

The country we want to live in: Hate crimes and homophobia in the lives of black lesbian South Africans

Context and history

During the 16 Days of Activism campaign in 2006, the Human Sciences Research Council (HSRC) and the Durban Lesbian and Gay Community and Health Centre jointly hosted a round-table seminar that was sponsored by the Foundation for Human Rights (FHR). The seminar contributed to a nationwide dialogue on what it would take to create a country in which gender-based violence was no longer an issue requiring urgent attention.

Some of the most renowned activists and scholar-activists working in this environment attended this historic event. These activists took stock of policies and identified approaches to eliminate crimes directed against lesbians. The group analysed the vocabulary used to speak about these issues in South Africa, examined different campaigns aimed at ending violence against lesbians and presented recommendations for ongoing policy and advocacy development.

The report of the round table offers insight into the socio-political environment experienced by lesbian, gay, bisexual, transgender and intersex people (LGBTI) living in South Africa. It acknowledges the following:

- Post-1994 legislative reform has barely improved the security or quality of life for women living in South Africa.
- The relationship between sexual

identity, gender, race, hate crimes and rape is not sufficiently acknowledged.

- Excluding and denying people their constitutional rights on grounds of sexual identity leads to alienation and promotes gender-based violence.

However, the report does not offer a comprehensive analysis of the current state of affairs, nor does it speak on behalf of all lesbians – it only reflects the views of the round-table participants.

Terminology that classifies societal groups often creates unsatisfactory categories, leading to strange separations, hidden narratives and overall confusion. The round table acknowledged the challenges of defining concepts, yet endeavoured to contextualise the following terms:

- *Black*: includes many diversities, but as a collective, 'black people' inhabit the least-well-resourced neighbourhoods, wield the least political power and are vulnerable to the most intensive levels of social assault, such as gang warfare, street violence, burglary and domestic insecurity.
- *Lesbian*: encompasses a wide range of people. Self-identification, modes of family creation, sexual desire and practices and other concerns challenge the notion that 'lesbian' describes an unconventional sexual identity segregated from 'men' and 'heterosexuals'.

No matter what transpires in court, we are going to eliminate lesbians and gays...
 – Chanted at the trial of Eudy Simelane's accused murderers (cited in Mkhize et al. 2010: 1)

They [gay people] are still viewed as an abomination and that is all based on issues of religion, culture and tradition. That is still our biggest challenge.
 – Fikile Vilakazi, representing OUT LGBT Well-being (cited in Mkhize et al. 2010: 28)

While legal instruments seem to be in place, we have seen increasing cultural bias that denies certain marginal groupings, such as homosexuals, their right to exist, develop an identity and to practise their sexualities.
 – Prof. Fikile Mazibuko, former Deputy Vice-Chancellor at the University of KwaZulu-Natal (cited in Mkhize et al. 2010: 27)

Multiple identity-based discrimination and violence which result in severe vulnerability, exclusion and invisibility must be a critical consideration in post-apartheid South Africa; particularly in considering the duty of the State to protect women from violence and to further respect and promote rights entrenched in our Constitution.
 – Wendy Isaak, People Opposing Women Abuse (POWA) (cited in Mkhize et al. 2010: 46)

The violation of black lesbians had never been a priority within activism against social injustice, gender-based violence or homophobia in the work of the various NGOs and state actors who had committed themselves to making the promises of the Constitution realities after 1996.
 – Donna Smith, Forum for the Empowerment of Women (FEW) (cited in Mkhize et al. 2010: 29)

Reference to black lesbians implies that race plays a critical role in the experiences of lesbians living in South Africa. Well-resourced women – the majority being white – are generally less exposed to hate speech and crime, gender-based violence and homophobia.

Hate speech encompasses public dialogue and utterances against individuals or groups of people based on race, ethnicity, gender, sexual identity or religion. The intention is to be hurtful, harmful, intimidating and discriminatory, and to adversely impact on individuals' or groups' equal enjoyment of rights and freedoms. The term 'hate crime' is used in reportage of targeted assaults, rapes and murders of LGBTIs in the country.

The phrase 'gender-based violence' refers to violations and control through violent acts and use of masculinity. Violent acts include rape, abuse, assault, humiliation, abduction, trafficking, forced prostitution, incest, sexual harassment, beating, and murder of wives and sexual partners.

Homophobia is a life philosophy based on the presumption that heterosexuality is the only natural and normal form of sexuality and that any shift away from this is deviant, unnatural and perverse.

Perspective and profile

In the new democratic order, differences such as race, class, gender and sexual orientation characterise the diversity of the people in South Africa. This requires that all South Africans learn to live with differences that during the apartheid regime were often interpreted as signs of superiority and inferiority of particular groups of people and frequently turned into stereotypes and discriminatory behaviours against those regarded as inferior and/or different from the norm.

A battery of legislation endeavours to

offer black lesbians legal protection. This legislation includes:

- the Constitution of the Republic of South Africa and Bill of Rights;
- the Promotion of Equality and Prevention of Unfair Discrimination Act (No. 4 of 2000);
- the Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32 of 2007);
- the Domestic Violence Act (No. 116 of 1998); and
- the Civil Union Act (No. 17 of 2006).

While this legislation represents a step towards a culture of human rights, it has unfortunately not translated into equality for women in general and black lesbians in particular. Black lesbians in South Africa are still vulnerable to gender-based violence and violent attacks based on their sexuality and sexual identities.

In South Africa, class differences are still structured through race, and black women are at the forefront of the danger. Women living in poverty tend to be more vulnerable to gender-based violence than those with access to resources, mobility and security. Thus, black lesbians living in poor neighbourhoods are the most vulnerable to different forms of sexual attack and are the most likely to be exposed to community rejection and policing, and to homophobic attacks, including assault, rape and murder.

It is difficult to quantify how often homophobia translates into violent acts against those regarded as transgressors. This is because hate crimes do not form part of South African official statistics. Exposing this form of violence requires that victims publicly bear witness about their humiliation, pain and betrayal, possibly exposing themselves to further humiliation, rejection and discrimination.

As activists and lobbyists, participants at the round table identified four sources and/or strategies for documenting and exposing the violence against lesbians in the country:

Writing and research

Sources of information specifically mentioned included data published in 2007 from research conducted by OUT LGBT Well-being in collaboration with the University of South Africa (UNISA) Centre for Applied Psychology. These data were gathered from 487 LGBTIs regarding their experiences of discrimination, violence and hate crimes. The round-table participants also mentioned the Gay and Lesbian Memory in Action (GALA) – an NGO that archives life experiences and histories of LGBTIs. These life stories were drawn up to develop narratives on gender-based violence and homophobia and were published in multiple forms (for example, in educational comic books and other resource manuals) for life orientation teachers in schools.

The round-table report refers to several studies and literature on the experiences of black lesbians. It also lists additional resources, websites and organisations to assist further research that was not bound to the 2006 discussion.

Testimony and media

While there is merit in public testimonies and media accounts of incidents of violence against black lesbians, there are several inherent dangers in such reports. These include sensationalism, and glorifying and eroticising these crimes, which may result in further violence against these women.

Because of the complexities of using mainstream media to challenge homophobia, activists are exploring other ways, such as using digital stories and short documentaries, to provide accurate representations of their experiences.

Organisational strategies: Witnessing from the ground

During the round table, speakers from different NGOs bore witness about

assault, fear and stigma encountered by them, by people seeking their help, or by those they had met at workshops or community events. This was not the forum to catalogue these voices, but it was noted that no effort had yet been made to amalgamate these experiences of homophobia, rape, insult and violent attacks.

Bearing witness to violence

Another form of witnessing comes from legal action against murderers and rapists of black women who were violated because of their sexual identity. There have been a number of cases of such violence where LGBTI organisations have played a powerful role in illuminating the underlying issue of hate residing in the perpetrators.

Bearing witness is extremely complicated and daunting and could recreate damage for those at the heart of the violations under scrutiny. At the same time, silence is not an option.

Recommendations

The round-table participants called for wide-ranging action and identified five core strategies:

1. To pressurise for the progress of a hate crimes bill.
2. To monitor all cases in which LGBTIs were victims.
3. To create alliances with other human rights organisations.
4. To strengthen the voice of black leadership within the LGBTI movement.
5. To document the experiences of LGBTI people in South Africa.

In conclusion, the round table listed recommendations for different actors. These are summarised below:

For the state and its institutions

The state should develop and implement policies that protect the rights of all, including LGBTIs, and make certain

Living as a young black lesbian in this country can be a nightmare... you are aware always that nothing will protect you if they come at you. Your university will do nothing, your state will do nothing and your family may do nothing.

– Mary Hames, Director of the Gender Equity Unit, University of the Western Cape (cited in Mkhize et al. 2010: 40)

...as much as media gives voice to people – marginalised people as well – more often than not it is this very same media that reduces gay and lesbian people to the margins of entertainment...

– Thuli Madi from Behind the Mask (BTM) (cited in Mkhize et al. 2010: 36)

The 2006 Yogyakarta Principles is a declaration of sexual and gender rights that applies international human rights law standards to protect and prevent the abuse of LGBTI people.

that its institutions and personnel are appropriately trained to implement these policies. Such policies and strategies should ensure that:

- all forms of discrimination and violence targeted at LGBTI people are publicly condemned;
- discrimination, hostility and violence against LGBTI people are prohibited and prevented;
- activists and human rights defenders are protected and supported;
- courts do not unnecessarily postpone prosecuting and convicting hate-crime offenders;
- the criminal justice system is sensitive to the nature of crimes and does not subject victims to further victimisation;
- legal remedies are available to individuals whose privacy has been infringed or who have experienced discrimination and harassment based on sexual orientation;
- legislation is sufficiently reformed for the justice system to deal with crimes of hatred;
- a working group on crimes against lesbians is convened to develop and facilitate appropriate policy; and
- the education system (and other organs of state) is attuned to the spirit of gender equality by recognising that violence against lesbians is a gender issue.

For NGOs, donors, international agencies and other organisations

NGOs, donors, international agencies and other organisations should:

- publicly condemn gender-based violence directed at lesbians;
- continue to document and raise visibility about hate crimes directed at lesbians;
- challenge stigma, denial, discrimination and prejudice by addressing social justice values;
- identify and mobilise values across social, political, cultural and religious belief systems;
- engage society in dialogue that centres on sexual and gender justice;

- lobby to mobilise resources to address hate crimes;
- form alliances and collaboration for pursuing social justice;
- expand work on sexuality issues that link with economic justice;
- link up with the Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity;
- link advocacy on sexuality to human rights and development frameworks to shape multilateral action on poverty by placing sexual justice firmly on the agenda;
- support the development of LGBTI organisations and programmes that promote training and research on gender-based violence;
- lobby government to fast-track cases and legislation; and
- back the leadership development of advocacy groups at all levels to form long-lasting coalitions and build strategic alliances.

References/sources

This brief emerged from the discussions at an HSRC round table, which was written up in the report: Mkhize N, Bennett J, Reddy V & Moletsane R (2010) *The country we want to live in: Hate crimes and homophobia in the lives of black lesbian South Africans*. Cape Town: HSRC Press

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