 2003), 174.

18 Aarmo, M., "How Homosexuality Became 'Un-African': The Case of Zimbabwe," in *Female Desires: Same-Sex Relations and Transgender Practices Across Cultures*, ed. E. Blackwood and S. Wieringa (New York: Columbia University Press, 1999), 255.

19 For a critical conceptualisation of the role of "tradition" in culture, see E. Hobsbawm and T. Ranger (eds.), *The Invention of Tradition* (Cambridge, UK: Canto Press, 1991); for work that draws on Hobsbawm and Ranger to examine the interaction of "tradition" and "sexuality" in Zimbabwe, see Phillips, "Sexual Offences in Zimbabwe"; idem, "Constituting the Global Gay."

20 The international instruments that Zimbabwe has ratified include the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Racial Discrimination.



recast in an often antagonistic dialectic of construction and negation.”<sup>21</sup>

Early initiatives by the colonial state to protect young girls from marriage and prohibit marriage without consent began a shift from lineage membership to state regulation, giving women’s rights “priority over the rights of the lineage [and] usurping the rights of family heads to control the sexual choices of members of their households and lineages.”<sup>22</sup> However, arguably the most significant shift from the power of the patriarch to the rights and obligations of an individual citizen was the enactment of the 1982 Legal Age of Majority Act by the post-colonial government. This conferred the possibility of legal personhood on all Zimbabweans upon reaching the age of 18, so that black women were no longer to be perpetual minors constantly under the guardianship of a man (unless they chose to remain so). Yet since then the government’s commitment to gender equality has been demonstrably inconsistent, vacillating between first empowering and then restraining women, between a devotion to traditional family structures of customary law and the pressure to recognise citizens as individuals with rights in relation to the state.<sup>23</sup> Zimbabwean contests around sexuality and gender therefore serve as a direct reflection of this ambivalence towards the contradictory registers of primal sovereignty and radical individualism. A woman’s ability to choose her partner goes to the heart of this, for under customary law marriage entails the transfer of a bridewealth payment (*lobola*) from the groom to the bride’s male guardian (father, brother, uncle, etc.). Thus, if a woman declares herself to be a lesbian who will not marry and gain *lobola*, her brothers will have fewer resources with which to secure the wives whom they themselves desire. A woman’s declaration of lesbianism therefore represents a challenge to the normative patriarchal structures of lineage, to the economic base of reproductive culture, and to the status of those men to whom she is supposed to owe allegiance. It is not just a symbolic challenge but a declaration that has significant economic and social consequences. At the same time, it is clear that a woman’s ability to choose her partner and have autonomous ownership of her sexuality is fundamental to her recognition as a fully entitled legal subject.

21 Comaroff, J., “The Discourse of Rights in Colonial South Africa: Subjectivity, Sovereignty, Modernity,” in *Identities, Politics and Rights*, ed. A. Sarat and T.R. Kearns (Ann Arbor: University of Michigan Press, 1997), 234.

22 Jeater, *Marriage, Perversion and Power*, 81.

23 See Phillips, O.C., “(Dis)Continuities of Custom in Zimbabwe and South Africa: The Implications for Gendered and Sexual Rights,” *Health and Human Rights* 7.2 (2004): 82.

It is this real conflict that allows homosexuality to be so convincingly characterised as contrary to Zimbabwean culture. But it is also the static notion of a reified culture functioning as ideology and the recognition of sexual relations as an indicator of social power that are manifest in the rhetoric of Robert Mugabe and other senior government officials when they have repeatedly defined homosexuality as anti-Zimbabwean and “whitewashed” it as a “sickness” imported by white settlers.<sup>24</sup> Mugabe has frequently referred to homosexuality as a threat to the moral fabric of society; he berated “sodomists” for “behaving worse than dogs and pigs”<sup>25</sup> and proclaimed a return to “traditional” culture, saying, “We have our own culture, and we must rededicate ourselves to our traditional values that make us human beings.”<sup>26</sup> This vituperation is evidence of attempts to reject homosexual behaviour as extrinsic to Zimbabwean culture, relying on the notion that it “is mainly done by whites and is alien to the Zimbabwean society in general.”<sup>27</sup> This was amplified through repeated use of the metaphor of homosexuality as a white man’s disease infecting the African nation’s virtuous heterosexual inclination. This portrayal of such a confluence of racial and sexual degeneration was intended to carry the twin implications that, first, white Western “culture” is depraved, as it corrupts other cultures with the “evil” practice of homosexuality, and, second, homosexuals must be white, as they are, by definition, “depraved.” Thus, the signifier of homosexuality is used to denounce “white culture,” and the colouring of homosexuals as white is used to denounce them as non-Zimbabwean.<sup>28</sup> This emphatic approach has the effect of sublimating the fluidity of the performative identities that characterise the post-colonial and reinforcing artificial but rigid boundaries of difference through the rhetoric of anti-imperialism. Homosexuality has been represented as a danger that is specifically anti-Zimbabwean and anti-African to the extent that Zimbabweans have been incited to arrest homosexuals “and hand them over to the police.”<sup>29</sup> The danger that homosexuals represent is realised in the social proximity of black Zimbabweans who identify as gay or lesbian. Their self-declared presence in Zimbabwean civil society signifies that the “other” is now an “insider”

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24 See Phillips, “Zimbabwean Law and the Production of a White Man’s Disease.”

25 *The Herald* (Harare), 12 August 1995.

26 *The Citizen* (Johannesburg), 12 August 1995.

27 Robert Mugabe in GALZ Newsletter 11 (1994): 13.

28 Phillips, “Zimbabwean Law and the Production of a White Man’s Disease.”

29 Robert Mugabe in Dunton, C. and M. Palmberg, “Human Rights and Homosexuality in Southern Africa,” *Current African Issues*, 2nd edn (Uppsala, Sweden: Nordiska Afrika Institut, 1996), 12–13.

and highlights the artificiality of government's emphatic boundaries of culture and difference.<sup>30</sup> More directly, having homosexuals "inside" local culture suggests a threat to traditional structures of power, as they make moral demands for respect and equality and thereby expose the supposedly "natural" confluence of sexuality and race, as well as the boundaries of culture, to be constructed and challengeable. This challenge to normative assumptions of familiarity and difference supplies the foundation for the development of what Gail Mason appropriately terms a "collective hate" of the dangerous homosexual.<sup>31</sup> The much-repeated invective against homosexuality has arguably served as an invitation for patriotic Zimbabweans to intervene in the intimate relationships of anyone suspected of being a homosexual. It has given licence to any plan for enrichment gestating in the mind of a potential extortionist, and in the 1990s it seemed clear that it had produced real effects. As well as calling for their apprehension, Mugabe proclaimed that homosexuals should not "have any rights at all"<sup>32</sup> and his ministers have supported him by, among other things, calling homosexuals "the festering finger" to be "eradicated," "chopped off," and "kept separate."<sup>33</sup> These (and other similar) public statements were all made in 1995 and 1996, and in the years following there appears to have been a marked increase in incidents of extortion and blackmail aimed at persons on account of their sexual orientation.<sup>34</sup> This is despite the fact that extortion is treated as a more serious offence in Zimbabwean law than consensual homosexual acts.<sup>35</sup> It suggests that these comments were understood by some Zimbabweans as an invitation to find ways of harassing and excluding the

30 Bhabha, H.K. (ed.), *Nation and Narration* (London: Routledge, 1990); Dollimore, J., *Sexual Dissidence: Augustine to Wilde, Freud to Foucault* (Oxford: Clarendon Press, 1991).

31 Mason, G., "Being Hated: Stranger or Familiar?," *Social & Legal Studies* 14.4 (2005): 586.

32 Robert Mugabe, Opening Speech and Press Conference, Zimbabwe International Book Fair (ZIBF), Harare, 1 August 1995.

33 Mudariki MP, Chigwedere MP, and Gezi, MP, "The Evil and Iniquitous Practice of Homosexuality and Lesbianism," *Zimbabwe Parliamentary Debates*, Hansard, 28 September 1995, 2779.

34 The experience of the legal representative of GALZ as well as the Director of GALZ was that the number increased (D. Matyzsak and K. Goddard, personal communication). It is impossible to ever know the exact number of incidents, as the nature of extortion is such that it operates most effectively on those who are most reluctant to tell anyone of their predicament, so there are likely to be a significant number of incidents that have not come to the attention of GALZ officers.

35 Section 134 of the Criminal Law Codification and Reform Act stipulates that blackmail carries a level 13 fine (the second-highest tariff) or twice the value of the property extorted or a maximum of 15 years' imprisonment, or both a fine and imprisonment. Section 73(1) of the Sexual Offences Act 2006 stipulates that any consensual sexual acts between men (up to and including anal penetration) carry a level 14 fine (the highest tariff) but one year's imprisonment.

homosexual from the social body, while they were internalised by others as confirmation that any homosexual tendency, as the embodiment of treason, must be excluded from oneself.

Arguably, the rhetoric of politicians merely provides a pretext for acts of extortion that are essentially motivated by greed and opportunism, as a genuinely homophobic nationalism may well lead protagonists to violence but would also oblige them to hand their victims over to the state. However, a successful blackmailer requires their threat of disclosure to remain as a threat, and to profit from their act they must collude with the victims to keep their relationship secret, thereby allowing them to remain within the collective body and participating (for profit) in the intimacy that so dangerously threatens the nation. This should mean that blackmail cannot be legitimised as a service to the integrity of the Zimbabwean state and the preservation of its distinct moral order. Yet cases of blackmail did appear to increase subsequent to the rhetorical flourishes of Mugabe and his government, suggesting that their vocal homophobia served at least as a pretext for opportunists, and at most as a justificatory device that had particular post-colonial resonance. Moreover, this surge in blackmail suggests that theoretical constructs of consistency and ideology have less individual purchase than expedience and opportunism in a context where money is in demand and wanting. The additional involvement of police in this context supports the suggestion by Les Moran that “the blackmailer takes up the position of the agent of the law in order to better realize the law’s concerns: to unleash a terror against that which is forbidden and to punish that which is forbidden in the name of good order [and to] mimic the legitimate use of terror as a practice through which to produce a particular social order.”<sup>36</sup> In fact, these shared motivations can also obscure the distinction between law’s legitimate authority and the illegitimate terror of the blackmailer, particularly for those police officers who choose to extract money while simultaneously claiming to secure national purity. Even if limited to a single officer acting unofficially, any suggestion of police support for the blackmailer brings far closer the immediate terror of legal threat, delivering a corresponding growth in authority and pressure, which is possibly why there are so many accounts of police complicity in blackmail across many jurisdictions.<sup>37</sup>

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36 Moran, *The Homosexual(ity) of Law*, 56.

37 Ibid., 52, stresses that this was the subject of numerous submissions to the Wolfenden Committee; see also West and Green, *Socio-legal Control of Homosexuality*, 126–8; Hyde, H.M., *The Other Love: An Historical and Contemporary Survey of Homosexuality in Britain* (London: Heinemann, 1970), 255. For examples of police complicity in other jurisdictions, see T. Wright and R. Wright, “Bolivia: Developing a Gay Community, Homosexuality and AIDS,” in *Socio-legal Control of Homosexuality: A Multi-nation Comparison*, ed. D.J. West

Evidence in Zimbabwe suggests that the complicity of police in blackmail schemes has in the past been sporadic rather than predictable, as there are officers who have tried on occasion to be helpful, but it is also clear that in other situations they have themselves been implicated in the process of extortion.<sup>38</sup>

## BLACKMAIL IN GENERAL

In Zimbabwe the readiness of certain police officers to profit from a case of extortion that comes to their attention means that victims are reluctant to report the offence, as to do so significantly increases the likelihood of their own arrest and may compound the pressure on them to hand over even more money. There are numerous instances where the police have become actively involved in the extortion, often seeking to displace the original extortionist or to obtain a share of the money being extorted.<sup>39</sup> In some cases, the police have actively sought out gay men and lesbians on their own initiative for the purpose of extortion. Extortion can also take place obliquely in instances where gay men or lesbians are the victims of theft or violence, and the perpetrator threatens to allege the commission of a homosexual offence if a complaint of theft or violence is made against him or her to the police. In numerous instances where the victims did make reports to the police, notwithstanding these threats, the gay or lesbian victims were arrested on the basis of the perpetrators' allegations and held in custody despite a lack of evidence. Some attempts were dropped where lawyers intervened, and the presence of a lawyer experienced in dealing with blackmail appears to offer the best possibility of extrication for the victim, but few in Zimbabwe can afford access to legal representation. In 2003, an average of one case of extortion per month was brought to the attention of the Gays and Lesbians of Zimbabwe, and

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and R. Green (New York, Plenum, 1997), 101; Murray, S., and B. Khan, "Pakistan," in *Socio-legal Control of Homosexuality: A Multi-nation Comparison*, ed. D.J. West and R. Green (New York, Plenum, 1997), 120; Kon, I., "Russia," in *Socio-legal Control of Homosexuality: A Multi-nation Comparison*, ed. D.J. West and R. Green (New York, Plenum, 1997), 239.

38 For detailed affidavits of extortion and accounts of police complicity, see Human Rights Watch, *More than a Name*, 92–102.

39 In a typical case described to this author (confidential interview), the police refused to assist a victim who had money and a mobile phone extracted from him under threat of physical violence (the victim had refused to yield to the threat of a false accusation of demanding oral sex at gunpoint). The threats took place in the presence of the police, and the extortionist demanded that a total of Z\$70,000 be paid to him (about US\$100 at the time of the original incident). Initially a police officer sought to "negotiate a sum" between the two parties, but when the victim refused to part with any money a police case file ("docket") was opened against the victim, who was then threatened with arrest for homosexual activities.

the police were actively involved in approximately half of these either in collaboration with the extortionist or on their own account.<sup>40</sup>

What makes these attempts at extortion particularly difficult to challenge is the fact that they involve intimate sexual relationships that are against the law and their unacceptability is being constantly and publicly reiterated. Regardless of whether the allegations levelled against him are false or not, the victim accused of a homosexual act is therefore discredited from the beginning and invariably has to start from a position where his guilt is presumed. But the burden of all the baggage that such an accusation carries goes beyond the lack of a presumption of innocence to undermine the victim's credibility in general. Prosecutions for either extortion or for homosexual sex frequently rely on the conflicting testimony of the parties involved, and thus often come down to the question of which witness is the most credible in a scenario where the truth has no place; the truth will invariably be contrary to the needs of all those involved – blackmailer, victim, and profiteering police officer – ensuring that it is excluded from all accounts. In many cases, the extortionist claims to be a heterosexual who was propositioned or seduced by a homosexual.<sup>41</sup> Such a claim automatically invests the extortionist with the innocence of a victim whose “normal” life is interrupted by the predatory homosexual, who in turn is positioned as both interfering stranger and “offender”: “The sexual stranger is feared as the potential perpetrator of unimaginable crimes... but the hatred generated by this fear means that it is the same ‘stranger’ who ultimately becomes the victim of discrimination, abuse and violence... because he/she is unknown, unknowable, and, hence, dangerous.”<sup>42</sup> Homosexuality is thus construed as good justification for extortion, and while the courts might eventually dismiss the charges for lack of evidence the procedures leading up to trial present individual police officers, prosecutors, and the initial extortionists with plenty of opportunities to intimidate the target and relieve him or her of money or goods.

Evidence from Zimbabwe makes clear that those who are open about their sexual orientation continue to be subject to, and may even become more visible targets for, blackmail, especially when the law continues to prohibit the acts of which extortionists might (even spuriously) accuse them. The removal of secrecy does not diminish the possibilities for blackmail,<sup>43</sup> as,

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40 D. Matyszak, legal representative of GALZ, personal communication.

41 Human Rights Watch, *More than a Name*, 92–102.

42 Mason, “Being Hated,” 590.

43 This is clear from my own interviews with many Zimbabwean gay men over the years, but also see Human Rights Watch, *More than a Name*, 92–102.

actively identifying as the “dangerous outsider,” the victim “is imbued with a collective familiarity that allows him/her to be recognized by the perpetrator as a suitable target in the first place.”<sup>44</sup> Similarly, decriminalisation of consensual homosexual acts might be expected to remove the vulnerability to blackmail of homosexuals, but this is not easy to establish with any reliability. Alldridge suggests that blackmail and its contribution to the growth of criminality was “a principal reason for the enactment of the Sexual Offences Act 1967” in England, and, recognising that decriminalising consensual homosexual acts between adults might be expected to engender an increase in the reporting of blackmail to the police, he surmises that the exceptional decline in reported instances of blackmail in the year following decriminalisation is “something of a vindication.”<sup>45</sup> However, research by Donald West suggests that any such decline was countered by the continuation of police strategies to obtain confessions of guilt based on harassment and intimidation of gay men, including the failure to investigate their complaints of criminal victimisation, and threats to disclose their sexual orientation to family or employer.<sup>46</sup>

Furthermore, Les Moran presents evidence from as late as the 1990s to show that blackmail persists in England “in forms similar to those practiced before the Wolfenden review.”<sup>47</sup> The failure of English law reform in 1967 to ensure these practices disappeared is undoubtedly related to the fact that the reform was limited to decriminalising consensual sexual acts in private between men over the age of 21. Maintaining an unequal age of consent and the restriction to private space immediately limited the remit of the reform, such that a number of gay men still found themselves in conflict with the law. This incomplete decriminalisation therefore failed to provide any complete obliteration of recorded instances of blackmail, and, although those limits to reform have since been overcome,<sup>48</sup> the particular sensitivities of blackmail will always make it difficult to establish accurately its reduction let alone extinction. It is trite to say that blackmail will be most inviting where there are both a criminally prohibited act and an interpersonal need for secrecy, but it is precisely this conjunction of criminality and secrecy that makes blackmail an offence so notoriously difficult to report or record,

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44 Mason, “Being Hated,” 600.

45 Alldridge, “Attempted Murder of the Soul,” 376.

46 West, D.J., *Sexual Victimization: Two Recent Researches into Sex Problems and their Social Effects* (London: Gower, 1987), 126–7.

47 Moran, *The Homosexual(ity) of Law*, 58.

48 The Sexual Offences (Amendment) Act 2000 (c. 44) finally brought into law an equal age of consent of 16 years old for homosexual and heterosexual acts.



and so impossible to reflect with any accuracy in statistics. Nevertheless, one might logically expect that where there is neither a criminal act nor an element of secrecy, there should be some diminution in the possibilities for blackmail. The fact that this diminution is not so complete as to render blackmail obsolete for homosexuals is arguably a reflection of the broader, more social (as opposed to legal) limits to same-sex rights and equality which constitute discourses of sexual difference and exclusion. Blackmail therefore appears to attach itself most commonly to deviance that invites either social censure or criminal sanction, and preferably both. In Zimbabwe the context is considerably ripened by representations of homosexuality as “dangerous,” as well as a lack of police accountability and a corruption so endemic that police operate easily outside the constraints of the law.

Furthermore, despite the underlying motivation of greed, falling victim to extortion is not the preserve of the wealthy, as is made clear by the small amount of some of the sums extorted. Arguably, it is a victim’s social vulnerability that makes him or her most susceptible to exploitation. While victims with less economic or social capital cannot give a large payment, they may well be more amenable to smaller pressures to pay or to deliver alternative services on a more regular basis. Accounts from Zimbabwe certainly suggest that wealth is more likely to provide victims with the resources (such as legal advice) required to protect themselves from threats of extortion, compared with those with fewer resources, who have fewer options but to succumb. Indeed, the pressure can be disproportionately greater, and more acutely manipulated, where there are fewer resources with which to negotiate a release. This makes it clear that it is fallacious to consider blackmail or extortion as revolutionary, and it is untenable to suggest that it may have some excusable merit as an exercise in redistribution where disparities of wealth are unjust. Similarly, Alldridge argues against the suggestion that laws against blackmail operate “to protect a particular class of people (people with money, who care about their reputations) from those whom in the normal course of events their privileged position makes them immune,” as it cannot account for the range of victims or the linguistic and historical dynamics of blackmail’s legal prohibition.<sup>49</sup> Far from inverting structured relationships of economic power, it explicitly relies on them and ultimately works to reinforce them through the need to sustain the non-disclosure of secrets.

The number of black homosexuals who have fallen victim to extortion also makes clear that the government’s attempts to “whitewash” homosexuality have not precluded their victimisation; instead they become pivotal in signifying

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49 Alldridge, “Attempted Murder of the Soul,” 373.

the danger that “outsiders” represent to “insiders.” The accusation that they are adopting “white” or “Western” identities that have no place in Zimbabwe remains common, along with the presumption that black homosexuals must have been corrupted by a white person. Indeed, where an inter-racial same-sex couple is identified, it is invariably assumed that the white partner has bought the love and attention of the black partner, who is only in the relationship for material gain. This is directly attributable to the discourse of homosexuality as a “white disease,” as it fails to allow for any real same-sex desire on the part of the black partner and suggests a callous power manipulation on the part of the white partner. It offers an explanation whose credibility is rooted in long histories of racial disparities in wealth, sexual exploitation, and relationships of labour wherein black Zimbabweans lacked agency. These memories produce particular discursive tropes that dominate the representation of the relationships between Joe and Farai and Tendai, as they are forced to tell the story of their relationships in terms other than their own, contradicting their own perceptions of what they have developed together. Their intimacy must now be described and explained for the public audience, in terms that match audience expectations. The scripts of the participants, the exigencies of the desires that formed the basis of the relationships, become rapidly invisible, and their own definitions of their relationships are eclipsed. Their intimacy is, in fact, overpowered, as its narration automatically divests it of the quality that makes it intimate.

## ASCENDANT NARRATIVES AND THE DENIAL OF INNOCENCE

Intimacy may well be defined as the point at which one attempts to isolate the private from the public.<sup>50</sup> Simon and Gagnon dissect the interaction of private and public as refracted across three levels:

Cultural scenarios are the instructional guides that exist at the level of collective life . . . as systems of signs and symbols through which the requirements and practice of specific roles are given . . . The

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50 In the South African Constitutional Court case of *National Coalition for Gay and Lesbian Equality v. Minister of Justice*, CCT 11/98, this approach was explicitly adopted by Justice Albie Sachs in his ruling that the offence of sodomy in South Africa was unconstitutional because it violated a person’s rights to equality, dignity, and privacy (para. 30), stating that “[p]rivacy recognises that we all have a right to a sphere of private intimacy and autonomy which allows us to establish and nurture human relationships without interference from the outside community. The way in which we give expression to our sexuality is at the core of this area of private intimacy” (para. 32).

possibility of a lack of congruence between the abstract scenario and the concrete situation must be resolved by the creation of interpersonal scripts. This is a process that transforms the social actor from being exclusively an actor to being a partial scriptwriter or adapter shaping the materials of relevant cultural scenarios into scripts for behaviour in particular contexts. Interpersonal scripting is the mechanism through which appropriate identities are made congruent with desired expectations.

Where complexities, conflicts, and/or ambiguities become endemic at the level of cultural scenarios, much greater demands are placed on the actor than can be met by interpersonal scripts alone . . . intrapsychic scripting creates fantasy in a rich sense of that word: the symbolic reorganization of reality in ways to more fully realize the actor's many-layered and sometimes multi-voiced wishes. Intrapsychic scripting becomes a historical necessity, as a private world of wishes and desires that are experienced as originating in the deepest recesses of the self must be bound to social life: individual desires are linked to social meanings. Desire is not reducible to an appetite, an instinct; it does not create the self, rather it is part of the process of the creation of the self.<sup>51</sup>

Along with Simon and Gagnon's interpersonal scripts, intimacy might be seen as the process through which we attempt to negotiate a balance of our private feelings, with the intrusion of public institutions, and the way we represent this all to the world at large. Consequently, it is situated in the same axis of information and power that Alldridge identifies as the location of blackmail, for both intimacy and blackmail engage in the trading of secrets and the power and prerogative of their revelation. The particular way in which blackmail "provides an axis in the relationship between information and power"<sup>52</sup> in the scenario of Joe, Farai, and Tendai both relies on and reinforces the disparities between their intrapersonal scripts and the cultural scenario.

The first thing to note about the blackmailing of Joe, Farai, and Tendai is that the cultural scenario rendered it impossible to inscribe innocence into the narratives of their interpersonal scripts. They were

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51 Simon, W., and J.H. Gagnon, "Sexual Scripts," in *Culture, Society and Sexuality: A Reader*, ed. R. Parker and P. Aggleton, 2nd edn (New York and London: Routledge, 2007), 31.

52 Alldridge, "Attempted Murder of the Soul," 368.

targeted because, according to the Zimbabwean cultural scenario, Farai and Tendai could not claim to be innocent unless they represented the nature of their relationship with Joe in such a way as to describe Joe as the rich white older man who had taken advantage of their naivete and poverty. Such a representation would not only reaffirm Mugabe's characterisation of homosexuality as imperialist corruption, but would also confirm that Farai and Tendai were not really homosexuals who threatened to corrupt the integrity of the nation, but were true Zimbabweans who had been corrupted on account of their youth and the economic disadvantages that are the legacy of colonialism. On one hand, the blackmailers' greed is rationalised as extending the redistributive economic benefits beyond Farai or Tendai to a wider circle of people who are intervening to prevent the continuing corruption. On the other hand, this representation of Farai and Tendai serves to simultaneously recall and distance the danger of the homosexual threat, reaffirming that it is still present but locating it outside the bounds of culture and the nation, so that it is both excluded and without any claim to moral proximity. This is reaffirmed by Joe's representation as the European man who has to buy the cooperation of young local men with his wealth. But despite its offer of repentance, and perhaps because of the rationalisation it offered the blackmailers, this was a representation that both Tendai and Farai resisted vehemently.

This also illustrates how the description and understanding of the relationships were altered when their intimacy was interrupted by the extortionists. First Farai and Joe, and then Tendai and Joe lost control of the narrative, the ability to define what it was that they had, and so, in many ways, ownership of the relationship, since it came to be defined by others. The public signifiers of difference (age, class, race) that had been integral to their desire now became a means of defining their relationship as problematic and impossible. Both Farai and Tendai are of Shona ethnicity, and Joe had been specifically interested in this aspect of their identity; an explicit part of the attraction was that he was gaining close experience of Shona culture, about which most white people in Zimbabwe remain ignorant even though it is the pre-dominant ethnicity in Zimbabwe. He was learning a lot from Farai and Tendai about Zimbabwe and what it meant to live as a Zimbabwean, rather than just how to live as a white expatriate, in isolated bourgeois splendour. This was very important to him, and it was an explicit part of his interest in Farai and Tendai. They in turn were openly drawn to Joe's whiteness (rendered more exotic by the fact that he was not English), his wealth, his

open challenge to conventional politics and relations of race, sex, and class, and the prestige of his lifestyle, which was still youthful enough to include all the trappings of a global gay youth culture – music, fashion, designer labels, technology, and electrical boys’ toys. This is not as superficial as it may at first seem, as these are the accessories of a lifestyle that included the possibility of travelling out of Zimbabwe, broadening the general parameters of their horizons, networking with other well-resourced people, and continually investing in their own intellectual, social, and political capital. While these were important factors in their relationships, there was also a more basic physical desire and camaraderie that cannot be easily quantified, but which was fuelled by the exceptionality of inter-racial homosexual relationships in Zimbabwe. All of these are the sort of things negotiated in establishing the interpersonal scripts of many intimate relationships in any context, as they constitute the fabric through which two persons establish that they share a commonality, that there is compatibility, that they are interested enough in one another to invest in exploring their bond further.

However, once the relationship is being discussed in the public domain, the cultural scenario through which their relationship is judged obscures these interpersonal scripts, and it is defined by collective understandings of how race, sex, class, and gender intersect. A colonial history redolent with the unpunished sexual exploitation of Zimbabwean men and women as well as the more general manipulation of disproportionate economic power determines a definition of inter-racial sex as exploitation from which Farai and Tendai seem powerless to escape.<sup>53</sup> Furthermore, the homosexuality of their relationship ensures that any discussion in public fora will have as initial reference points the definitions and castigations handed down by Mugabe and other Zimbabwean public figures, which represent the specific characteristics of this relationship as the epitome of cultural and moral danger, both individual and national. Any violence or even profiteering directed at this relationship can then be easily rationalised as justifiable and, indeed, an honourable service in defence of the post-colonial state. And while honourable service in defence of the purity of the post-colonial state might theoretically require the delivery of homosexuals to the police, evidence clearly suggests that in practice this does not preclude the simultaneous handing over of money, the police often colluding to place additional pressures on the victims.

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53 For more on this history of sexual exploitation in colonial Zimbabwe, see Jeater, *Marriage, Perversion and Power*; Phillips, “Sexual Offences in Zimbabwe”; Pape, “Black and White.”

The homophobic context that facilitates these incidents and the cultural scenario through which their interpersonal scripts are distorted have the effect of regularly and repeatedly undermining the self-esteem of gay men and lesbians living within it, regardless of their class and race. It is a complex entanglement of internalisation, resistance, desire, denial, and abuse that surrounds and structures the relationships, and then makes them difficult to sustain, even within race or class. Some accounts of extortion, whether detailed in Human Rights Watch's reports<sup>54</sup> or discussed with this author, do not involve a third party but are often suggested to be the result of disagreements within a relationship, or the act of someone unsure or ambivalent about or even disturbed by their sexual orientation. The emotional and psychological damage that is incurred simply by living in such a virulently homophobic context is evident in the difficulties that many encounter in developing trust and maintaining intimate relationships.<sup>55</sup> It is this insecurity that allows extortionists to prosper and is in turn cultivated and magnified by their activities, for extortion simultaneously draws upon and reinforces a social order where secrecy and invisibility thrive and where these characteristics come to embody a vulnerability that is psychological, physical (violence and injury), and physiological (HIV and greater risk of infection). The inability to articulate consensual intimate relationships in a narrative that has public credibility is the basis not only for extortion, but also for ignorance. This interferes with work done to prevent transmission of HIV, as there is strong disincentive to identify one's own behaviour to be homosexual and even greater disincentive to then identify oneself as homosexual.<sup>56</sup> Furthermore, we have seen how the secrecy on which blackmail depends is reinforced by the silencing that a perceived absence of innocence foists upon its victims. This silencing renders ever more audible the legitimating discourse of blackmailers, thereby lending credence to their claim to be "punishing the forbidden in the name of good order,"<sup>57</sup> while it renders ever more secretive the victims' own intrapsychic and interpersonal scripts, obscuring them further beneath the prescriptive narrative of the cultural scenario.

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54 Human Rights Watch, *More than a Name*, 92–102.

55 GALZ, *Unspoken Facts*, 4, 213.

56 Phillips, O.C., "The Invisible Presence of Homosexuality: Implications for HIV/AIDS and Rights in Southern Africa," in *HIV & AIDS in Africa: Beyond Epidemiology*, ed. E. Kalipeni, S. Craddock, J. Oppong, and J. Ghosh (London: Blackwell, 2004), 155; see also Johnson, C.A., *Off the Map: How HIV/AIDS Programming Is Failing Same-Sex Practicing People in Africa* (New York: International Gay and Lesbian Human Rights Commission, 2007).

57 Moran, *The Homosexual(ity) of Law*, 56.

Thus, the noisy rhetoric that licenses anti-homosexual violence produces a nexus of information and power that emphasises the homosexual's "guilt" and reinforces their vulnerability to blackmail, while simultaneously rendering impossible the representation of interpersonal homosexual scripts as plausible or acceptable, making them once more "unspeakable." Blackmail works to silence the homosexual at two levels. First, blackmail inhibits sexual activity, as it aims to terrorise the disruptive body of the homosexual into an acquiescent silence. Second, through amplifying those narratives that signify shame and disorder, the homosexual's agency in representing his or her own negotiated intimacy is increasingly constrained, and ultimately silenced:

At best the silence that is connected to the homosexual in order to make its sense and nonsense is a requirement and an effect of the technologies of its production. This silence forms a part of the very mechanics of incitement and production that generate the homosexual in law. This requirement of silence is a prerequisite, generating a requirement to speak about the male genital body. As such, silence is indispensable to the proliferating economy of the discourse on this homosexual of the law. Through the principle of silence (and invisibility) that is installed in the machinery of policing is made the necessity of elaborate police practices and procedures to extract the truth of sex through the technique of surveillance and confession...

So those police practices formally dedicated to diminishing homosexual practices have been implicated in producing their increased social visibility.<sup>58</sup>

As an axis of information and power, blackmail filters narratives and silence to produce a particular "truth" about the homosexual, whereby law's agents (whether accredited or self-appointed) reaffirm the key signifiers of the cultural scenario by revealing the homosexual's supposed inner core, that which is represented as a secret self, and by implication a "true" identity. But when a relationship becomes subject to scrutiny through the threat of blackmail, its "truth" is primarily represented through strategic negotiation rather than confession on the part of the victims, and interpolation by others. This means that the "truth" of its secrets is

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58 Ibid., 166–7.



actually obscured, as the threats and contesting narratives remove it ever farther from the real experience and control of the person or persons supposedly at its heart. While extortion threatens to expose the secretive, it actually aims to preserve it through reinvention. Extortion prioritises the public structures of identity over any personal investment in intimacy which the partners in the relationship may have made, reaffirming those structures through the carefully managed (non-)disclosure of significantly interpolated “secrets.”

## CONCLUSION: THE RELEVANCE OF RIGHTS

The centrality of sex makes it extremely difficult to describe these relationships in such a way that the narrative can offer up the clearly identifiable “victims” and “offenders” that are of strategic value in a petition for human rights. Carole Vance and Alice Miller have suggested that making claims around specifically sexual rights is exceptionally difficult, as claims to human rights tend to rely on narratives that invoke representations of innocence and victimisation, and accounts of sex outside marriage invariably contradict conventional notions of innocence.<sup>59</sup> It is clear that the ideal candidate for a rights test case is someone whose “innocence” is indisputable and whose situation is beyond reproach. Yet “innocence” is clearly a tag that has specifically gendered application, such that women’s active sexual agency tends to preclude its attribution. In some contexts “innocence” does not even extend to women exercising sexual agency within marriage, but more commonly it precludes women’s sexual agency outside marriage; whereas men’s sexual agency tends to be valorised regardless of marriage, and tends to invite censure when its threat to heteronormative structures is not contained (invisibly) within the private realm.<sup>60</sup> These are broad generalisations, but it remains the case that the further one gets from Gayle Rubin’s charmed circle of “Good, Normal, Natural, Blessed” behaviour

59 Carole Vance and Alice Miller first suggested this at a panel on “Sexuality and Rights: Questions, Challenges, and Ways Forward” at the 16th World Congress of Sexology, Havana, 10–14 March 2003. For more on this, see Miller, A. and C. Vance, “Sexuality, Human Rights and Health,” *Health and Human Rights* 7.2 (2004): 5; Miller, A., “Sexuality, Violence against Women, and Human Rights: Women Make Demands and Ladies Get Protection,” *Health and Human Rights* 7.2 (2004): 16.

60 For a further exploration of this gendered regulation of sexuality and hetero-normative space, see Millbank, J., “A Preoccupation with Perversion: The British Response to Refugee Claims on the Basis of Sexual Orientation 1989–2003,” *Social & Legal Studies* 14.1 (2005): 115; see also Henderson, E., “‘I’d Rather Be an Outlaw’: Identity, Activism and Decriminalisation in Tasmania,” in *Sexuality in the Legal Arena*, ed. C. Stychin and D. Herman (London: Athlone Press, 2000), 35.

that represents the pinnacle of sexual hierarchies, the more remote is the conventional ascription of “innocence.”<sup>61</sup>

Relationships of intimacy necessarily involve the strategic balancing of private desires and public structures. They are therefore partly constituted through the exercise of discretion as to when to disclose which secrets and to whom (whether to each other or to others). Such decisions reflect the paradox of an autonomy that is inherently relational, and remind us that the task of drawing these difficult boundaries between private prerogative and public proscription attaches to any rational, rights-bearing legal subject in a social setting, as it is a key aspect of agency. However, this becomes considerably more complicated in the very difficult scenarios that frequently lie behind extortion, as they rarely invoke a simple bipolar narrative of victim and abuser. The key elements of power and vulnerability in sexual blackmail invariably arise from complex relationships that breach such moulds of convention as orientation, fidelity, or legality possibly in conjunction with the transgressing of other social divisions (such as race and class in the case of Joe, Farai, and Tendai). It is the location of these relationships outside of marriage and procreation that initially deprives them of a notional innocence and a measure of control over the narratives that claim to speak their “truth” in the proliferating discourse of sex. And just as sexuality has come to represent an inner truth in a post-colonial society dependent on an ever-narrowing construction of national identity, so blackmail serves to castigate anew the dissident queer.<sup>62</sup> It completes the homosexual’s exclusion from the realm of dignity, a concept that arguably underlies rights and equality but which simultaneously threatens to reproduce the social respectability that adheres to Rubin’s “charmed circle” dominating the landscape of sexual

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61 For a full explanation of this hierarchical model of sexual behaviours and their social regulation, see Rubin, G., “Thinking Sex: Notes for a Radical Theory of the Politics of Sexuality,” in *Pleasure and Danger: Exploring Female Sexuality*, ed. C. Vance (London: Routledge & Kegan Paul, 1984), 267.

62 In 1999, Keith Goddard, the openly gay convenor of GALZ, found himself subjected to blackmail attempts. Having successfully liaised with the Zimbabwe Republic Police (ZRP) in the past, he took all three of the threatening letters to the ZRP so that they could carry out a proper investigation. While they did arrest the blackmailer, who was convicted of extortion, the police also charged Goddard with “forcible sodomy,” even though there was no evidence to support such a charge and the allegations were so implausible as to be patently spurious. In 2004, the Attorney General finally conceded that the charges were baseless, but the police continued to threaten spurious prosecution as a means to intimidate the organisation and to pressure the administrator of GALZ. Thus, despite the evident fabrication of the threatening narrative, it prevails in the introduction of the issue into law, persistently infringing Goddard’s dignity.

hierarchies.<sup>63</sup> Yet, Justice Albie Sachs of the Constitutional Court of South Africa clearly associates dignity with substantive equality:

The manner in which discrimination is experienced on grounds of race or sex or religion or disability varies considerably – there is difference in difference. The commonality that unites them all is the injury to dignity imposed upon people as a consequence of their belonging to certain groups. Dignity in the context of equality has to be understood in this light. The focus on dignity results in emphasis being placed simultaneously on context, impact and the point of view of the affected persons. Such focus is in fact the guarantor of substantive as opposed to formal equality.

...In the case of gays, history and experience teach us that the scarring comes not from poverty or powerlessness, but from invisibility. It is the tainting of desire, it is the attribution of perversity and shame to spontaneous bodily affection, it is the prohibition of the expression of love, it is the denial of full moral citizenship in society because you are what you are, that impinges on the dignity and self-worth of a group.<sup>64</sup>

Blackmail does bring about precisely these effects – it taints desire and removes dignity. It frequently leaves the victim of the extortion feeling guilty, as they believe that they have precipitated this threat through their own stupidity or recklessness, and that they are therefore to blame. Yet blackmail inevitably removes dignity and clarity because by necessity it must involve situations that are messy, that contain moral ambivalence, that are drawn from a complicated history of desire and betrayal in which there are no angels. As

63 For more on Rubin's "charmed circle" and sexual hierarchies, see Rubin, "Thinking Sex." But on the place of "dignity" in human rights see Howard, R.E., "Dignity, Community, and Human Rights," in *An-Nā'im, A.A. (ed.), Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992), 81. Howard argues that the concept of dignity is often achieved through conformity and adherence to social values and customs; in other words, it reflects the moral worth of a person living in an unequal and hierarchical society, whereas human rights are an egalitarian means for allocating membership in a collectivity to each individual regardless of status. Howard argues that human rights are modern, individualist, and liberal while concepts of dignity and justice can be traced through all societies; she suggests that they can be used to buttress human rights but should not be confused with human rights.

64 National Coalition for Gay and Lesbian Equality v. Minister of Justice, CCT 11/98, per Sachs J., paras 126–7.

life is without angels, this messy complexity is unavoidable. It does, however, mean that it is not possible to gloss over the difficulties, to resolve the issue by marking out an innocent person for salvation and a villain for penitence, before delivering up some comforting moral absolutes. For this lack of a clear solution and a clean resolution is symptomatic of the almost total subjugation of “truth” in the strategic narratives that arise in response to the threat of harm or disclosure, and in response to the disruption of the interpersonal scripts of the people involved, and as a result of the manipulation of information and power in order to simply extract value, rather than produce something anew. This analysis of blackmail therefore highlights a tension that exists between our treatment of sexuality and our treatment of rights. However implicit or explicit, the expectation of innocence in the narrative of rights claims confronts us with immediate practical difficulties, as it demands that we start from a seriously disabling position, for, as suggested by Vance and Miller, the propriety associated with conventional definitions of innocence tends to preclude the exercising of sexual agency and autonomy.<sup>65</sup> Publicly articulating and then exercising sexual desires, particularly outside marriage, brings private sexual relations into the public sphere and makes it very hard to claim innocence, thereby obstructing an easy claim to rights.

It is unlikely and probably undesirable that we should be able to detach sexuality from any notion of innocence and guilt, but we do need to reconfigure the relationship so that innocence/guilt attaches to issues of harm and autonomy rather than morality or social value. We need to be clear that sex does not inherently besmirk innocence and that sex is not in itself corrupting, in order to develop a relationship between sexuality and rights that values equality and autonomy as suitable frames for agency. This critical reconfiguration of sexuality and notions of guilt/innocence establishes a more effective platform from which to combat sexual violence and the transmission of HIV; being alert to issues of agency and autonomy, it should also foster the experience of sexuality as pleasure. The specific limitations that restrain the development of sexual rights in the international sphere suggest that this conventional requirement of innocence involves an implicit refusal of sexual agency which is a key obstacle to the association of rights and sexuality in many cultural contexts.<sup>66</sup>

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65 Miller and Vance, “Sexuality, Human Rights and Health”; Miller, “Sexuality, Violence against Women and Human Rights.”

66 A useful illustration of this is the South African Constitutional Court’s unanimous decision that the continued prohibition of sex work was consistent with the constitutional rights to privacy, dignity, freedom, security of the person, and economic activity, and that the decriminalisation thereof was a matter for the legislature rather

It is therefore unsurprising that law reform in any part of the world cannot on its own stop the practice of blackmail. So long as there is still shame and indiscretion to pave its way the decriminalisation of homosexuality in Zimbabwe or elsewhere is unlikely to extinguish sexual minorities' vulnerability to extortion. The incidents that I have described here came to our knowledge because the victims identified as homosexual in as open a manner as was possible in a context where same-sex sexual acts were and remain criminal. It is the law that produced their initial vulnerability while the accompanying rhetoric then advertised the opportunities to profit from that vulnerability. Proper application of rights due Zimbabwean citizens under international law prohibits criminalisation of consensual sexual conduct between males<sup>67</sup> and might pre-empt the law's initiatory role in this opportunism. This suggests that an appropriate way to start challenging this situation is for homosexuals in Zimbabwe to claim the human rights due them, but that can only be the start. Whatever the practical obstacles of making such a claim (including the question of making the Zimbabwean government responsive to a finding against them), it seems unquestionable in principle that those Zimbabweans targeted for extortion on account of consensual same-sex sexual conduct should be able to rely on a context that recognises human rights as fostering some protection. Yet, the evidence in this paper suggests that the reality of extortion is far more complicated, making this possibility seem ever more remote, and reminding us of the limits of law as an instrument for securing agency. Rather, the law represents one terrain through which broader discursive battles might be fought – so that while the realm of law might be an initial platform for producing or challenging extortionate practices, it is only one part of a far bigger discursive realm in which these relations are given life.

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than the Constitutional Court (*S v. Jordan*, 2002 [11] BCLR 1117 [SC]). Insofar as the Court's denial of sex workers' rights reaffirmed their criminality and vulnerability, it also marked out the acceptable limits of sexual agency and failed to dislodge a discourse of morality for one of harm reduction and workers' rights. The Court's exceptionally cautious and restrained approach towards its law-making role and the unanimity of its decision suggested that sex-workers' "innocence" was so remote that even this august rights-oriented body could not bridge their divide from legitimate entitlement.

- 67 In May 1991, Zimbabwe acceded to the International Covenant on Civil and Political Rights binding on the country since August 1991. *Toonen v. Australia*, 1(3) IHRR 97 (1994), made clear that laws prohibiting consensual sexual conduct between male adults violate Article 26 of the Covenant. The United Nations Human Rights Committee specifically requested that Zimbabwe reverse its treatment of homosexual conduct with appropriate legislation in its Consideration of Reports Submitted by States Parties under Article 40 to the Covenant, CCPR/C/74/Add.3, HRI/CORE/1/Add.55, 26 March 1998.