

Dying to be

Gender-based violence

Mbali M Toyana ponders on a horrible contradiction in the lives of South Africans.

We have a wonderful Constitution and good laws, yet shocking gender-based violence, including the 'corrective' rape of lesbians, is allowed to flourish.

South Africa's Constitution is founded on the principles of human dignity, achievement of equality and the advancement of human rights and freedoms. In addition, the Bill of Rights has enshrined '... the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom' including the rights of lesbian, gay, bisexual, transgender and intersex people (LGBTI).

South Africa is revered the world over for its progressive Constitution which affirms equal rights regardless of age, race, sex or sexual orientation. Nonetheless, it has encountered significant challenges regarding the protection and fulfilment of human rights.

The prevalence of Gender-Based Violence (GBV) poses a major challenge to the advancement of constitutional rights and supportive legislation. It is endemic in our communities regardless of race, background, class, sex or age.

Literature shows that most victims are women while the perpetrators are often men. We have the highest reported rape cases in the world even though it is estimated that only one in nine is actually reported. It is estimated that a woman is raped every 26

seconds (consider the women who, while you read this, will be brutally violated).

Almost half of South African women will be raped in their lifetime. One in five reported rapes will end up in court. Of these cases, only 4% will result in conviction. For every 25 men accused of raping a child or adult woman, 24 will walk free.

These statistics paint a grim and shocking picture. Yet we often forget that the victims are real people – it could be your mother, sister, daughter, friend or colleague. These are people with dreams and aspirations. People who are violated in the most barbaric ways and then further burdened with picking up the pieces. These are not just numbers and percentages.

According to the Action Aid report (2008), male domination, misogyny and violence are the norm in South Africa. Patriarchy and heterosexuality is the 'natural' order of things. These social norms, coupled with weak sanctions against perpetrators further justify violence against women.

Lesbian women, who people often see as an affront to the status quo, are often targeted

because of their sexual orientation. It also seems that the atrocious 'corrective rape' has increased over the past decade.

Corrective rape occurs where men rape lesbians as punishment for being lesbians, to 'cure' them and make them into women. As deviants who challenge norms, lesbians are subject to humiliation, discrimination and violence. However, whilst this form of rape has been increasing, our legislation and institutions fail to develop meaningful strategies to address it with the urgency and effectiveness it requires.

South Africa has over the years, ratified numerous international human rights treaties, yet it has not signed the 2008 United Nations declaration on sexual orientation and gender identity. This declaration affirms the Universal Declaration of Human Rights which applies equally to all people irrespective of sexual orientation or gender identity.

In January 2009, the South African National Prosecuting Authority issued a statement that in essence said that while it was mindful of hate crimes, especially of a sexual nature, this was not something that the government has prioritised as a problem.

Little wonder, then, that we have a criminal justice system that remains largely unresponsive to the desperate plight of rape in South Africa. This problem is more pronounced for lesbians who face further discrimination and humiliation at the hands of police and courts because of their sexuality.

The inaction of government in taking these matters seriously shows that homosexuality is still not tolerated by the majority of South Africans, even those in power. To discriminate against LGBTI people is a violation of the Constitution's founding principles.

Rights in the Constitution are supported by additional legislation such as the Equity Act and the Criminal Law (Sexual Offences and Related Matters) Amendment Act. The Commission of Gender Equality and the ministry for Women, Children and People with Disabilities were also established to entrench the values of the Constitution. So why does South Africa have epidemic proportions of GBV?

Our leaders are not doing enough to mainstream LGBTI matters and to broaden the space for effective engagement and representation. They have failed to take a prominent stance and advocate for the advancement of their rights. Leaders need to loudly and publicly condemn perpetrators of such crimes.

If this does not happen, South Africa will remain a country where women live in terror, suspicion, and restriction in their own country. South Africa, stand up for your women who are at the mercy of this horrendous scourge. Act now, lest you be known as the country that failed its women.

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Kwa-thema: lesbian brutally raped and stoned to death with bricks

Ekurhuleni Pride Organizing Committee (Epop), the key LGBTI organization in the township of Kwa-Thema in Gauteng and the Coalition of African Lesbians (CAL) condemn the brutal rape and murder, in cold blood, of a member of Epop, Noxola Nogwaza...

The body of Nogwaza, a 24 year old lesbian, was found lying in an alley at about 9am on Sunday, April 24 2011. Noxola's head was completely deformed, her eyes out of the sockets, her brain spilt, teeth scattered all around and face crushed beyond recognition. Witnesses say that an empty beer bottle and a used condom were stuck up her genitals. Parts of the rest of her body had been stabbed with glass. A large pavement brick that is believed to have been used to crush her head was found by her side.

Noxola was raped and murdered in a similar manner to another member of Epop murdered almost three years ago. Eudy Simelane's body was also found in an open field in Kwa-Thema... Just last year, a gay man in the same township was attacked by eight men, who attempted to rape him. Luckily, he escaped the vultures. The men, as they attempted to rape him, were heard saying, 'We are determined to kill all gay people in this area and we will do it.'

'It is very clear that these rapists are on a mission. We will however not rest until justice prevails. Eudy's case was not recognized as a hate crime against a lesbian and the same is not done in the cases of many other people who have been raped and/or murdered on the basis of their sexual orientation and gender identity/expression in South Africa. Epop is determined to get to the bottom of the Noxola case and push for justice. It was definitely a hate crime,' said Ntsupe, Chairperson of Epop...

Epop and CAL call on the Tsakane Police Station, where the case has been reported, to carry out a quick and thorough investigation into the murder of Noxolo and deal with the perpetrators accordingly.

The previous article was written just before the above occurred.



Vanessa Smeets

The horrific murder of Noxola Nogwaza went almost unnoticed by the press who were more concerned with the royal wedding of Prince William to Kate Middleton. It was first picked up by Cosatu's (Congress of South African Trade Unions) Samwu (South African Municipal Workers Union) which released the statement below. Other Cosatu unions then also expressed their dismay at this homophobic murder.

Samwu Press Statement 03 May 2011

This Union has been saddened and deeply disturbed by the murder of Comrade Noxolo Nogwaza, who was laid to rest in the presence of thousands of activists and community members on the 1st May, Workers Day. Comrade Noxolo who was just 24 years old was found dead in the Kwa-Thema township last week and is believed to be the latest lesbian victim of so-called 'corrective rape', a barbaric practice that is supposed to 'straighten out' the lesbian members of our community by subjecting them to gang rape.

Comrade Noxolo was a leading member of the Ekurhuleni Pride Organising Committee (EPOC), the key LGBTI organisation in Kwa-Thema that has attempted to ensure that the provisions of South Africa's Constitution be respected and applied equally to all members of the community regardless of their sexual orientation...

So far, no arrests have been made, and not a single senior politician has seen fit to offer condolences to Comrade Noxolo's family and the community she tirelessly served to free from homophobic discrimination. This union takes the opportunity to lower its banner in respect to this comrade, and we hope many others will follow.

CORRECTIVE RAPE EQUALS MURDER

Sadly, the murder of Comrade Noxolo is not an isolated incident. Over the last ten years, no less than 30 lesbians have been murdered in this way, and that is only those

cases that have been reported. The total may be far higher. In 2008 Eudy Simelane, a popular and talented South African Banyana Banyana footballer and lesbian activist, was raped and murdered in Kwa-Thema under equally horrific circumstances. Gay men have also been subjected to violent attacks. How many more innocent women and men must be murdered and attacked before those responsible are arrested?

The term 'corrective rape' is no longer appropriate or accurate. Given the number of murders, and the manner in which they take place, clearly the intention of those committing such hate crimes is not to 'cure' or 'correct' their victims, but to punish them by depriving them of their right to live. They also want to send a crude and threatening message to all those who wish to freely express their sexuality, that they do so at grave personal risk.

Of course we must do all within our power to understand why such terrible acts of violence are taking place in our communities, in order to strategize about how to both challenge negative attitudes and the horrendous practices that accompany them. We must deepen an understanding of the legacy of a dehumanising apartheid, and the violent distortions it created. We must understand and challenge the persistence of a patriarchal system that reinforces notions of male superiority, undermines gender equality and effectively criminalises those who happen to be gay or lesbian.

We must demand that our Government takes this issue seriously, and puts into practice the spirit of our much heralded Constitution that outlaws discrimination on the grounds of sexual orientation.

HOMOPHOBIA DIVIDES THE WORKING CLASS

But the task before us all at the moment is to stand four square with those sections of our community who are under attack because of their preferred sexual orientation. This is not just a personal matter, but is also a profoundly political one. If we are to build a new society based on tolerance and equality, on the notion that an injury to one is an injury to all, we have to add our voices to all those demanding an end to such murderous activities, and commit ourselves to raising these issues in our own organisations.

We have to strengthen linkages with those organisations that campaign against homophobia and all forms of discrimination that has the potential of dividing our class. For as long as one section of our community is oppressed, we all remain in chains.

Our sympathy and condolences go to Comrade Nxolo's loving and supportive family, and especially to the two children she has left behind. We hope that they will one day manage to see beyond the horror of what has happened, and recognise and be proud of the wonderfully warm and courageous person their mother was.

At last government action on homophobia

On Tuesday 3 May government finally took action on calling an end to these 'corrective rape' murders which have plagued South Africa or some years now. Government's online *BuaNews* reported the following:

The Ministry of Justice and Constitutional Development has set up a national task team to tackle hate crimes against lesbian, gay, bisexual, transgender and intersex (LGBTI) South Africans.

The move follows a call by 170 000 activists around the world, who demanded corrective action on 'corrective' rape, which is an increasingly common hate crime in which men rape lesbian women to 'turn' them straight or 'cure' them of their sexual orientation.

The justice ministry made the announcement on Tuesday during a meeting in Parliament of senior officials from the ministry, non-profit organisations, SAPS (South African Police Service) and Social Development, with grassroots activists, who used the social action platform, Change.org, to recruit a record-breaking 170 000 supporters from people in 163 countries.

The decision also follows the recent murder of Noxolo Nogwaza, a 24-year-old lesbian,

who died after being stoned, stabbed with broken glass and gang raped in Kwa-Thema, outside Johannesburg.

The department's chief of staff, who led the meeting, Tlali Tlali, explained that the task team, which will formally begin its deliberations on 15 July 2011, will include six government representatives from the judiciary, SAPS and Social Development and six representatives of the LGBTI community with grassroots support.

'The team will be charged with developing a legislative intervention plan, a public awareness strategy, and LGBTI sensitive shelters,' said Tlali.

Intervention options discussed at the meeting included:

- Amending the sexual offences act so as to include sexual orientation as an aggravating factor, which would lead to heavier sentences.
- As a preventative measure, allowing the use of magistrates courts as equality courts to address any harassment, discrimination or hate speech.
- Consultations on the minimum sentences for hate crimes, inclusive of rape on the basis of sexual orientation.

- Emphasising the need for sensitivity around LGBTI cases in the service charter for victims of crime.
- Sensitivity training in the SAPS, Justice Department, NPO and Social Development structures.

Founder of Luleki Sizwe, an organisation that advocates for the rights of township lesbians, Ndumie Funda, commended government's response, noting that it shows they are willing to work with the gay community.

'But we continue to fight for LGBTI rights until the last drops of blood are spilled,' said Funda.

Change.org representative, Benjamin Joffe-Walt, described the campaign's accomplishments as remarkable.

'In less than six months, a tiny group of township activists have mobilised more than 170 000 people from 163 countries and gotten the highest levels of government to address their basic demand that the sadistic crime of 'corrective' rape be taken seriously.

'It has been an honor to support this campaign and we look forward to following the progress of the new task team over the coming year,' said Joffe-Walt. **LB**



Soweto Pride Day earlier this year.

African activist