

## **TROUBLING GENDER: HOMOSEXUALITY IN AN AFRICAN SOCIETY**

### **Introduction**

The aim of our study is to analyse the interrelationship between the stereotypes and myths surrounding same-sex relationships/sexuality, sexual transgression and gender-based violence. We will document the findings and place them in the context of the existing, but marginal research.

What kind of myths and stereotypes are prevalent around homosexuality in African societies and especially in South Africa? Are there any intersections between these myths and gender-based violence and/or violence against lesbians – and if so, what are these myths? To understand these myths we will document the history of same-sex relationships in different African societies.

The question that begs an answer is: Are homosexual relationships fully recognised, understood and accepted as committed relationships by members of our society and by the law? Are they a possible option for everyone in society irrespective of their class or sex? In this context we will examine the quite popular thesis, which appears for example in the discourse around African Feminism/Womanism, which states that homosexuality is not African. We will focus on relationships between women. After looking at African societies in general in terms of our questionnaires we will focus and specify on the South African context.

In South Africa there is a growing number of people speaking out against violence against lesbian and gay people, in other words “Hate Crimes”. The Lesbian and Gay Equality Project, specifically the Legal Advice Centre, provides legal assistance to lesbian and gay people who are victims/survivors of ‘Hate Crimes’ as a result of homophobia.

Although the South African Constitution<sup>1</sup> guarantees the right to equality and non-discrimination to all people – which means, amongst other things, that lesbian and gay people cannot be unfairly discriminated against on the grounds of their sexual orientation – the societal reality seems to be very homophobic. Homophobia is part of the daily life in South African cities, especially in the townships.

At the same time South Africa has one of the highest rape statistics worldwide and, at least in the townships of Johannesburg, lesbian women constantly live with the fear of sexual and other forms of violence simply because of their sexual orientation. Does violence against lesbians/hate crime mainly appear in form of sexual violence as a result of the high amount of sexual violence in general in the South African society? This question will lead us to another issue, which intersects with sexual violence and also gender-based violence: HIV/AIDS. Latest research has shown this interrelationship (and especially gang rapes) leave women at a high risk of getting HIV positive.

At this point we have to look at the cultural/post-colonial matrix in terms of norms of sexualities and whether or not violence against lesbian and gay people is “supported” by societal and political acceptance/silence – which leads us to our question at the very beginning.

This paper is part of a broader study, which we will continue to work on. So far we were only able to put literature into account, but our aim is to also interview women who are victims/survivors of hate crimes.

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<sup>1</sup> Constitution, Act 108 of 1996, Section 9

## Same-sex relationships in African Societies

Ifi Amadiume wrote about the process of gender transformation in her book *“Male Daughters, Female Husbands”*<sup>2</sup> in describing the marriage of women in the Igbo society, Nigeria. In the Igbo society a man can announce his oldest daughter as his “son” if there is no son to inherit. This woman is called “nhanye”. Due to her gender status the nhanye shall marry women. But because the woman is socially, but not biologically male, she is not allowed to have sex with her wives. Instead she is meant to have relationships with men outside her marriage. The children born of these sexual relationships with men then belong to the female husbands (“igba ohu”).

The documentary *“Everything must come to light”*<sup>3</sup> shows another example in an African society, specifically South Africa, where gender can be more important than sex. The late Mpumi Njinge and Paulo Alberton interviewed three female Sangomas, traditional healer in South Africa who treat health and spirituality with the help of their ancestors. The three Sangomas live in Soweto and married – for different reasons – other women.

Whereas the same-sex marriages in the Igbo Society were/are not seen as a form or option of lesbian relationships or as an example of homosexuality because sexual intimacy between the married couple was/is not officially accepted, the interviewed Sangomas in Soweto describe their partnership with the other women as a sexual, intimate and domestic life partnership, not different from a heterosexual marriage. One Sangoma defines her relationship as a lesbian one – hence her sexual orientation can be construed to be homosexual, she identifies as a lesbian.

As mentioned above the reasons for those same-sex relationships of the Sangomas differ. One of them, Jama, describes how she was ill for two months when a traditional healer told her that she had been called to be a Sangoma. After Jama accepted her calling the illness immediately stopped. Sangomas take the name of their dominant ancestors and Jama was her uncle who had died. He appeared in her dreams telling her that he wanted a wife. Jama’s uncle never got married in his lifetime and that’s how she explains his quite extra-ordinary request. So Jama married Tshidi who is also a Sangoma. Interesting enough is that they take over the traditional gender roles with Jama as the husband and Tshidi as the wife.

The other interviewed Sangoma, Gogo Lindi, explains how she was interested in girls from a very early age. In following a dream, she cured her father who was very ill at one time – and that was when she knew she was a Sangoma. Her ancestor also never married when he was alive and he asked her to have a wife with breasts like her. Gogo Lindi also takes over the traditional male role.

In the last two years of the filmmaker’s life, the late Mpumi Njinge met at least ten Sangomas who live in a same-sex relationship and who meet regularly to support each other.

The question now is to what extent these different relationships can be seen as intimate and committed same-sex lesbian relationships. To what extent are they examples of accepted homosexuality in African societies? And to what extent are

<sup>2</sup> Amadiume, Ifi. *Male Daughters, Female Husbands: Gender and Sex in an African Society*. London, New Jersey: Zed Books, 1989

<sup>3</sup> „Everything must come to light“, South Africa, 2002, 30 Minutes. A film from Mpumi Njinge and Paulo Alberton. A co-production of the “Gay and Lesbian Archives of South Africa” and “Out in Africa. Gay and Lesbian Film Festival”.

these examples for the entire society in which they appear? Or are they just options for specific groupings of society?

Because of the strictly handled isolation of sexuality from the issue of marriage, the same-sex marriage in the Igbo society can be clearly seen as a non-homosexual one, although it could have been an option for lesbian couples which is not proven and not mentioned or discussed by Ifi Amadiume.

Compared to this at least the one Sangoma couple describe their marriage as a lesbian relationship. The other does not use the word or category homosexuality but she also does not separate her marriage from her own sexuality.

### The Discourse of African Womanism/Feminism

In May 2002 at the “Version & Subversion-Conference” organised by the Humboldt-University, Berlin<sup>4</sup>, some of the most important protagonists of African Feminisms or the according alternative concepts were invited to discuss similarities and differences of their concepts at a round table discussion. Once again this discussion showed how difficult it is for the concept of feminism to prove itself on the African continent as well as in other parts of the world.

According to the discussions different alternative concepts were developed from the White, western women’s movements dominated concepts of feminism. These alternative concepts differ substantially in their ways of distancing from or referring to the White, western products. Womanism is one of the oldest and most popular concepts which was stamped nearly at the same time by two different protagonists: The African-American writer Alice Walker and the Nigerian academic Chikwenye Okonjo Ogunyemi defined these concepts in the 80s.

These and other alternative concepts have their origins in the concrete history of Black<sup>5</sup> women in the US and in the African countries – as well as in their reality of life, which is stamped by racism and sexism. So racist discrimination is linked inseparably to other forms of oppression and results in a general view of a dominant structure between men and women as well as between women. According to the different experiences with racism of Black and White women, there are differences between Womanism and Feminism.

The Nigerian Chikwenye Ogunyemi transcends the model of Triple-Oppression used by Alice Walker and broadens it with, for example, extreme poverty, religious fundamentalism, problems within the extended family and cultural heterogeneity, which should be included in an African-Womanist perspective<sup>6</sup>.

Another issue, in which Walker’s and Ogunyemi’s concepts of Womanism differ from each other, is the one of homosexuality, in their relation to lesbian love. Whereas for Walker a Womanist is **“a woman who loves other women, sexually and/or nonsexually”**<sup>7</sup>, lesbian love hardly attracts interest in the concept of Ogunyemi:

<sup>4</sup> [www2.hu-berlin.de/asaf/Afrika/versions/](http://www2.hu-berlin.de/asaf/Afrika/versions/)

<sup>5</sup> In writing the terms „Black“ and „White“ in capital letters we want to intimate, that this is not a biological but a socially and politically constructed category.

<sup>6</sup> Arndt, Susan. Feminismus im Widerstreit. Afrikanischer Feminismus in Gesellschaft und Literatur, UNRAST\_Verlag, Münster, 2000

<sup>7</sup> Walker, Alice. In Search of our Mothers’ Garden, Harvest Book, New York, 1984

***“It is necessary to reiterate that the womanist praxis in Africa has never totally identified with all the original Walkerian precepts. An important point of departure is the African obsession to have children as well as the silence on or intolerance of lesbianism.”***<sup>8</sup>

The Nigerian professor for literature Mary Modupe Kolawole who shaped an own definition of Womanism wrote the following:

***“to the majority of ordinary Africans lesbianism is a non-existent issue because it is a mode of self-expression that is completely strange to their world-view. It is not even an option to millions of African women and can therefore not be the solution as ... many ... Western or westernized women propose.”***<sup>9</sup>

A summary of the debate around the differences between Black and mainstream Feminism was drafted by Amina Mama. On the issue of homosexuality she wrote:

***“Also in the field of sexuality, radical feminist proclamations that ‘feminism is the theory, lesbianism is the practice’ alienated the many black women who were more concerned with improving relations between themselves and black men than with coming out as lesbians. Black women therefore set out to create a non-racist space in which to address the very real problems in gender relations and the abuse and sexual exploitation of black women by men.”***<sup>10</sup>

At the above-mentioned conference in Berlin, the protagonists of the different African and African-American concepts were questioned about their relationship to homosexuality. Although there was no explicit positioning against homosexuality, some of the protagonists brought up that the issue of sexuality is not the centre of the debate. The necessity of African women in their struggle to survive is not dominated by the issue of sexuality. This approach was further substantiated with cultural differences. People speak of sexuality in African societies, but these conversations are limited to the private sphere. In addition they argued that African women consistently had to make the experience to be reduced to their sexuality after talking about issues like, for example, circumcision.

On the other hand, other protagonists and women at the conference defined the position that there are institutions from and for lesbian and gay people in many African countries, especially in the cities, which shows that homosexuality is quite an issue – and a public one at that. They also pointed out the big differences between rural areas and metropolitan areas. Beyond that, sexuality was classified as a form of oppression used by men. Consequently sexuality has to be on the public agenda. A woman from South Africa gave the suggestion that South Africa is one of the countries with the highest rape statistics world-wide and is confronted with a high spread of HIV/AIDS. Therefore it would be devastating not to entrain the issue of sexuality.

<sup>8</sup> Ogunyemi, Chikwenye Okonjo. *Afric Wo/Man Palava. The Nigerian Novel by Women*. The University Of Chicago Press, Chicago&London, 1996

<sup>9</sup> Kolawole, Mary. *Womanism and African Consciousness*. Africa World Press, 1997

<sup>10</sup> Mama, Amina. *Beyond the Masks. Race, Gender and Subjectivity*. Routledge, London, 1995

At this point we have to ask ourselves what kind of definition the different speakers use in terms of homosexuality. Is there a different understanding of it? Which leads to the question whether homosexuality is African or not? Which words describe homosexuality in African languages and what do they mean? And what are the myths and stereotypes surrounding same sex behaviour and identity?

### **Homophobia in the South African society**

As we said in the introduction, in this research we will focus on the reality of lesbians in South Africa as one example of same sex identity in an African society. It would be interesting to compare the myths and stereotypes surrounding same sex relationships in different African societies, which would need more research than this one.

“Behind the Mask”, a website magazine and community service organisation serving the Lesbian, Gay, Bisexual and Transgender community of Africa, and “Women’s Forum”, a support, empowerment and networking group for same-gender-loving women of colour in Gauteng, described Hate Crime in their presentation of their campaign „The Rose has Thorns“ as following:

- 1. It is motivated by hatred, not of the individual, but of the particular grouping to which s/he belongs.**
- 2. It usually takes the form of a violent crime based on myths, misconceptions, prejudices and cultural expectations, for example, the idea that (forced) heterosexual intercourse will „fix“ or „straighten out“ a lesbian woman.**
- 3. It often takes the form of verbal, or other subtler forms of abuse or victimisation that fall just short of being punishable under the prevailing criminal law regime.**
- 4. Some hate crimes are even state-sponsored, like the re-victimisation of lesbian rape victims by the police to whom they report their cases, who often respond by suggesting that the victim deserved it, for daring to challenge the heterosexist social order. (Email from 3.4.2003)**

Dawn Betteridge from Triangle Project, Cape Town, pointed out in an interview that violence within lesbian and gay relationships should also form part of the discussion:

***“...a partner uses the power of exposure to family or community whatever to control the partner. So the fear of being exposed as a lesbian, say for example to your mother, might keep you in a relationship where violence is inflicted upon you.”***

She argued that there are a number of different factors which feed off each other. So an HIV status could also come into play in terms of a means of control, in the same way that sexuality could be a means of control<sup>11</sup>.

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<sup>11</sup> Interview with Dawn Betteridge, Director of the Triangle Project, Cape Town, 2.12.2002

We would like to document this aspect which is very important but we will focus on the definition cited above from “Behind the Mask” and “Women’s Forum”. Otherwise it would be too complex for this paper.

Lesbian, gay, bisexual and transgender people face violence at home, in communities, clubs, religious institutions and in the streets. For many of them this violence has become a way of life. It hurts their bodies, minds and families. It hurts because it is kept invisible. Discrimination against lesbian and gay people remains powerful in many communities. Violence and discrimination are linked. Yet such conduct is prohibited by the Constitution.<sup>12</sup>

Despite this Constitutional protection, South African society is still very homophobic. This homophobia not only leads to perpetuation of myths and stereotypes about lesbian and gay people, but more importantly, to the creation of an environment in which lesbian and gay people feel vulnerable and unsafe. Such an environment has resulted in lesbian and gay people feeling that they have to hide their sexuality at all costs; being beaten up or kicked out of home just because of their sexual orientation; or often feeling that they deserve to be treated in such a way.

The law does not recognise a separate category of hate crimes. Hate crimes are crimes which are committed because of hatred and prejudice – hate crimes are committed because of problems such as racism, sexism, homophobia, religious intolerance and xenophobia. While the law does not yet recognise the specific offence of hate crimes, the motive behind an attack is important when it comes to sentencing – may result in a harsher sentence. In the section dealing with freedom of expression, the Constitution speaks of categories of hate speech. The Constitution recognises that such speech may lead to violence, and in such cases would be prohibited. However, hate speech on the basis of sexual orientation is not yet recognised as one of the prohibited grounds.

The passing of an anti-hate crime law and the end to all forms of legal discrimination against lesbian and gay people are vital to ensuring that everyone begins to realise that no-one should be subjected to inhuman and degrading punishment.

The question which we shall attempt to answer at the conclusion of this paper is whether the South African Constitution grants the obviously needed protection to lesbian and gay people, and whether the Constitution has succeeded in ensuring that this vulnerable group has access to justice in so far as Hate Crimes are concerned.

The Constitutional Court of South Africa in the Decriminalisation of Same-Sex Conduct matter<sup>13</sup>, Justice Laurie Ackerman, writing on behalf of the entire Court looked at the impact of the discrimination on lesbian and gay people and said the following:

***“The discriminatory prohibitions on sex between men reinforce the already existing societal prejudices and severely increase the negative effects of such prejudices on their lives”.***

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<sup>12</sup> Section 12(1(c)) of the Constitution, Act 108 of 1996 provides that everyone has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources. Section 10 provides that everyone has the right to inherent dignity and the right to have their dignity respected and protected.

<sup>13</sup> National Coalition for Gay and Lesbian Equality v The Minister of Justice, 1998 (12) BCLR 1517 (CC)

The fact that lesbian and gay people are a political minority who are unable on their own to use political power to secure favourable legislation for themselves, he said, makes such discrimination more serious, and renders lesbian and gay people more vulnerable. In the case of *Vriend v Alberta*, the Supreme Court of Canada commented on the severe impact that discriminatory laws have on lesbians and gay men<sup>14</sup>:

***“Perhaps the most important is the psychological harm which may ensue from this state of affairs. Fear of discrimination will logically lead to concealment of true identity and this must be harmful to personal confidence and self-esteem. Compounding that effect is the implicit message conveyed by the exclusion, that lesbian and gay people, unlike other individuals, are not worthy of protection. This is clearly an example of a distinction which demeans the individual and strengthens and perpetuates the view that lesbians and gays are less worthy of protection as individuals in Canada’s society.”***

### **Violence against women**

South Africa has one of the highest rape statistics world-wide. A study conducted in three provinces of South Africa found that 26,8% of women in the Eastern Cape, 28,4% in Mpumalanga and 19,1% of the women in the Northern Province experienced physical violence in their lifetime at the hands of their partner or ex-partner.<sup>15</sup> In another study conducted by Abrahams et al they found out that from 1394 men working for three municipalities in Cape Town, more than 40% admitted to have physically and/or sexually abused their female partners.<sup>16</sup>

The roots, reasons and consequences of violence against women in South Africa are quite complex, interdependent and self-reinforcing. In the last years several studies dealt with this issue. Jewkes et al for example wrote in their study:

***“This suggests that to a great extent its roots lie in the patriarchal nature of our society, where women are viewed as inferior to men, often as their possessions..., and in need of being led and controlled...Research among adolescents, in particular, has shown that one of the most common areas in which the control is exerted is over women’s sexuality...In particular situations the use of certain forms of violence by men to control and punish women is perceived as socially acceptable to both men and women of all ages.”***

World-wide, Feminists agreed that the motives of rape are seen as a demonstration of power and control as well as a confirmation of ones own masculinity – and that these motives are inseparably joined together with little sense and estimation of women in the societal context. While many feminists focussed on the interrelationship between masculinity and violence many of them failed to ask how class, ethnicity or “race” contributed to men as a category of gender. But these

<sup>14</sup> 1998 (50) CRR (2D) 1 (SC)

<sup>15</sup> Jewkes et al. “He must give me money, he mustn’t beat me”. Violence against women in three South African provinces. Pretoria: CERSA, Medical Research Council, 1999

<sup>16</sup> Abrahams et al. “I do not believe in democracy in the home” Men’s relationships with and abuse of women. Tygerberg: CERSA, Medical Research Council, 1999



differences can have an impact on men's ability to use control or violence over women. These connections must be acknowledged, especially in the South African context, and it makes a differentiated analysis necessary which needs to be ingrained in the discussion around gender, culture, class, "race" and post-colonialism on the African continent.

Jewkes et al also argue that, despite blaming patriarchy, the issue of violence against women in South Africa has to be placed in the broader context of a society which is formed by hundreds of years of colonialism and apartheid, which resulted in an acceptance in society of certain forms of violence as a way to resolve conflicts. Colonialism and Apartheid gave the condition for a culture of violence, which is the basis for regular rape culture, which is tacitly accepted by a big part of society.<sup>17</sup>

Another abetting or determining factor for the high amount of rape cases seems to be the inefficiency of public prosecution. A case study from 1998 about rape in southern Johannesburg found that 8 out of 10 women of this area reported rape at a police station, whereas 14 out of 15 of these women were sent away without the police taking any statement.<sup>18</sup>

The consequences of violence against women are diverse. Latest research shows the interrelationship between these forms of violence and HIV/Aids, which is a serious problem in a country like South Africa. UNAIDS found that by the end of 2001, approximately 5 million people in South Africa were living with the virus and 360 000 died of Aids.<sup>19</sup> Women are most vulnerable to get infected and are infected primarily through heterosexual transmission. One of the first studies dealing with these issues, conducted by Lisa Vetten and Kallash Bhana, found that violence against women can increase the risk of HIV infection.<sup>20</sup>

### **Links between myths and stereotypes surrounding lesbian identities and gender-based violence**

***"We need to understand what it means to be heterosexual as well as homosexual, and that our sexualities affect whether we live or die."*<sup>21</sup>**

***"Its useful to figure out the responses we have to lesbian-baiting. We have to understand lesbian-baiting as a "standard weapon" used against women. We have to articulate why this should matter to everyone in the women's movement and why we can't just say, "OK: let's cut our losses."*<sup>22</sup>**

<sup>17</sup> Vogelmann, Lloyd. *The Sexual Face of Violence, Rapists on Rape*. Ravan Press, Johannesburg, 1990

<sup>18</sup> The Sunday Independent, 16.01.2000

<sup>19</sup> [www.unaids.org/hivaidsinfo/statistics/fact\\_sheets/pdfs/Southafrica\\_en.pdf](http://www.unaids.org/hivaidsinfo/statistics/fact_sheets/pdfs/Southafrica_en.pdf)

<sup>20</sup> Vetten/Bhana. *Violence, Vengeance and Gender*. Centre for the Study of Violence and Reconciliation, Johannesburg, 2001

<sup>21</sup> IGLHRC interview with Bisi Adeleye-Fayemi, Director, Akina Mama wa Africa, February 2000

<sup>22</sup> IGLHRC interview with Lynn Freedman, Director, Centre for Law and Policy, Columbia School of Public Health, New York, January 2000

There is much evidence in stories from many regions in the world of how sexuality is used to attack and control women. These documented and mostly undocumented stories involve radically different levels of danger. Yet they all point to the same theme. In all cases, women are stigmatised, threatened, and intimidated – have lost their power to move about, either literally in a room or in the wider socio-political sphere – because they are seen as speaking out about their sexuality. More than name-calling has taken place. The effect has been a challenge to freedom, whether momentarily or lasting, a deprivation of the basic rights to organise and to express oneself. The stories testify to the opposition roused when women claim rights, and control, over their sexuality.

Women's sexuality is regulated in societies and cultures all over the world. Yet the state is only one social actor which engages in such regulation. In many societies, it is a relative latecomer to the field. Claims to control over women's bodies can come – in any given society - from a range of institutions. Religions may enforce precepts, which disproportionately limit women's freedoms. The media may employ its power to dictate both desires and stigmatised images and behaviours for women. Finally, families, kinship networks and relationships in the so called "private" sphere have pride of place in delineating women's roles and determining where freedom ends and compulsion begins. All these actors may in fact work in partnership with, or as part of state power in maintaining systems of control. The result is a wide range of rules and punishment. In some cultures, women can be stoned to death as a legal penalty for having sex outside marriage. States can demand involuntary medical examinations for women in a range of conditions; husbands and boyfriends can demand "dry sex" from women whom they have sex with – whether that sex is consensual or not.<sup>23</sup>

In South Africa, and specifically in the townships and rural areas where homosexuality is still seen as abhorrent, culturally unacceptable and unAfrican, lesbians are the targets of systemic rape and forced pregnancy to cure them of this "western social evil". They are often made to undergo psychiatric institutionalisation and medical treatment because their sexual desire for other women is deemed "deviant" and "immoral".

The question, which is of paramount importance, is whether or not the struggle for women's liberation and equality takes into consideration the plight of lesbians? Are lesbians not women after all? (Certainly they are not men.) The struggle against gender-based violence in South Africa and the rest of the world must seriously consider this argument. The violence inflicted on lesbians is because: they are women (gender), lesbian (sexual orientation), Black ("race") and poor (class) including other listed grounds in the Equality Clause.

In many communities, women have too little power to say "no" to unwanted sex or to say "yes" to sex that is wanted. In many communities, women have too little power to determine when, with whom and how often to have sexual relationships. They are often abused if they suggest that male sexual partners use condoms in order to prevent pregnancy or HIV transmission. They are vulnerable to violent attacks if they choose to have sex – or fall in love – with other women.

The fact that women are made to feel vulnerable by their sexuality, and that women living non-heterosexual lives are particularly vulnerable, is an obvious fact. Yet to

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<sup>23</sup> In "dry sex" women dry out their vaginas – with substances including detergents, salt, cotton or shredded paper – to increase friction for male partners during intercourse.

articulate it still takes courage. The UN Special Rapporteur on Violence Against Women, Rashika Coomaraswamy, observes that:

***“Communities “police” the behaviour of their female members. A Woman who is perceived to be acting in a manner deemed to be sexually inappropriate by communal standards is liable to be punished.....in most communities, the option available to women for sexual activity is confined to marriage with a man from the same community, women who choose options which are disapproved of by the community, whether to have a sexual relationship with a man in a non-marital relationship, to have such relationship outside of ethnic, religious or class communities, or to live out their sexuality in ways other than heterosexuality, are often subjected to violence and degrading treatment.....women “unprotected” by a marriage union with a man, are vulnerable members of the community, often marginalized in community social practices and the victims of social ostracism and abuse.”<sup>24</sup>***

Such assaults and abuses must surely be seen as human rights violations. Yet the struggle to name them as such when referring specifically to lesbians has been a hard one.

## **Conclusion**

In many parts of the world, being gay or lesbian is not seen as a right but as a wrong. Homosexuality is considered a sin or an illness, a social or ideological deviation, or a betrayal of one’s culture. Whereas most governments either deny practising human rights violations or portray them as rare aberrations, the repression that lesbian and gay people face is often passionately defended in the name of culture, religion or morality and facilitated by specific legal provisions.

In some countries homosexuality has been labelled “the white man’s disease”, same sex relations are dubbed “unchristian”, “unAfrican”, “unIslamic” or a “bourgeois decadence”. Some governments seek not only to exclude lesbian and gay people from local culture, but also to deny that they are members of the human race. This dehumanisation provides fertile ground for torture and ill treatment. If lesbian and gay people are less than human how can they have human rights? The denial of a person’s basic humanity is the first step towards inhuman, cruel and degrading treatment<sup>25</sup>.

Sexual orientation, like gender or race, relates to fundamental aspects of human identity. As the opening statement of the Universal Declaration of Human Rights affirm: human rights are founded on the concept of respect for the inherent dignity and worth of the human person. Laws and practices aimed at coercing individuals to alter or deny their sexual orientation, or punishing them for not doing so, attack a deeply rooted aspect of human personality. They inflict huge psychological as well as physical violence because they force some people to forgo an area of experience,

<sup>24</sup> Report of the Special Rapporteur on violence against women, its causes and consequences, Commission on Human Rights, E/CN.4/1997/47, 12 February 1997.

<sup>25</sup> Amnesty International Report, Crimes of Hate, Conspiracy of Silence, 2001

which for many, offers the greatest potential for human fulfilment. Because it relates to the deepest affairs of the heart, the innermost desires of the mind and the most intimate expressions of the body, sexual orientation goes to the very core of a person's right to physical and mental integrity. That right must include the freedom to determine and express one's sexual orientation and to do so on the basis of equality – free of fear and discrimination.

For the vast majority of lesbians in South Africa, the Equality Clause has not changed the degree of, or depth of discrimination and harassment they experience – it remains a distant rumour, a source of hope as well as pride – but unfulfilled. The ultimate question is how to make these rights accessible to all women, irrespective of their sexual orientation.

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