



# Buuwa!

SEX AND HEALTH

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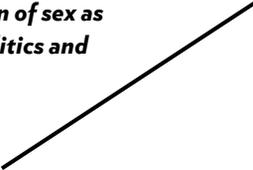
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# EDITORIAL

By Alice Kanengoni

***In the last three decades that the African continent has been battling the impacts of HIV and AIDS, a number of positives have been realised. One has been the subject of sex and sexuality finding a somewhat more comfortable place in development discourses on the continent. Sex and sexuality have largely been regarded as issues fit for the private sphere, and in some cases even treated as taboos that are only to be spoken of in hushed tones. The HIV and AIDS movements as well as feminist movements on the continent – and elsewhere – have challenged the notion of sex as a private matter, and brought it into discourses on health, economics, politics and power, thus firmly establishing it as a rights issue.***



**T**wo recent global platforms have been quite telling in this regard. The 12th AWID International Forum in Istanbul in April 2012, under the theme Transforming Economic Power to Advance Women’s Rights and Justice had a significant number of sessions focusing on sex, sexuality, sex work, pleasure and their intersections with economics and money as well as politics and power. Meanwhile, in May, the Open Society Africa Foundations convened the OpenForum – an equally diverse platform whose theme focused on money, power and sex. What was most striking for me at both events was the significant space given to sex and sexuality on their programmes; and I thought to myself, the continent has indeed come far!

This Issue of BUWA! carries African voices and stories, unpacking and sharing experiences in sex and health, and highlighting trends, realities, opportunities and challenges. Although sex has arguably firmly taken root in health and rights discourses, this has not been without challenges. **Dr Vicci Tallis** and **Laura Washington** illuminate some of these challenges and contentions in a piece that locates the sexual and reproductive health rights discourse in the broader feminist struggle for women’s sexuality rights and emancipation.

Given the tendency – dictated by culture and tradition – to confine sex and sexuality to the private sphere, HIV and AIDS

discourses have managed to break that artificial wall, bringing issues of sex and sexuality into the public sphere, albeit as health and reproductive health and rights issues. Thus, it has been largely HIV and AIDS movements that have led the southern Africa region in pushing an agenda for sexual and reproductive health rights. A number of significant gains have been recorded on this front – key among them being finding space for sex, sexuality and reproductive health rights on public agendas and dialogues. It is precisely because of this important step forward that global forums discussing so-called hard issues of economic transformation, money and power could legitimately and confidently engage with

issues of sex and sexuality. However, most sex and health rights movements in the region are still struggling – like women’s movements generally – and the challenge remains to continue strengthening these movements to ensure that these critical issues remain in the public domain and are not relegated once again to the private sphere.

Another gain has been on the steady traction towards gaining autonomy over women’s bodies. During the decades spent fighting HIV and AIDS on the continent, it has become clear how women’s vulnerabilities are increased by a lack of real choice in relation to protection, treatment and care. Practices such as lobola, as discussed by **Takunda Chabata**, have become a key part of the debate with lobola being viewed as giving men the right to decide how and when married women can have sex. A woman’s right to choose even in issues of contraception becomes compromised in this regard.

As such, married women tend to be more vulnerable, and have less control over their bodies, than their unmarried counterparts. The space to negotiate safe and enjoyable sex in a marriage context tends to be more limited. This is even more pronounced in countries where there are many different marriage regimes, creating challenges for women. For instance, customary law marriages allow men to have more than one spouse, increasing women’s vulnerability to HIV and AIDS. Some of the challenges are articulated by **Sibusisiwe Ndlovu-Bhebe**, who argues that there is a need to harmonise Zimbabwe’s marriage laws to make it easier for women. **Emma Machokoto**’s poem aptly summarises how marriage increases women’s vulnerability.

A review of policy and legislative frameworks in southern Africa in relation to women’s bodily integrity paints a picture of a region that offers half measures; where laws and policies do not fully guarantee women choices regarding their bodies. Issues of abortion, sex work and sterilisation are cases

## WE HOPE THIS ISSUE OF BUWA! CHALLENGES AFRICAN WOMEN AND MEN TO CONTINUE LOOSENING THE LID THAT HAS BEEN KEPT TIGHTLY SHUT FOR DECADES

in point. **Namuchana Mushabati** highlights some of the shortfalls in her analysis of policy trends in Zambia. These gaps often result in backstreet abortions, which have taken the lives of many women, as illustrated by **Karina Dulobo** and **Mazuba Haanyama** in their analysis of the role that the family unit has played in denying women, particularly young women, their right to bodily integrity.

However, it is not only the family that has helped men to maintain their control over women’s bodies, but also health care institutions. In southern Africa, especially in Namibia, South Africa and Botswana, there have been reports of the forced sterilisation of HIV positive women by medical doctors. In Namibia, a few cases have been brought before the courts but these are – almost certainly – just the tip of the iceberg in what is suspected to be a systematic and widespread practice that violates women’s reproductive health rights. There is suspicion that this practice might also be happening in other countries in the region, and there is need for research and provision of safe spaces that allow for women to open up and share their experiences.

The education system has also not been sensitive to school-going girls’ sexuality and reproductive health rights as **Stella Jerop Chebii** illustrates in her case study of how a lack of access to sanitary towels had been a barrier to adolescent girls accessing education in urban slums in Kenya.

On the African continent women are not encouraged to enjoy sex, and the reasons for this are often rooted in culture, tradition and religion. Some religions have been manipulated to deny women the right to enjoyable sex as **Grace Chirenje** and **Brian Nachipo** demonstrate based on their observations of how some Christian Scriptures are cited out of context to control women's access to contraception and good, safe and enjoyable sex. Sex, in their observation, is interpreted as primarily for procreation, and not for enjoyment, and pleasure is regarded as the preserve of men. This is not just in the context of religion, but also in the context of culture and tradition, as **Tinashe Mema** and **Rudo Chigudu** argue.

The notion of sex being for men's pleasure also manifests in Africa in the form of female genital mutilation (FGM). A number of cultures promote various forms of FGM, which in some cases has serious consequences on the reproductive health of the women. A number of research initiatives and documentation of the dangers and injustices of such practices have been done on the continent, and one such book by Marie-Helene Mottin-Sylla and Joelle Palmieri is discussed in this Issue by **Mazuba Haanyama**, who questions, among other things, the notion of labelling such practices as 'mutilation'.

**Sian Maseko** contends that because sex and pleasure are often defined in the context of hetero-normativity, the tendency is to adopt a moralistic attitude towards sex outside of marriage. In particular, same sex relationships are criminalised in most countries in the region. The same is true for sex work, which **Marlise Richter** argues is a test case for African feminism. Only recently has there been effort to build movements of sex workers as well as lesbian, gay, bisexual, transgender and intersex movements in southern Africa, and most are still in nascent form.

Another way in which women's bodies have been controlled is through rape. Although rape is recognised as a crime in southern Africa, certain types of rape are often ignored, as **Gemma Hancox** argues in her piece, which decries the prevalence of marital rape in South Africa in spite of laws and policies that are designed to protect women. Similarly, rape targeted at lesbians and transgender people purportedly to 'correct' them is also becoming prevalent in the region, as shown by **Tiffany Wesley**, who makes a case for such rape to be classified as a hate crime.

Control of the woman's body is also linked to who defines beauty – and how it is defined. Societal standards of beauty have created an industry that controls women's hair, skin, size, shape and looks; all driven by a capitalist ethos, which is the bedrock of patriarchy. **Davina Jogi** highlights this in her powerful photo-essay from Zimbabwe.

However, there are some positive moves towards giving women more control over their bodies. In particular, strides have been made in research towards preventive tools with regards to HIV and AIDS. Groundbreaking microbicide trials are a case in point. **Pauline Irungu** sheds light on how the African continent is at the brink of delivering on the 20-year-old dream of providing women with access to vaginal microbicides, a form of protection they hopefully will be able to control. But even with such breakthroughs,

there is still the need to develop a culture of respect for the sexual and reproductive health rights of women – and it is necessary to start fostering this culture at lower levels of the education system, as exemplified by **Lerissa Thaver** and **Astrid Leao** in their case study of South African secondary schools.

For decades, women have been organising, coalescing and building movements to resist all forms of oppression – including denial of their sexuality and reproductive health rights. These efforts need to be captured and documented, as in the case of the publication *African Women Writing Resistance: Contemporary Voices* (Edited by Jennifer Browdy de Hernandez, Pauline Dongala, Omotayo Jolaosho and Anne Sarafin), which is reviewed **Dr Hleziphi Naomie Nyanungo**.

We hope this Issue of BUWA! challenges African women and men to continue loosening the lid that has been kept tightly shut for decades to prevent issues of sex and sexuality from being openly discussed – and in the process making women and girls more vulnerable and putting their lives at risk.



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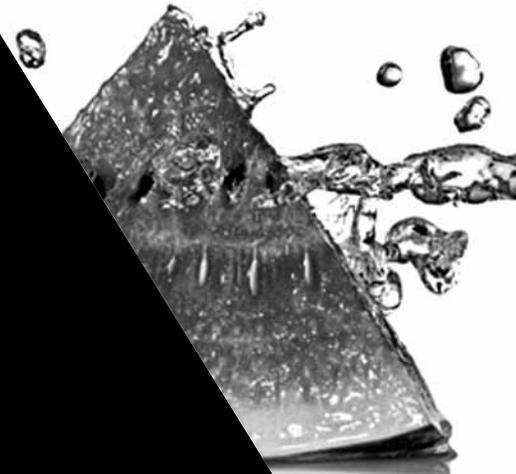
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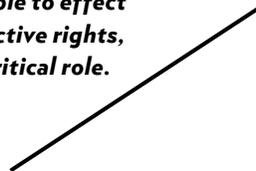
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# SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS: A USEFUL DISCOURSE FOR FEMINIST ANALYSIS AND ACTIVISM?

Laura Washington and Vicci Tallis

***The fight for sexual and reproductive rights has been the cornerstone of feminist activism and struggle for many decades. The second wave of feminism saw women's organisations and feminists mobilising around (amongst other important struggles for political and social equality) the right to abortion, access to safe contraceptives, better policies and laws to address rape, domestic violence and the eradication of female genital mutilation. As a movement, we have won battles and we have lost battles. Issues such as HIV and AIDS threaten to – and have – eroded some of our gains, and the sexual and reproductive rights of marginalised women are particularly contested sites of struggle. Indeed, many struggles still remain before women experience the full spectrum of sexual and reproductive health, rights and freedoms; and the reality is that feminist organisations and movements are unable to effect such changes alone. In order for women to realise sexual and reproductive rights, international and national state and non-state actors need to play a critical role.***



**T**he discourse on sexual and reproductive health first emerged in the mid-1980s as a result of feminist struggles against rape, domestic violence, access to safe and effective contraceptives and safe motherhood: as noted, the feminist movement has had a long history of activism around women's sexuality (and all that it entails) although this was not articulated in a sexual and reproductive health framework per se, but rather focused on sexual and bodily autonomy. Thirty years on, and the issues have – for want of a better word – been mainstreamed into the agendas of different agencies and role-players. The problem with 'mainstreaming' as a process, as demonstrated clearly in the mainstreaming of 'gender', is that concepts that provide a political framework to understand women's reality and oppression become watered down, more technical and lose their political meanings.

There has been a shift in the acknowledgement of, and access to, some aspects of sexual and reproductive rights – not necessarily from a women's rights or feminist perspective, but which does impact on women's daily realities in some contexts. It is testimony to feminist

movements globally that sexual and reproductive health and rights discourses have been integrated to varying extents within many social justice movements and are increasingly integrated into global and national policy frameworks, especially those relating to gender equality and health. Examples of these include national health programmes, national AIDS plans and women's health programmes. It is important to celebrate these victories as well as to interrogate the impact of the mainstreaming of sexual and reproductive rights, for example, to dissect how terms are defined in order to understand and identify what is missing from the agenda and, as such, is impacting on the realisation of rights.

What then is the influence on, and change in, women's sexual and reproductive rights (and we are purposefully not including health which further waters down and depoliticises the concepts) once mainstream organisations take on the issues? Is it acceptable to lose the feminist analysis of sex, sexuality and reproduction, which frames the structural understanding of why women are oppressed and why

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AND RIGHTS CAN BE UNDERSTOOD  
(IN THEORY) AS THE RIGHT FOR ALL,  
WHETHER YOUNG OR OLD, WOMEN, MEN  
OR TRANSGENDER, HETEROSEXUAL,  
GAY, LESBIAN OR BISEXUAL, HIV  
POSITIVE OR NEGATIVE, TO MAKE  
CHOICES REGARDING THEIR OWN  
SEXUALITY AND REPRODUCTION,  
PROVIDING THESE RESPECT THE RIGHTS  
OF OTHERS TO BODILY INTEGRITY.**

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the struggle for bodily autonomy is central to women's wellbeing, if rights are realised? This article seeks to define sexual and reproductive health and rights frameworks, unpack the terms most commonly used and ask whether the frameworks and principles further the feminist aims of body integrity, autonomy and challenging patriarchy.

### **Mainstream views of sexual and reproductive rights**

Sexual and reproductive health and rights can be understood (in theory) as the right for all, whether young or old, women, men or transgender, heterosexual, gay, lesbian or bisexual, HIV positive or negative, to make choices regarding their own sexuality and reproduction, providing these respect the rights of others to bodily integrity. Mainstream interpretations of sexual and reproductive rights often have a heterosexist bias, may favour men, and do not necessarily focus on women and especially on marginalised women; matters of grave concern for feminists. The UN agencies, whilst having their own individual nuanced definitions, essentially agree that

sexual health refers to a state of physical, emotional, mental and social well-being in relation to sexuality – and is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence. For sexual health to be attained and maintained, the sexual rights of all people must be respected, protected and fulfilled (WHO 2000).

Sexual rights extend the notion of sexual health and point to specific rights. As such, sexual rights embrace human rights that are already recognised in national laws, international human rights documents and other consensus statements. They include the right of all people to have the highest attainable standard of sexual health, including the right to access sexual health care services; seek, receive and impart information related to sexuality; positive and inclusive sexuality education; respect for bodily integrity; be able to choose their partner(s); decide to be sexually active or not; have consensual sexual relations; decide when, if and whom to marry; decide whether or not, and when, to have children; and, pursue a satisfying, safe and pleasurable sexual life.

Therefore, reproductive health implies that people are able to have a satisfying and safe sex life (linking to sexual rights) and that they have the capability to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility, which are not against the law, and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant (Cairo Programme of Action paragraph 94).

### **How do feminist definitions of these terms and concepts differ?**

The cornerstone of feminist theory is the notion of sexual politics: women's bodies – both in and outside of intimate relationships are sites of patriarchal power – and are spaces where men are at their most oppressive, and women are most oppressed. The control over women's bodies by intimate partner, family, community, society and the state manifests itself in sexual and reproductive rights: for many heterosexual women, an open expression of their sexuality is not possible and it is obviously much more difficult for lesbian, bisexual and transgendered women. Furthermore, state policy, lack of access to effective and appropriate services, and patriarchal views of women and their reproductive role control women's decisions around contraception, pregnancy, abortion and determine if, when and how many children women should have.

Linked to the issue of bodies and control, within feminist understandings and definitions the notion of power is also central. Technocrats will talk about the right of women, for example, to have sexual pleasure – without an understanding of power relations. As noted, ‘patriarchal relationships involve, to varying degrees and within different sites, inequalities of power, and without power women are likely to experience little control over sexual relations with men. It is within the context of unequal power relations that women are required to take preventative and protective actions aimed at minimizing their risk of contracting HIV’ (Travers and Bennett, 1996, p.67). Clearly asserting the right is not enough to ensure the right: the context is all important, for example, asserting the right to choose who you have sex with in a country that criminalises same sex behaviour is obviously a contradiction.

In short, feminist activism around sexual and reproductive rights comes from a starting point of patriarchy – and an understanding of the function of sex, sexuality and reproduction in upholding an unequal and oppressive society. Mainstream work on sexual and reproductive rights is more often than not apolitical and does not factor in the oppression of women in general, although it may focus on issues of class and gender in the analysis of the problem. If women are to realise their sexual and reproductive rights, it is imperative that responses acknowledge and address that patriarchal sexual control is context specific and culturally defined.

### **What is on the mainstream agenda?**

The interest in sexual and reproductive rights by mainstream international organisations has resulted in some positive efforts. Ironically, in a global social context where women are expected to reproduce as one of their primary roles, it has taken the pregnancy-related death of millions of women to eventually elicit a response. The latest research shows that maternal mortality rates are highest in Africa and in South Asia, with maternal mortality becoming one of the leading causes of death in southern Africa. Maternal mortality has reached such alarming rates that there is now a global effort to reduce the number of women who die during pregnancy, birth and post-natally.

Millennium Development Goal number 5 focuses substantially on reducing the maternal mortality rate; acknowledgement is made of the specific vulnerability of women giving birth in sub-Saharan Africa and South Asia where the majority of women deliver without skilled care. The second part of the goal is to achieve universal access

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to health care in general, including ensuring that more women access antenatal care, reducing inequalities in pregnancy care, and expanding access to, and use of, different contraceptives for women (noting that the use of contraception is lowest among the poorest women and those with no education).

It is acknowledged that inadequate funding for family planning is a major factor behind the failure of some countries to fulfil their commitments to improve women’s reproductive health.

A lack of state intervention and commitment is another barrier – and the MDGs rely on political will and resources to make them a reality. Progress has been made in this regard with the milestone Declaration of Commitment adopted at the 3rd Pan African Speakers Conference October 2011 in Johannesburg. The delegates committed themselves to prioritising both policy and budget support for the implementation of African Union Summit Decisions – in particular the 2010 Kampala Summit Declaration on the theme of ‘Actions on Maternal, Newborn and Child Health Development in Africa’.

This public commitment is the first of its kind by African Speakers of Parliament, and marks significant progress in Africa towards the attainment of MDGs 4 and 5 on child and maternal health respectively. It also promises high-level parliamentary support to hasten the implementation of the Africa Parliamentary Policy and Budget Action Plan on Maternal, Newborn and Child Health, which was agreed by Chairs of Finance and Budget Committees of national parliaments in October 2010. However, these commitments need to be tracked by civil society to ensure implementation.

Meanwhile, MDG 2 refers to halting and then beginning to reverse the spread of HIV and AIDS by 2015. The spread of HIV does appear to have stabilised in most regions, and more people are surviving longer. However, there is no room for complacency, especially in the light of dwindling funds for the Global Fund to Fight AIDS, TB and Malaria. The specific HIV goal under MDG aims to focus on young people and women and also acknowledges the link between gender-based violence and HIV and the need to address this link as a priority.

The fight for sexual and reproductive rights is not a universal, catch all slogan. Whilst gains have been made as noted above, the feminist agenda has not been fully adopted and there are many issues that the technocrats will not fight for. In the mainstream approach to sexual

and reproductive rights, the focus is on certain issues; the United Nations agencies, for example, are tackling the issue of maternal mortality and HIV but do not have the same global profile in pushing for access to safe abortion for all women. Some issues are more controversial and are more likely to remain on the agenda of feminist organisations and not become 'mainstreamed', and these include strong advocacy on LGBTI rights, assisted pregnancies, microbicides for adolescent girls, sex workers and women living with HIV and AIDS.

### **What is not on the agenda?**

While the MDG goals and efforts from various role-players are important and do shift the agenda and impact on specific women's conditions, such efforts do not, from a feminist perspective, impact on the fundamental position of women. Without an understanding of power inequalities, especially in intimate relationships which essentially provide the framing for sexual and reproductive issues, mainstreaming sexual and reproductive health and rights can only improve the health of the women they reach and will do little to shift the status quo.

In the fight for women's sexual and reproductive rights, women are not a homogeneous group. Within the category women, there are those who are marginalised and doubly oppressed due to their identity, subject position and geographic location. This means that the traditional understanding of sexual and reproductive rights does not necessarily speak to their lived realities and special needs. Unless the group themselves take up the issue, such issues may never surface or end up on the agenda. In this regard, it is worth highlighting the marginalised position of three groups of women to interrogate why their issues are not necessarily on the agenda – namely, sex workers, women living with HIV and AIDS, and lesbians.

If women generally face issues in accessing sexual and reproductive services, sex workers in particular experience huge challenges in accessing health services; this is mainly due to their identity as sex workers, although other structural and logistic issues also have an impact. Similarly, the coercive and forced sterilisation of women living with HIV has been documented in three southern African countries – Namibia, South Africa and Swaziland – with anecdotal evidence emerging from other countries. These cases involved women with HIV and AIDS being sterilised as they approached hospitals for reproductive health services. In some cases, the sterilisation happened as a trade-off for another sexual or reproductive service – for example, one woman who was raped and fell pregnant was only granted an abortion if she agreed to be sterilised. Another woman who was in labour and needed a caesarean section in order to guarantee both her own life and that of her unborn child had to agree to be sterilised before the caesarean would be performed. Some women have had to choose between ARV therapies and sterilisation or no access to life saving drugs, whilst some women

have only discovered later on when asking for contraceptives that they have been sterilised. It is clear that the forced (although the legal term is coerced from a feminist perspective it is clear that such experiences are forced) sterilisation of women living with HIV is the ultimate denial of their rights and one which impacts significantly on their identity.

It is important to note though that the practice of forced sterilisation is not restricted to women living with HIV, as anecdotal evidence from other groups of marginalised women (for example, women with physical or mental disabilities, and women migrants in South Africa) indicates that they have also been sterilised against their will.

In a region with the highest prevalence of HIV, and with women disproportionately affected by HIV and AIDS, there is understandably a focus on women in prevention and treatment issues (although it is not sufficient). However, within the discourse around women, HIV and AIDS, certain women are left off the agenda, including women with disabilities and lesbians. A recent study in southern Africa highlights that lesbians are in fact vulnerable to HIV and engage in high risk behaviour (including but not limited to having sex with a man) and that there are a growing number of lesbians living with HIV.<sup>1</sup> Access to information on HIV and AIDS for lesbians is non-existent and the attitudes of health care workers make it difficult for women to disclose their sexual orientation and thus get appropriate support and services.

Another aspect of sexuality that is not part of the traditional sexual and reproductive health and rights agenda, but is critical to feminist efforts to ensure that women realise their full sexual potential, is sexual pleasure and desire. The sexual double standard places great emphasis on male sexual pleasure and denies women's needs and rights to pleasure and bodily integrity and autonomy. The control of women's bodies is very much centred on control of their vaginas and genitals. For example, in many countries in southern Africa (and beyond) it is culturally determined that women carry out different so called 'interventions' for a variety of reasons, including hygiene, health, acceptable and expected social norms and control of women's pleasure and sexuality (Tallis 2012). A common vaginal practice is the use of drying agents to ensure a non-lubricated vagina, which has the sole purpose of enhancing sexual pleasure for men during intercourse. And while some of these practices might promote the enhancement of male sexual pleasure, they also increase women's vulnerability.

### **Value of a rights framework?**

Rights frameworks, including those addressing sexual and reproductive rights, cannot be replaced by other frameworks that attempt to define the obligations of society to individuals (Corea 2008). But rights frameworks cannot compensate by themselves for social struggles where oppressed people confront unequal

power relations. The rights framework in this sense is fluid and dynamic and represents a discourse that is developing out of the arena of these struggles rather than a static charter that has already been defined at a global level. There are many difficulties for women in challenging male power in the most intimate moment when the negotiation of safer sex is most necessary and when she often has the least access to power.

As can be seen, there are a range of diverging understandings of sexual and reproductive rights. Some of these understandings focus more on health, while others draw attention to the significance of rights in women's and men's sexual and reproductive choices.

Feminist understandings and activism around sexuality go further to analyse a lack of sexual and reproductive freedoms and locate this firmly in patriarchal societies in which control over women's bodies remains a fundamental way in which men oppress women. It is possible for mainstream organisations to take up an agenda of sexual and reproductive rights and make tangible differences to women's enjoyment of, and access to, these rights. Indeed, progress has been made and the impact is slowly being felt. However, unless the root causes of oppression and lack of autonomy are confronted and the whole gamut of oppression is tackled – including the more controversial issues – the sexual and reproductive freedoms of most women will continue to be compromised.



***Vicci Tallis is a feminist and former HIV and AIDS Programme manager at OSISA.***

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Bibliography

Corea (2008)

Tallis, V A (2012). *Feminisms, HIV and AIDS. Subverting power, reducing vulnerability.* London. Pallgrave MacMillan.

Travers, M. & Bennett, L. 1996. *AIDS, women*

and power. In Sherr, L., Hankins, C. & Bennett, L. (eds.). *AIDS as a gender issue: psychosocial perspectives.* (Social aspects of AIDS series). London: Taylor and Francis.

WHO (2000) *Technical working paper on Sexual and Reproductive Health.*

Endnote

1. HSRC, OSISA, OSF, UNDP and others

# THE COMMERCIALISATION OF LOBOLA IN CONTEMPORARY ZIMBABWE: A DOUBLE-EDGED SWORD FOR WOMEN



Takunda Chabata

*Bride wealth – or lobola – has undergone a radical transformation in Zimbabwe. This article looks at how the lobola payment has changed from a simple cultural practice into a highly commercialised venture – and how this has affected women, both positively and negatively. Many studies have been done in Zimbabwe on lobola but they have mainly focused on how this practice is conducted and the cultural significance attached to it (Chigwedere, 1982 and Bourdillon, 1976 & 1998). For example, the work of Mvududu (2002), Kambarami (2006), and Chireshe and Chireshe (2010) focused on the effects of lobola in general without exploring its effects in its contemporary commercialised form. Yet, it is clear that lobola has assumed some new characteristics over recent years that need to be analysed to appreciate how the practice affects women today.*



**I**t is against this background that I did a study to capture the voices of both women and men on this issue in Zimbabwe. Efforts were made to qualitatively elaborate the extent to which lobola has been commercialised in the negotiation/bargaining process – and how women have been commodified by the commercialisation of lobola.

## Conceptualising the ‘Commercialisation of Lobola’

The phrase ‘commercialisation of lobola’ is herein used to refer to a system where the payment of lobola has been transformed from being a mere cultural practice to a business venture, where the bride has a clear monetary value attached to her. It also depicts a situation where, because of the monetary value attached to the bride, payment negotiations are characterised by intense bargaining leading to the payment of a high fee – and is almost equivalent to the



**SOME MARRIED WOMEN FIND IT VERY HARD TO NEGOTIATE SAFE SEX SINCE THEIR HUSBANDS SIMPLY SAY ‘DZAKAENDA DZAKAPFEKA MACONDOM HERE?’ (DID THE CATTLE WE PAID GO WITH CONDOMS ON?).**

selling of a commodity on the open market. However, while lobola has been commercialised, it does still retain its cultural significance to some extent – namely the art of joining two families together and appreciating the important role played by the in-laws in bringing up the bride (Chigwedere, 1982 and Bourdillon, 1976).

While Bourdillon (1976) argues that lobola became commercialised in the colonial era, it is clear that the colonial era only set this process in motion and did not see it become fully-fledged. Indeed, it was changes during Zimbabwe’s serious economic melt-down (from around the year 2000 to 2008) and the ensuing multi-currency era (from the year 2008 to date) that really saw an acceleration in the commercialisation of lobola.

### **Understanding the concept**

Lobola or roora is a traditional custom that has endured for centuries (Chireshe and Chireshe, 2010, 3). As postulated by Stoneman and Cliffe (1989), nearly all traditional marriages in Zimbabwe were – and still are – expected to involve this ritual. According to Bourdillon (1976, 1998), as is the case in many African societies, the normative marriage customs of Shona-speaking peoples are characterised by the negotiation and payment of lobola. In Shona society, the payment of lobola – the main part of which is called roora – is the basis of marriage and family obligations. There is general consensus on what lobola entails in Zimbabwe and in other African countries. Chigwedere (1982) posits that lobola, which is sometimes referred to as bride wealth, is a form of marriage payment in which the bride’s family receives payment of goods, money, or livestock to compensate for the loss of a woman’s labour and the children she bears into her husband’s family. According to Mvududu (2002), lobola can be referred to as the institution through which a man pays some property for the right or privilege to marry a woman. Radcliffe-Brown (1934) views the same phenomenon of bride wealth as an indemnity or compensation given by the bridegroom to the bride’s kin for the ‘loss’ of their daughter.

These definitions have one implicit thing in common. While none of them directly refer to the payment of lobola as the purchasing of the bride, it is implied and therefore points to the idea that women

are, through the payment of lobola, commodified. It is highlighted that early colonial interpretations of lobola in Zimbabwe were linked to the sale of daughters for cattle (Ansell 2001, 3). However, it is noteworthy that the purchase of women is not akin to that of other market commodities in the sense that the initial owners of the commodity – the bride’s family – still have a say in how their daughter is treated by their in-law, and can in times of serious marital turbulence intervene and make decisions. In the commodity market, the seller of a product instantly loses control over the product the moment that it has been fully paid for.

### **Views on lobola**

This study involved interviews with 50 female and 10 male respondents in one of the high density suburbs of Harare to gather information on how women have been affected by the commercialisation of lobola. I also conducted focus group discussions to enrich the data elicited from face-to-face interviews. It became clear from the study that lobola has lost its traditional, cultural meaning of uniting two families and has become a money-making endeavour – and that lobola has both positive and negative impacts on women.

Some women argued that they are happy with the idea of lobola because it confers a certain status on them in society and among their kin. However, others are not happy with current situation, arguing that the commercialisation of lobola has resulted in many family problems such as domestic violence. Essentially, the study showed that the payment of lobola goes together with both explicit and implicit obligations. Failing – or merely the perception of failing – to meet these obligations may result in serious problems. Indeed, most women complained that their husbands abuse them out of bitterness for the huge amounts of money that they paid to their in-laws for lobola.

Conjugal rights are central in all marriages. My interviewees concurred that men’s understanding is that conjugal rights are purchased through the payment of lobola and as such, they should not be denied them at any point. However, women feel that sexual rights should be negotiated and not controlled by one person. But some men insist that they have paid large sums of lobola and that this gives them the right

to take all decisions to do with sex – even to the extent of forcing their wives to have sex when they are not willing. These findings reinforce Bergen's (1999, 4) postulation that men "are often portrayed as jealous, domineering individuals who feel a sense of entitlement to have sex with their 'property'".

The situation is made worse by the fact that women still find it extremely difficult to report cases of marital rape, even though the act was finally criminalised in Zimbabwe in 2002 through the Sexual Offences Act. Bergen (1999) and the African Population Research and Health Center (2010, 1) found out that 'marital rape is one of the under-reported violent crimes because it is socially tolerated'. Women feel that this is not only a betrayal to the husband, but also a disgrace for her family. In addition, women admit that it is harder to press charges when the husband has paid a large sum of money to their family as lobola.

Married men's control over sex does not only infringe women's rights, it also exposes them to HIV infection. Some married women find it very hard to negotiate safe sex since their husbands simply say 'Dzakaenda dzakapfeka macondom here?' (Did the cattle we paid go with condoms on?).

In addition, men who have paid lobola sometimes resort to violence to 'discipline' their wives since they believe that the payment of lobola gives them a license to abuse their wives, who they consider to be part of their property. This situation has been worsened by the commercialisation of lobola. Gustafsson and Worku (2006, 5) noted that the payment of lobola is 'as if the husband buys his wife'.

While discussing lobola, it is critical to note the major role played by aunts/tetes in arranging marriages and in the lead up to the payment of lobola. And the tetes continue to intervene after the marriage to resolve conflicts. The tetes ensure that marriages are safeguarded at all costs, even if it sometimes means sacrificing the rights of the women. Where lobola has been paid, it is very difficult to get a divorce because the matrikin will always prod the woman to endure. One respondent indicated that it is very common to hear the tetes saying "Chingotsungirira mwana wehanzvadzi yangu, yeuka kuti murume wako akabvisa pfuma. Kana ukamura tinoiwanepi mari yekumudzorerera?" (You just have to endure my niece, remember your husband paid lobola. If you divorce him, where will we get money to reimburse him his lobola?).

The study also found that charging of exorbitant lobola fees can result in enmity between two families. A very bitter lady who participated in the study said that her husband normally speaks harshly every time they have an argument. She said that her husband says, "Vabereki vako vakandidhurisira ende vakatopfuma neni." (Your parents overcharged me and they are now rich because of me). The traditional purpose of lobola – to bring two families together as postulated

by Bourdillon (1976, 40-49) – is therefore sacrificed for the love of money. In contemporary Zimbabwe, some bitter husbands no longer treat their in-laws with respect as in the past since their relationship has been poisoned by the commercialised nature of the lobola process.

However, some women said that they are happy with the current situation despite the many alleged side-effects of the commercialisation of lobola. As noted by Nyambedha (2004) and Nyambedha and Aagaard-Hansen (2003) the payment of lobola guarantees women and their children the right to resources within the kin group, and a place within the kinship structure. Married women also told me that lobola gives them status because 'if a large sum of money is paid for you, it shows that you have value'. Most women interviewed said that if the woman is loved and has value then 'real' money has to be paid. They argued that the payment of a higher fee can denote true love. An example was given of a police officer who earns approximately US\$200 per month, but managed to pay US\$2500 cash. It was agreed that this kind of commitment bestows value on the woman who is being paid for. One woman claimed that, "if he loves you, he should pay a meaningful sum for you." Others reasoned that "Kana uchibva kuvanhu unofanira kuva munhu anokosha. Kubhadharirwa mari shoma kushandiswa." (If you are a person with a cultured family background, then you ought to be of great value. You are being used if nothing meaningful is paid for you.) These results concur with the sentiments shared by Thorpe (1991) and Chireshe and Chireshe (2010), who argued that the majority of people believe that the payment of lobola reflects that the groom and his family are committed to the marriage. Bourdillon (1976, 50) in his study among the Shona peoples found that the payment of a high bride-price conferred a higher status on the bride and reflected the value the husband places on the marriage.

## Conclusions and Recommendations

It is clear from the research findings that women have mixed feelings about not just the concept of lobola, but also the amount that is being paid these days. While some women noted that a large sum of money paid indicates true love for the wife and commitment to the marriage, they were put off by the negative effects. It is against this background that I suggest that lobola should be regularised so that it ceases to be a millstone around women's necks. Men, who play a central role in the lobola negotiation process, should also be urged not to turn lobola into a money-making project for this has far-reaching implications for women and for marriages. The state should also be implored, in its protracted efforts to curb domestic violence, marital rape and other social ills, to consider re-educating society on the dangers of allowing exorbitant amounts of money to be paid as lobola in marriages.

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## Bibliography

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African Population and Health Research Center: Marital Rape and its impacts; A Policy Briefing for Kenyan Members of Parliament, Policy Brief No.13, 2010.1-2

Amin, S. and Bajracharya, A. 2011. Costs of marriage—Marriage transactions in the developing world, promoting healthy, safe, and productive transitions to adulthood Brief no. 35 March 2011.

Ansell, N. 2001. 'Because it's our culture!' (Re) negotiating the meaning of lobola in Southern African secondary schools' *Journal of Southern African Studies* 27(4) 697-716

Becker, G. 1981, 1991. *A Treatise on the Family*, Enlarged edition, Cambridge, MA, Harvard University Press.

Bergen, R.K. 1999. Marital Rape, National Electronic Network on Violence against Women, Applied Research Forum.

Bourdillon, M.F.C. 1976. *The Shona Peoples*, Mambo Press, Gweru.

Chabata, P. 2011. Factors influencing bride wealth negotiations in Zimbabwe: The case of Budiro 3 Suburb, Harare (An unpublished Research Project, Faculty of Social studies and Gender Development Studies, Women's University in Africa)

Chigwedere, A. 1982. *Lobola, the pros and cons*. Books of Africa, Harare.

Chireshe, E. and Chireshe, G. 2010. Lobola: The Perceptions of Great Zimbabwe University Students. *The Journal of Pan African Studies*, vol.3, no.9, June-July 2010, pp.1-11.

Elliot, FR.1986. *The family: change or continuity*, Houndmills, Macmillan

Gender Forum Discussion: Zimbabwean Marriages Batsirai E Chigama for Pamberi Trust 04 March, 2010 03:26:00

Gustafsson, S. and Worku, S.Y. *Marriage Markets and Single: Motherhood in South Africa*, TI 2006-102/3 Tinbergen Institute Discussion Paper, Universiteit van Amsterdam.

Jauch, H. *Structural Adjustment Programmes: Their origin and international experiences*, Background paper, Labour Resource and Research Institute (LaRRI), Namibia, March 1999

Kambarami, M. 2006. *Femininity, sexuality and culture: Patriarchy and female subordination in Zimbabwe*. ARSRC: University of Fort Hare

Luke, N. and Munshi, K. 2003. *New Roles for Marriage in Urban Africa*

Mvududu, S. 2002. *Lobola: It's Implications for Women's Reproductive Rights, for Women and Law in Southern Africa* Research Trust, Weaver Press, Harare

Nyambedhah, E.O. *Change and Continuity in Kin-Based Support Systems for Widows and Orphans among the Luo in Western Kenya*, *African Sociological Review*, 8, 1, 2004, pp.00-00.

Nyambedhah, E.O. and J.Aagaard-Hansen. 2003. 'Changing Place, Changing Position: Orphans' Movements in a Community with high HIV/AIDS Prevalence in Western Kenya', in K. F.Olwig, and E.Gullov, (eds.), *Children's Places: Cross-cultural Perspectives*, London, Routledge, pp.162-176.

Radcliffe-Brown, A.R. 1934. *Social Sanction*, Volume 13, pages 531-534 in *Encyclopaedia of the Social Sciences*. New York: Macmillan. → Reprinted in *Radcliffe-Brown's Structure and Function in Primitive Society*, published by Cohen and West in 1952.

Stoneman, C and Cliffe, L. 1989. *Zimbabwe: politics, economics and society*. Printer Publishers, London.

Thorpe, S. A. (1991). *African traditional religions: An introduction*. Pretoria: University of South Africa.



## HARMONISE ZIMBABWE'S MARRIAGE LAWS BEFORE CHANGING MARRIAGE CERTIFICATES

Sibusisiwe Ndlovu-Bhebhe



*In the latter half of 2011, the Zimbabwean Ministry of Justice and Legal Affairs announced that it was making moves to harmonise the country's marriage laws, which have long been criticised for not giving women the same marriage rights and legal protection as their spouses or counterparts in other unions. The changes would see every Zimbabwean marriage being recognised under one act and the same rights and limitations being applied to all marriages by the proposed law. Zimbabwe's law currently recognises two kinds of unions – civil marriage and registered customary marriage. The third kind of union is unregistered customary marriage, which is not legally recognised. It is, however, one of the most common unions and one that has often resulted in more confusion than freedom for those who have opted for it.*

**T**he civil marriage, which is covered under the Marriage Act's chapter 5:11, is monogamous and are recognised as the most ideal form of marriage because it offers almost equal legal protection and rights to spouses in the union. The registered customary union, which is covered under the Customary Marriages Act chapter 5:07, recognises the union as being guided by cultural rules. As such a man is allowed more than one wife and he is the legally recognised guardian of the children. In the past, when the father died, his male next of kin would have first preference in terms of guardianship of the children – before even their biological mother. However, this has

changed as the mother is now recognised as the next of kin and also has full rights to inherit her late husband's property, which was not possible before. The strength of these two marriages lies in the fact that they are both registered and recorded as legal unions – meaning spouses in these unions enjoy the full protection of the law whenever the need arises.

While the third type of union – unregistered customary marriage – is not legally binding, it has turned out to be the most common one in Zimbabwe. This union involves a man and woman living together as man and wife after fulfilling cultural marriage ceremonies like

lobola payment, but without signing the legal marriage register as required by the laws of Zimbabwe. This union is 'popular' for a number of reasons. While many people do not know that they need to register their unions, those who do know may not realise the benefits of having their union registered. For others, it is logistically difficult to have their unions registered as the process can only be done by recognised marriage officers. Many couples in rural areas see no reason to travel to the nearest city or church to find a recognised marriage officer (not every ordained pastor is a legal marriage officer) to have their union legalised if their families already recognise the union. While the law grants inheritance and

guardianship rights to spouses in these unions, the same is not true when it comes to property rights upon divorce. According to the law, if the marriage were not registered then divorce is not possible. Secondly, while in registered unions property is viewed as having been jointly acquired unless a prenuptial agreement was signed, in unregistered unions it is up to each individual to prove that the property one is claiming is his or hers when it comes to separation.

But inheritance is also more complicated in an unregistered customary union since a widow needs the legal confirmation of two relatives of her deceased husband before she can handle his estate. This means that even beyond death, the deceased husband still has a certain control over what his widow can or cannot do with the property procured during their marriage.

In an on-going study by the Ministry of Women Affairs, Gender and Community Development (Min WAGCD) in partnership with the Zimbabwe Women Lawyers Association (ZWLA) in Bulawayo, it was observed that couples in civil unions enjoyed more rights and legal protection than those in registered and unregistered unions. While men generally enjoy more rights than women in marriage, women in civil marriages have access to more protection by the law than women in other forms of marriage. The hope is that the joint Min WAGCD and ZWLA study will help to promote harmonisation of the current marriage laws. Meanwhile, the Ministry of Justice, in its move to review the existing laws, stated that research was being conducted in selected districts of Zimbabwe to determine the type of marriages prevalent in Zimbabwe and identify the challenges which communities face in registering marriages. While the results of this research are yet to be revealed, unregistered customary unions are expected to top the list. Indeed, according to the Development Centre's Social Institutions and Gender index, more than 80 percent of Zimbabwe's rural households involve unregistered customary marriages.

Interestingly, the Registrar General's (RG) office has moved faster to amend its civil marriage procedures than the Ministry of Justice and Legal Affairs has moved to harmonise marriage laws. Recently, the RG's office halted civil marriages countrywide to make way for a new system of registering marriages and a marriage certificate with special security features. Many people lauded the move stating that it will protect citizens intending to get married especially to foreign nationals and women who have often fallen prey to con artists.

The new procedure requires those intending to marry to submit their full names, identity particulars, passport size photographs and thumbprints on the day of the wedding. The witnesses to the union also need to give their full names and identification details. In the case of foreign nationals wishing to marry Zimbabweans, they need to produce a police clearance document absolving them of any past criminal activity or conviction in their home country. This will no doubt compel couples to take more time to think about the process and their need to marry before they say the 'I dos', but may not necessarily reduce the number of marriages of convenience or the number of locals who marry ex-convicts from other countries. In the past, women have been duped into marrying foreigners who are already married in their home countries and were just using them to gain local citizenship. This has seen many people being taken advantage of and even losing their property when their spouses, for example, choose to move back to their home country.

The RG's explanation that police clearance letters will help reduce unions with former criminals, places the need to 'protect' citizens directly above one's freedom to choose whom to marry. While little explanation has been given as to what ex-convicts have to do to be able to marry a Zimbabwean, the RG's new rules limit the ability of Zimbabweans to choose whom to

settle down with. Some residents who have been affected by this new process had very few kind words to say about its application.

"This law has good intentions but it is being unevenly applied because so far only male foreigners are being strictly asked to produce a police clearance while the authorities are a bit lax on female foreigners," said Themba Mlalazi, whose daughter had just postponed her wedding because her South African born fiancé had to get his police clearance. Commenting after her marriage to a Cameroonian was finally registered with the courts, a female Member of Parliament Evelyn Masaiti told the press that "They should have asked me what my spouse is doing in life, not to think that he is coming here because he would want to have a marriage of convenience. I am now officially married, it was my choice, it was my spouse's choice and it was out of love." These new requirements for formalising marriages may have the opposite effect by forcing some couples to remain unmarried or to opt for unregistered customary marriages.

The RG's office and involved ministries must consider that the extra security features on the marriage certificate will not protect women from the challenges they face once they get into these unions because of the skewed and somewhat insensitive laws that still prevail. In this regard, the RG's office cannot be seen as doing anything else other than practicing double standards when it claims its new rules are protecting people going into marriages.

Therefore, it is recommended that the RG's office consider ensuring first that benefits from all types of marriages, as long as they are registered with the government, are similar. Thus for areas that are too far away from magistrates courts or have no marriage officers nearby, marriage certificates should be obtainable from the nearest government offices in order to make it easier to register unregistered customary marriages. Section

## A MAN MAY CLAIM FULL MARRIAGE RIGHTS (CONJUGAL AND OTHERWISE) FROM A WOMAN BY SIMPLY PAYING DOWRY TO HER FAMILY

18 of the Customary Marriages Act specifies that the Ministry may appoint any person employed by the state or a local authority or any chief to be a customary marriages officer. However, due to a lack of political will this aspect of the law has not been invoked for the benefit of the people, especially in remote parts of Zimbabwe.

It is not a secret that in African culture, even those who sign the marriage register and who hold white weddings, first pay some form of dowry. So why deny those who have paid dowry and whose marriage is then recognised within their communities the opportunity to officialise their unions? Does the RG's office only believe that a marriage has taken place if the vows have been made before a judicial officer or a church official registered with the government? If so, let requirements be made for all people who consider themselves married to sign some form of register and for these registers to be readily available in all government centres.

Women have the most incentive to make their customary unions official since a man may claim full marriage rights (conjugal and otherwise) from a woman by simply paying dowry to her family. However, the performance of her wifely duties by a woman in an unregistered customary marriage may not be enough for her to claim the property that is due to her upon divorce or the death of her husband. The government should also incentivise the registration of marriages for men by ensuring that they are, for example,

only eligible to apply for spousal support from a working ex-wife if the marriage was officialised. In addition, in case of separation, men in unregistered unions should not be allowed to legally contest the custody of the children or deny financial support to the woman he has had children with. As things currently stand, women and families remain largely unprotected.

Therefore, in as much as the law recognises those who have not paid lobola as being married when they have signed a marriage register before a marriage officer in a church or a courtroom, there is need for the empowerment of community leaders to take up the role of marriage officers in remote areas to cater for the huge number of people still using customary guidance for marriage. The state needs to ensure that marriage registers are available in all corners of the country for easier access by all citizens. The rules must be as binding for those that make this commitment before a community leader as for those who make it before a registered marriage officer. This may need certain requirements to be met – for example, the legal age for marriage will need to be 18 for both males and females (currently men can legally marry at 18 and girls at 16). There could also be a requirement for witnesses to sign a certain agreement to show that the two partners entered the union willingly to deter early and forced unions. Hence, it is not enough for government to introduce additional marriage conditions to laws that have always protected women without first

making an effort to improve on the laws that continue to undermine women's rights, such as the laws relating to unregistered customary marriages and, to a lesser extent, registered customary marriages.

While the difficulties that the government encounters in attempting to incorporate African customary law into the mainstream legal system should not be underestimated, these changes are necessary and long overdue, especially when dealing with those aspects of customary law that discriminate directly against women and which contradict the constitutional right to equal treatment and equality before the law. Having more than one law relating to the institution of marriage only serves to confuse the issue. It is time government acted to harmonise all marriage laws in the country to make them fairer and equal for all married citizens.



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## MY HOME – MY GRAVE

Emmah Machokoto

Red roses have no meaning in my life,  
Diamonds and gold have become my enemies.  
It takes a black eye for me to receive red roses,  
It takes a broken arm or leg for me to receive diamonds and gold.  
This house I call my home will become my grave.

The word sorry has no meaning in my life,  
Cars and riches that surround me have become my enemies  
They do not represent my wealth but they represent my pain,  
For every time he beats me, a big gift soon follows.  
Surely this house I call my home shall become my grave.

The phrase” loving husband” has no meaning in my life,  
His feet have become my enemies  
For thrice the lives growing inside my womb, those feet kicked out.  
Helplessly I watched as clots of blood that could have been lives flowed out of my body.  
I am overwhelmed with fear because this house I call my home shall become my grave.

I fantasise about leaving but I am imprisoned by my mother’s soft all knowing voice  
ringing in my head  
“stay that’s what men do, it will get better with time”  
I dream about leaving but my pastor’s voice will not let me  
“Stay for God hates divorce! Pray its satan who wants you to leave”  
So here I am in my home that I fear will soon become my grave.



## ABORTION IN ZAMBIA

Namuchana Mushabati

***Unsafe abortions remain a major concern – and cause of maternal deaths – in Zambia despite the existence of the Termination of Pregnancy Act No. 26 of 1972 and several other policies and guidelines that are intended to prevent unwanted and unintended pregnancies. While these are all regarded favourably by the people who know about them, the fact is that very few Zambians are aware of them. Therefore, it is shocking – but not surprising – that the 2006 University Teaching Hospital facility based data showed that unsafe abortions accounted for 30 percent of all maternal deaths in Zambia.***

**UNSAFE ABORTIONS ACCOUNTED FOR  
30 PERCENT OF ALL MATERNAL DEATHS IN ZAMBIA**

### Understanding the phenomena

Unsafe abortion is a procedure for terminating an unintended pregnancy either by a person lacking the necessary skills or in an environment lacking the minimal medical standards or both.<sup>1</sup>

The 2009 Ministry of Health's Standards and Guidelines for reducing unsafe abortion morbidity and mortality in Zambia<sup>2</sup> listed a number of consequences of unsafe abortions and reasons for the high number of unintended pregnancies, including:

- Incomplete abortions among women younger than 20 were estimated at 23 percent;
- 25 percent of maternal deaths due to induced abortions were in girls younger than 18;
- 50 percent of acute gynaecological admissions were the result of abortion complications, a big proportion being from unsafe abortion;
- In 1993, over 16,000 maternal hospital admissions nationally were due to abortions performed in the communities by non-professionals;
- Unsafe abortions account for 30 percent of all maternal mortality;
- Insufficient knowledge about women's rights specifically those related to sexual and reproductive health;
- Stock-outs of reproductive products, such as family planning pills and condoms; and,
- There are often long distances to health care centres and a lack of youth-friendly services and a shortage of human resources.

## Legal framework on abortion

**T**wo pieces of legislation are important in understanding abortion provision in Zambia – namely the Termination of Pregnancy (TOP) Act, Chapter 304 of the Laws of Zambia and the Penal Code, Chapter 87 of the Laws of Zambia. However, the two have gaps and omissions that have, in some cases, encouraged women to risk unsafe abortions rather than seek safer options.

Until 1972, the laws relating to abortion were contained in the Penal Code. Section 151 of the Penal Code provides that any person who, with intent to procure the miscarriage of a woman or female child, unlawfully administers to her or causes her to take any poison or other noxious thing or uses any force of any kind or uses any other means whatsoever, commits a felony and is liable upon conviction to imprisonment for a term not exceeding seven years.<sup>3</sup> The Penal Code further stipulates that any woman who administers any poison or noxious thing or uses any force of any kind or uses any other means or permits the same to be done commits a felony and is liable to imprisonment for fourteen years.<sup>4</sup> The Act even extends liability to people who supply to, or procure for, any person anything whatever knowing that it is intended to be unlawfully used to procure the miscarriage of a woman or female child and the punishment is imprisonment for fourteen years.<sup>5</sup> This criminalised abortion, forcing women to resort to unsafe and illegal termination of pregnancies.

Section 152 was amended in 2005 and now allows a pregnancy to be terminated in accordance with the Termination of Pregnancy Act when a female child is raped or defiled and becomes pregnant. This provision comes very close to that in Article 14 of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. Unfortunately, this provision does not include pregnancies arising from incestuous relations, which effectively leaves women in that situation with no choice but to resort to unsafe and illegal abortions. Furthermore, while the amendment appears progressive, it only refers to girl children, and excludes women who need abortions after being raped.

In addition to the Penal Code, Zambia has had legislation on abortion since 1972 known as the Termination of Pregnancy (TOP) Act modelled upon that in the United Kingdom. The TOP Act entitles a woman to seek a termination of pregnancy on health and socio-economic grounds, when her own life and health, or the health of other members of her family, may be put at risk by the pregnancy, or when the foetus may be expected to be damaged or diseased. Therefore, Zambia's abortion law permits pregnancy termination on elective (socio-economic) and medical (health) grounds. The challenge with these provisions is that anything that is not deemed

to be a socio-economic or health reason does not qualify as a justification for abortion. This does not give women full choice and control over their bodies.

Similarly, Zambia has several policies on the provision of reproductive health services that are designed to prevent unwanted and unintended pregnancies, such as the gender, population, education, reproductive health and national health policies. The most relevant are the national health policy, which addresses six key areas, including maternal and child health, family planning and HIV/AIDS/STDs, and the reproductive health policy, which raises issues related to adolescent sexual health, violence and the prevention of abortion.

It is worth highlighting here that although these laws and policies are in place, not many Zambian women are aware of them. In some cases, women may know about the laws, but there are still challenges accessing the services for a number of reasons, some of which are highlighted later in this article.

## The magnitude of the problem

Information on women who obtain abortions in Zambia generally comes from health care facilities. Women who induce abortions themselves or go to a lay provider and do not seek post abortion care at a hospital are therefore not included. A 1993–1994 study of four facilities found that an average patient seeking care for abortion was aged 24–26 and the mother of two children.<sup>6</sup> Another study showed that women presenting at the University Teaching Hospital in 1990 with complications from unsafe abortions were generally 15–19 years old (60 percent), had some secondary education (55 percent), were unmarried (60 percent), had experienced no previous pregnancies (63 percent) and were students who wanted to continue their education (81 percent).<sup>7</sup> The study found that – compared with women who obtained legal abortions – women who opted for illegal procedures were older (55 percent were aged 20–29) and a higher proportion of them were mothers (71 percent had children). Therefore, unsafe abortion affects women and girls from all sectors of society and this can be attributed to the non-availability of information on safe and legal abortion services.

The challenge of unsafe abortions arises from a combination of factors such as age of sexual debut for females; teenage pregnancies; premarital sexual practices; early marriages; sexual violence against women; fragmentation of the family; media influence; and unmet needs of family.<sup>8</sup> Meanwhile, Zambian women and girls continue to face a challenge to access safe and legal abortions due to provider bias, limited information among women and girls about the Termination of Pregnancy Act, legal requirements, the limited number of sites that perform the procedure, and social and religious

sentiments against abortion – all of which lead an unknown number of women and girls to opt for unsafe and illegal abortions at the hands of untrained people in unsanitary and unsafe conditions.<sup>9</sup>

National data on abortion in Zambia, which includes hospital records, offers some clues as to the incidence of safe and unsafe abortions. According to data from five major hospitals across Zambia, a total of 616 women obtained safe induced abortions between 2003-2008.<sup>10</sup> In contrast, the number of women admitted to hospitals with abortion-related complications (including complications from spontaneous abortion) increased from about 5600 in 2003 to more than 10,000 in 2008 – and totalled 52,791 over the six years. In other words, about 85 times as many women were treated for abortion complications as underwent safe, legal abortions in those five key hospitals. At least half of reported complications were attributable to unsafe abortions. Increasing access to safe abortion would likely decrease the rate of complications and mortality attributable to abortion – a trend that has been noted in other countries, for instance in South Africa.<sup>11</sup>

### **Why risk unsafe abortions?**

Women's reasons for terminating pregnancy vary widely, but small-scale studies of patients seeking post abortion care reveal certain patterns. Adolescents' primary motivation include feeling ashamed because of the stigma attached to unwed motherhood, wanting to continue with school, having been abandoned by their partner, feeling too young to be a mother and being unable to afford to care for a baby. For instance, in a study of patients of all ages, participants wanted to avoid being expelled from school, avoid revealing a secret relationship, protect the health of their existing children and avoid revealing that they had violated cultural norms, such as postpartum sexual abstinence.<sup>12</sup>

Privacy, secrecy and economic concerns drive many women's decisions about what type of provider and method to use – and thus determine the risks they face. Women in several studies reported that they, or people they knew, had attempted to self-induce abortions by ingesting the anti-malarial drug chloroquine, herbal remedies, gasoline or detergents. Others had gone to traditional healers, who had given them herbs or inserted cassava sticks or roots into their cervix. A small minority had received abortions from medical professionals, who had used IUDs or plastic cannulas to induce abortions. Meanwhile, a recent study on unsafe abortion in Zambia found that one form of medication for abortion, misoprostol, was widely available in pharmacies and prescribed by some doctors, but there were also reports of women using it without proper instruction.<sup>13</sup>

The same study noted that economic reasons also contributed to women opting for unsafe abortion methods, as most women cannot

afford to pay for safe abortion services. It is ironic that despite the existence of a law that legalises abortion on socio-economic grounds, one of the reasons women decide to undergo unsafe abortions is for economic reasons related to the actual cost of the procedure. Traditional healers charge as little as 5000 Zambian kwacha (US\$1) for an abortion, whereas a safe abortion typically costs between 10,000-20,000 Zambian Kwacha (US\$2-4) plus 50,000 Zambian Kwacha (US\$10) if the woman does not have a referral at a public facility and even more at a private facility. Women who cannot overcome the considerable logistical, financial and social obstacles to obtaining a legal procedure may resort to illegal abortion, risking their well-being and seven years' imprisonment.<sup>14</sup>

### **No systems and mechanisms to match law and policy**

Although abortion is legal (well, legal on condition) in Zambia, access to safe abortion services is severely limited as a result of provider biases, limited information among women about the TOP Act, legal requirements, the limited number of sites that perform the procedure, and social and religious sentiments against abortion.<sup>15</sup> According to the International Conference on Population and Development (ICPD),<sup>16</sup> reproductive health care in the context of primary health care includes, at a minimum, safe abortion services, where legal, and the management of abortion-related complications. Since safe abortion is permissible in Zambia (again on condition), increasing access to safe abortion by reducing the number of doctors' signatures required and allowing mid-level providers to perform abortions would be both feasible and useful. To deliver on this, there is need for Zambia to have an effective and adequate healthcare delivery system, with sufficient personnel and resources to supply safe and timely services. This is not the case in the country, where many health centres have been equipped to provide all maternal and neonatal services except TOPs. One wonders why TOPs is not prioritised in centres where other systems and resources appear to be in place. Yet, to deliver quality abortion services the health care system should have adequate and trained staff, adequate and accessible health units, affordable services, clear guidelines, a range of abortion methods, appropriate equipment, pharmaceuticals and supplies, information, education and communication materials for the public, and be efficiently run.

In addition, the attitude of the personnel is critical. The Ministry of Health guidelines stipulate that health workers treat women who have undergone induced abortion in a sensitive and humane manner and inform women about the possibility of legal abortion.<sup>17</sup> Yet, a recent study found that many health care providers, including doctors, were not aware of the requirements for legal abortion.<sup>18</sup> When the law was explained, many thought that requiring the consent of three doctors was unacceptable given the shortage of doctors in most parts of the country. Meanwhile, some expressed interest in being trained to provide legal abortions.



**SOME HEALTH CARE PROVIDERS ARE PERSONALLY UNCOMFORTABLE WITH THE ISSUE OF ABORTION OR HOLD JUDGMENTAL OR CONSERVATIVE ATTITUDES TOWARDS PATIENTS SEEKING ABORTIONS.**

However, some health care providers are personally uncomfortable with the issue of abortion or hold judgmental or conservative attitudes towards patients seeking abortions.<sup>19</sup> Nurses participating in the above-mentioned study confessed that they were more sympathetic towards women who experienced spontaneous abortions – or miscarriages – than towards those who had induced abortions. The study found that one of the psychodynamic sources associated with the emotional reactions of nurses was ‘over-identification with the foetus and lack of identification with the aborting woman on a conscious/ unconscious level’. The study confirmed that the complexity of the abortion experience in nurses resulted in varying amounts and types of stress, and concluded that the nurses’ perception of abortion greatly influenced their attitudes towards their patients.

Providers with negative and discriminatory attitudes towards women trying to terminate their pregnancies gave those women lower quality care.<sup>20</sup> Providers’ negative attitudes towards abortion and other types of sexual and reproductive health care may also affect adolescents disproportionately.

The rural–urban divide is another dynamic that affects women’s access to abortion, despite the legal and policy framework that is available. In rural areas, most health centres have serious staff and equipment shortages and are unable to provide a basic package of primary healthcare services or provide 24 hours coverage. Some rural health centres are inadequately staffed with no nurse or midwife and services are delivered by untrained staff. This has serious implications for access to safe abortion, especially if the untrained personnel have negative attitudes towards abortion.

Even though the curriculum for midwives has been expanded in line with the Nurses and Midwives Act to enable them to provide essential reproductive health services, acquiring the skills needed to terminate a pregnancy is still optional for doctors at medical school.<sup>21</sup> This is in line with the right of health care staff to conscientious objection. However, it also reflects the view that abortion is not a priority area and strengthens the belief that it is wrong, further stigmatising and discouraging women from seeking legal abortion.

Other major barriers to accessing safe abortion are administrative problems. Although the TOP Act permits pregnancy termination on health and socio-economic grounds, its implementation is hampered by stringent legal and administrative requirements and definitional issues. Whereas the World Health Organization defines health as a state of complete physical, mental and social wellbeing and not merely the absence of disease infirmity,<sup>22</sup> the terms physical and mental health and reasonably foreseeable environment are not defined in the Act. It is thus unclear whether mental health includes psychological distress caused by rape or other sexual assault or detrimental socio-economic circumstances or diagnosis of fatal impairment, which leaves the current law subject to manipulation by those who may be opposed to abortion.

The requirement that three medical practitioners must authorize an abortion also creates serious legal barriers to women’s access to safe abortion. In rural areas where clinics are far away and may not even have three medical practitioners, this is a virtually impossible requirement to comply with. The requirement that one of the medical practitioners must be a specialist in the branch of medicine that the pregnant patient needs to be examined in – for example, mental or physical health – is another serious barrier. In particular, it is not clear how many mental health specialists are available in the country and where they are located, although mental health specialists are included in the minimum staffing requirements for primary health care delivery.<sup>23</sup>

The law also restricts the cadre of workers allowed to perform abortions to registered medical practitioners – and gives medical practitioners the right to conscientious objection. It further restricts the kinds of facilities where abortion can be done to government run and approved hospitals.

However, the stringent rules have been relaxed. The Nurses and Midwives Act was revised in 1997 to expand the range of health care providers who can terminate pregnancies to include nurses and midwives. The Standards and Guidelines for reducing unsafe abortion mortality and morbidity in Zambia also provides that where trained and registered medical practitioners are unavailable, the Permanent Secretary in the Ministry of Health shall make provision for all trained and skilled health providers to administer drugs for termination of pregnancy in accordance with the TOP Act and Midwives and Nurses Act<sup>24</sup>. The guidelines further provide that with appropriate training, health care providers who are not doctors (mid-level providers) can provide first trimester abortions as safely as doctors can and that all the providers performing termination of pregnancies must receive training in the performance of abortions and in the preparation, recognition and management of complications.

In line with the implementation guide for the place for termination of pregnancy, the guidelines provide that hospital means public health facility and or private clinic registered with the Medical Council of Zambia with adequate requirement to perform safe procedures (with trained personnel, equipment, supplies and with hygiene conditions).<sup>25</sup> However, the guidelines further provide that a termination of pregnancy can be carried out in any other 'place' regardless of level of care, or health facility, if the termination was an emergency one necessary to save the life or prevent grave permanent injury to the physical or mental health of the pregnant woman. But despite all these more lenient guidelines, only a very limited number of women can access safe abortion services.

It is also important to note that although Zambia has ratified a number of International and regional instruments that promote safe abortion, domestication of these instruments has not been a priority so recognising abortion as a human rights issue has not yet acquired legal significance. For example, the Convention of the Rights of a Child has not been domesticated and therefore Article 3 of the Convention, which is very relevant to the issue of access to safe abortion for young girls, has not been implemented. And there is still no specific provision in Zambia to assist young girls to access safe abortions in hospitals. Instead, young girls opt for unsafe abortions because of the fear that their parents will be informed and asked to give their consent.<sup>26</sup>

## Is there any political will to address the challenges?

Abortion and post-abortion care do not appear to have been – or be – a government priority in Zambia. Following the ICPD in 1994, Zambia produced an Integrated Reproductive Health (IRH) package. Although the focus was on safe motherhood, the IRH plan of action did include the production of information, education and communication (IEC) materials on unsafe abortion. However, abortion services and post-abortion care were not among the services envisaged for the community, health post and health centre packages. Post-abortion care services were only incorporated into the district and provincial health packages. In the 2000-2005 IRH action plan, even though one of the specific objectives was the provision of quality reproductive health care services, the only activity in the work plan relating to safe abortion was the implementation of the Nurses and Midwives Act.

And even though the IRH plan of action indicated that IEC materials on unsafe abortions would be produced, this information is not available in either English or local languages. Therefore, only a few women and girls are aware of the dangers of unsafe abortion or the provisions of the TOP Act.<sup>27</sup>

## Conclusion

Much as unsafe abortion is a public health issue in Zambia, it is also a human rights issue, and can be better addressed by conducting a human rights needs assessment,<sup>28</sup> which would involve assessing the scope, causes, and consequences of unsafe abortion in particular communities and nationally. The assessment should identify laws, including the language of enacted laws and the decisions of the courts, and the policies of the government, health care facilities, and other influential agencies, which facilitate or obstruct the availability of, and access to, abortion services. The extent to which laws that would facilitate access are actually implemented or how they might be should be determined.

Laws and policies that limit women's autonomy and choice regarding their health in general and abortions in particular should also be identified, along with laws that facilitate women's empowerment, and laws that obstruct such empowerment. Only then can we begin to talk of Zambia creating a progressive environment that allows for women and girls to fully enjoy reproductive health, including abortion.



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## Endnotes

1. World Health Organization, 1992.
2. The Standard and Guidelines are directed at health providers, managers and policy makers involved in the provision of abortion related services, contain guidance on what, how and by whom, and in which facilities services can be provided and seek to ensure that women prevent unwanted pregnancies and those unwanted, unintended or risky pregnancies get appropriate services to prevent the occurrence of unsafe abortions and associated morbidity and mortality, Page xi.
3. The Penal Code, Chapter 87 of the Laws of Zambia
4. Section 152, Penal Code Act, Chapter 87 of the Laws of Zambia
5. Section 153, Chapter 87
6. Kinoti SN, Gaffikin L and Benson J, How research can affect policy and programme advocacy: example from a three – country study on abortion complications in Sub-Saharan Africa, East African Medical Journal, 2004, 81(2) : 63 -70.
7. Likwa RN and Whittaker M, Women presenting for abortion and complications of illegal abortions at the University Teaching Hospital (UTH), Lusaka, Zambia, African Journal of Fertility, Sexuality and Reproductive Health, 1996, 1 (1): 42 – 49.
8. Standard and Guidelines on reducing unsafe abortions and maternal mortality and morbidity in Zambia, 2009.
9. Joyce Shezongo Macmillan's Desk review position paper on Unsafe Abortion in Zambia, 2007, unpublished.
10. Likwa RN, Abortion statistics in Zambia: research in brief, Lusaka, Zambia: Department of Community Medicine, School of Medicine, University of Zambia, 2009.
11. Jewkes R et al., The impact of age on the epidemiology of incomplete abortions in South Africa after legislative change, British Journal of Obstetrics and Gynaecology, 2005, 112(3): 355-359.
12. Koster- Oyekan W, Why resort to illegal abortion in Zambia? Findings of a community- based study in Western Province, Social Science & Medicine, 1098, 46(10: 1303 -1312.
13. Ministry of Health: Strategic assessment of policies, programs and research issues related to prevention of unsafe abortion in Zambia, unpublished report, Lusaka, Zambia: Ministry of Health, 2008.
14. Dahlback E et al., Unsafe induced abortions among adolescent girls in Lusaka, Health Care Women International, 2007, 28(7): 654 – 676.
15. Joyce Shezongo Macmillan's position paper to IPAS on Unsafe Abortion in Zambia, 2007, unpublished.
16. Chapter VII, Paragraph 7.6, International Conference on Population and Development (ICPD), 1994
17. Mtonga V and Ndhlovu M, Midwives' role in management of elective abortion and post- abortion care: Zambia country report paper presented at the conference Expanding access, 2000.
18. Ministry of Health, Strategic assessment of policies, programmes and research issues related to prevention of unsafe abortion in Zambia.
19. Kaseba C et al., The Situation of Post abortion Care in Zambia: An Assessment and Recommendations, Research Triangle Park, NC, USA: Research Triangle Institute, 1998.
20. Kaseba C et al, The Situation of Post abortion Care in Zambia: An Assessment and Recommendations
21. Mtonga, 2000
22. WHO, 2001.
23. MOH, National Health Policies and Strategies, 1991; 66
24. The Standards and Guidelines for reducing unsafe abortion, mortality and morbidity in Zambia, Page 11.
25. Standards and Guidelines, page 7.
26. Webb Douglas, Attitudes to Kaponya Mafumo : the terminators of pregnancy in urban Zambia, Oxford University Press, 2000.
27. Findings by Women and Law in Southern Africa (WLSA) Zambia after community sensitizations on unsafe abortion, 2010.
28. WHO, 2003.



# THE FAMILY AND BACKSTREET ABORTIONS IN MAPUTO

Karina Dulobo and Mazuba Haanyama

***The family is often regarded as a haven for support, care, love and nurturing. Not so, if you fall pregnant and you are a young woman or an adult unmarried woman in Maputo – or indeed in many other parts of southern Africa. In this article we share our thoughts on why the family often fails these women and drives them to resort to backstreet abortions – using Maputo as a case study. There are many reasons why this is so, and we will highlight a few of those, and challenge the institution of the family to review its role in the sexual and reproductive lives of women – and particularly young women.***

**W**e have chosen to focus on the family given the fact that all of us are born into families of one form or another, and because the family is the first institution that we interact with and the one that instils values before we are exposed to other systems and institutions. As such, the family can be powerful in shaping who we become. It is also important to note that the socialisation processes that happen at the family level are responsible for reproducing certain kinds of power relationships that are central to explaining why young women ‘choose’ to have unsafe abortions. It is our argument that the social relationships that men and women develop, especially within the family set up, have a significant effect on how the sexual and reproductive rights of young women are denied them by their families. We argue that the family is a site of power and significant for instituting, as well as perpetrating, patriarchal values and practices in Mozambique, as elsewhere in the region.

## **The politics and power dynamics of fertility**

One of the power dynamics in families is ownership of children. Despite several significant social, political and economic shifts

that have taken place in the last few decades around the world, which have seen many more women accessing education and formal jobs, gendered roles in the home seem to be as stark as ever. For instance, men generally still decide when to have children and how many children they will have in relationship – be it marital or outside of marriage. This is sanctioned by a patriarchal system that gives men ownership over children. For this reason, women who ‘accidentally’ fall pregnant in a marital relationship (where the man concerned has already declared that they have enough children) will often find themselves with little ‘choice’ but to abort secretly to avoid jeopardizing the marriage relationship.

The situation is worse for young women who fall pregnant outside of marriage. The family often takes punitive measures against girls and young women who fall pregnant, as this is considered a disgrace to the family. The problem is that pregnancy is perceived to be the preserve of married people, and so young women are not expected to be having sex. Since pregnant young women are thought of as bringing shame on the family, they will often be forced to leave their homes or drop out of school or marry the men who made them pregnant,

regardless of whether they love them or want to marry them. Our observation is that parents generally feel that girls should ‘lose’ their rights to study when they become pregnant because they made a ‘choice to have sex, which in turn resulted in unwanted pregnancy.

Therefore, family ‘values’ and family preservation are put ahead of women’s right to education and their right to choose who they want to marry. Even where there are policies to assist girls to return to school, this often does not happen because some parents complain that the pregnant or lactating young mothers will influence their ‘good’ children to think it is okay to fall pregnant while in school. Families do not regard this as an issue that they should take responsibility for or work with the young women to address.

It is worth highlighting that the question of what happens to the boy who impregnates a young girl is usually not discussed. As such, when a boy in school has fathered a child, he is often not subjected to the same kind of scrutiny, judgement and ridicule. It is unlikely that the responsibility and the role of the partner is ever questioned or ‘publicly’ debated.

Faced with all this, the decision to terminate the pregnancy is often assumed to be the 'right' choice for the girl. Unfortunately, the only option for her is to risk an unsafe abortion under terrible conditions.<sup>1</sup>

On the other hand, women may be forced to perform unsafe abortions if the men they are in a relationship with (marital or otherwise) want more children and they do not want them. Girls often have to deal with family norms and religious ideologies that pressure them to get married and have children very early, and sometimes have a considerable number of children, even if they do not want to. A woman's ability to generate life has a particular value in African societies and particularly in countries where manual agricultural labour plays a fundamental role in people's survival. In these cases, the existence of many children helps to guarantee continued production throughout the different agricultural cycles. When a woman gets married, she must immediately begin her role as a mother. It is for this that she is socially accepted, recognised and given approval.

The biological capacity to have a child is seen culturally as the 'natural' function of women, which defines femininity (Ortner, Rosaldo, 1976 and Lamphere, 1974). This explanation emphasises the reproductive capacity of women and sees maternity as the main task in a woman's life; choosing not to have children is seen as deviant behaviour. That women have to be fertile is a cultural constraint, which stems from the socialisation process within the family – usually supported by religion. There is need for families to rethink this, as it pushes some women to have secret and often unsafe abortions if they fall pregnant when they do not want to have children.

Little or no information on sex and sexuality is given in the home since it is believed that young girls do not need information on sex, contraceptives and other services because of the misconception that they are not yet sexual beings. Indeed, efforts by civil society and the State to make this information available are regarded by

conservative families and the church as a way of fostering promiscuity among young girls since it is assumed that if they were left alone they would not be having sex. This notion of young girls as sexually sterile beings is a result of patriarchy, which socialises young girls to be uninformed about their sexuality. So if they fall pregnant, there is usually no space within the family to discuss the pregnancy.

Many times parents feel uncomfortable discussing questions of sexuality with their children, resulting in young girls relying on friends and peers to answer their questions on sex, sexuality and reproductive health. Although this subject falls within issues that should be within the realm of family concerns, young people often feel more at ease confiding in people outside the family circle because there is less judgement involved. However, the people they talk to are ill informed themselves because their own families do not talk openly about these issues. The fact is that families need to make sex, sexuality and reproductive health issues part of dinner table conversations to encourage young women to open up and avoid unwanted pregnancies as well as seek safe medical attention where they do fall pregnant unintentionally.

In interviews with 29 women between the ages of 28 and 36 around Maputo, most single women felt that their pregnancies were automatically deemed unwanted even if they were in a financial position to raise a child due to the 'rules and regulations' dictated by family – and religion. From the interviews it also became clear that, while abortion is legal in Mozambique under certain and specified conditions, young women often do not know about it. Indeed, abortion is permitted up until 12 weeks of pregnancy but few are aware of this. Some of the interviewees said that they feel too shy to ask for services in clinics because the health practitioners often ask them probing and judgemental questions about why they got pregnant at a young age, and out of wedlock, and this only serves to make them feel embarrassed and ostracised.

"The Ministers Council approved in July 2011 new provisions of the Criminal Code with regard to abortion, stating that abortions that are performed in the first three months of pregnancy are no longer punishable by law. But the termination of pregnancy can only be done in an approved establishment and with the consent of the pregnant woman."

## Conclusion

Families have immense power to influence and shape societies. It is our view that this power has unfortunately not been utilised to positively shape and promote sexual and reproductive health knowledge, and rights, especially as it pertains to young women. Instead patriarchy has used this power to entrench values that drive women into risky behaviour, including resorting to backyard abortions when they fall pregnant. There is need for the family as an institution to recognise and promote women's autonomy over their bodies. Without re-socialisation and a shift in power dynamics in the home, women will continue to put their lives at risk by opting for unsafe abortions even where laws and policies offer them the choice of safe abortion procedures and the right not to have children.

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Endnote \_\_\_\_\_

1. An unsafe abortion is the termination of an unwanted pregnancy by persons lacking the necessary skills, or in an environment lacking minimal medical standards. (<http://www.newsday.co.zw/article/2011-08-14-illegal-abortions-horror>)



## **MENSTRUATION AND EDUCATION: HOW A LACK OF SANITARY TOWELS REDUCES SCHOOL ATTENDANCE IN KENYAN SLUMS**

Stella Jerop Chebii

***“Limited access to safe affordable, convenient and culturally appropriate methods for dealing with menstruation has far reaching implications for rights and physical, social and mental well-being of many women and adolescent girls in Kenya. It undermines sexual and reproductive health and well-being and has been shown to restrict access to education.” APHRC 2010, (p.2)***



**A**dolescence is a crucial stage of life and one that is challenging for most girls because of its physical and psychological changes. One of the major physiological changes in adolescence girls is menstruation. Today in Kenya menstruation is not only a health concern, but also an educational policy concern – and has become a key factor in the country’s bid to achieve the Millennium Development Goal (MDG) of eliminating gender disparity in primary and secondary education by 2015. This paper reviews research done on menstruation as a barrier to the educational rights of adolescent girls in Kenyan informal settlements.

According to O’Connor and Kovacs (2003), adolescence is a transitional phase in life from childhood to adulthood, and is something worth celebrating. This stage is marked by physiological changes such as increased body size and the ability to reproduce as well as psychological changes, including the ability to think critically, an expanded reasoning capacity, identity formation and sensitivity to the ‘new’ body image. However, for most girls in Kenya and other parts of the continent, this phase often brings challenges that push girls out of school and social activities, making the celebration short-lived. These challenges have often been underplayed, even though research has shown that their effects are significant. For example, menstruation causes Kenyan adolescent girls to lose an average of 3.5 million learning days per month (Muvea, 2011).

Meanwhile, UNESCO estimates that one in 10 African adolescent girls miss school during menses and eventually drop out because of menstruation-related issues, such as the inaccessibility of affordable sanitary protection, the social taboos related to menstruation, and the culture of silence that surrounds it (AllAfrica, 2011).

According to Kotoh (2008), menstrual blood is considered dirty and harmful, resulting in girls who are menstruating being restricted from participating in some activities for fear that they may 'contaminate' others and the things they may touch. For instance, in most African communities, menstruating girls are not allowed to be in the kitchen to cook or to do the dishes, and neither are they allowed to participate in games with other young people during their menstruation period. This in turn fosters stigma as the restrictions create the perception that menstruation is shameful and that menstrual blood is harmful. And yet menstrual blood is free of toxins and any harmful bacteria (Bharadwaj and Patkar, 2004).

Compounding these customary challenges is the lack of access to sanitary protection and towels, which disempowers girls, as they have to stay at home to avoid staining their clothes with blood in public. The cost of sanitary ware and towels is beyond the reach of most young women and girls, who in Africa are the majority of the unemployed and those living in poverty. Most girls end up not going to school, because they cannot afford to buy sanitary ware.

In addition, there are physiological and symptomatic challenges that girls go through during their menstrual cycle, which also hinder their full access to education as well as stop them from fully enjoying activities with others. For instance, before the onset of menstruation, adolescent girls can experience tension, depression, tiredness and irritability – symptoms of premenstrual syndrome (PMS), which affects the way adolescent girls relate to other students in school and their teachers (Dalton, 1979). The hormonal changes in the bodies of adolescent girls cause sudden mood swings as well. Physically, the retention of fluids in the body tissues can cause swelling around the ankles in some adolescents as well as backaches. If fluids are retained in the stomach region, it can result in bloating (Dalton, 1979). Sharma, Malhorta, Teneja and Saha (2010) argue that, at the onset of menstruation, females between the ages of 15 and 25 can experience dysmenorrhea, which featured as the commonest problem among adolescent girls and often results in prolonged bed rest and girls missing both classes and other social activities.

Kirk and Sommer (2006) identify the lack of knowledge and understanding about menstruation in most traditional and conservative communities as the key source of stigma about what is a normal, natural biological process. There is also a culture of silence

around menstruation leading to the menstrual process being viewed as a weakness of women. The subject is hardly ever discussed in families, resulting in it also not being an easy topic of discussion and engagement even in schools.

### **What does research on the subject say?**

Several research reports from the African Population and Health Centre (APHRC) in Kenya's urban informal settlements, the Forum of African Women Educationists (FAWE), individual researchers and other non-governmental organisations (NGOs) from 2010 to date were reviewed. It is worth noting that most of the research focused on the Kibera, Korogocho, Mukuru and Kiandutu informal settlements.

From the critical review of several studies on menstruation in Kenya, especially from APHRC, the following are the summative findings:

- There exists limited knowledge about the biological process of menstruation among the girls and women in Korogocho slums with only a minority able to describe menstrual blood in biological terms;
- Menstruation is treated with silence and as a taboo topic, which limits women's and adolescent girls' access to relevant and important information about their bodies. Most of the research participants view menstrual blood as unclean and harmful. Some confessed that they do not go to church while menstruating.
- Sanitary towels (pads) were the preferred sanitary protection for most participants. From the study, when pads were not available, women and girls used cotton wool, cloth, tissue paper and even pages from their exercise books and sponge from old mattresses. And while pads were preferred, they were difficult to access and expensive.
- The inaccessibility of menstrual products resulted in embarrassment, anxiety and shame when girls and women stained their clothes, which is stigmatising. The schoolgirls interviewed for the various studies generally described menstruation as a time of anxiety and discomfort especially at school, leading to low concentration in class.
- Many adolescent girls and women in Kenya have limited knowledge about their bodies, especially in relation to menstruation and sexual and reproductive health.

Elsewhere, in some rural areas girls use old rags, leaves, cow dung or even dig a hole on the ground to sit on for the whole period as a means to manage their menstrual flow. In an ethnographic study conducted in a primary school in Bungoma District, Lukalo (2010) noted that menstruation is not just a private affair but has the potency to become public, embarrassing and often a source of stigma for the girls.

In another study, Obonyo (2003) noted the intricate relationship between urbanisation and the development of slums and squatters in Africa. This development often happens at the expense of sanitation and hygienic living conditions for families, especially children and women. Obonyo (ibid) also noted the economic, social and psychological implications for the residents of these sprawling slums. She noted that adolescent girls are the most affected by the lifestyle.

As an example, Obonyo (2003) critically observed the difficulty faced by adolescent girls in accessing sanitary protection resulting from their struggle to meet their daily needs. These economic conditions, Obonyo observed, are caused by many factors ranging from lack of empowerment to single parent-headed families. The living conditions are deplorable with overly congested houses constructed of cardboard boxes, old iron sheets and mud walls, which do not offer privacy to girls. In her study, Obonyo brings highlights the fact that accessing sanitary protection is also tied to a lack of facilities for the girls to dispose of their used sanitary towels as well as a lack of private spaces where the girls can comfortably change.

Focusing more on the dynamic in the school space, the Federation of African Women Educationists (FAWE) (2006) discovered that the lack of a conducive school environment was a leading cause of the low retention of girls in school – with poor sanitation being specifically cited as a leading determinant of whether adolescent girls turn up for class or not (in addition to a lack of security, and long distances to school). Yet, according to FAWE, girl's education is the most important investment for women in developing countries because of its contribution towards better health for their families, alongside increasing the women's potentials as well as lowering fertility rates (FAWE, 2006).

### **Current responses and interventions**

The issues emerging from these studies have led to many campaigns in both poor rural and poor informal urban settlements in a bid to provide adolescent girls with sanitary protection and help bridge disparities between adolescent girls and boys both in primary and secondary education in Kenya. One intervention is run by the Foundation of Hope Life Center (FHLC), which rolled out a programme for this purpose in 2007. The organisation has since been providing needy girls with sanitary towels, and has also extended its project to assist needy orphaned girls and widows

(FHLC, 2011). FLHC has also been able to sponsor 1000 poor girls in Kenya by raising funds on their behalf from donors and volunteers. This has been possible by encouraging shops and supermarkets to donate sanitary towels. The organisation has also stepped up publicity by word of mouth, media and religious institutions to contribute towards this cause (FHLC, 2011).

Similarly, the Kenya Broadcasting Corporation (KBC), through Metro FM, introduced and led a campaign donating sanitary towels to adolescent girls on monthly basis in the informal settlement of Kiandutu in Thika (Africanews, 2011).

Another informal settlement that has benefited from a similar campaign is the Mukuru slum area in Nairobi, where a project called 'Huru' began in 2008 with the aim of providing reusable sanitary pads to school-going adolescent girls. Funded by Johnson & Johnson, PEPFAR, the Elton John Foundation, and America Share/Micato Safaris, the project hired young people from Mukuru to make the pads and assemble each pack, which contains five pads for use during the day and three for night use along with three pairs of panties, a water proof bag to store the pads, and soap for washing the pads. The kits were accompanied by information on HIV and AIDS prevention, contacts for counselling services within the neighbourhood and Voluntary Counselling and Testing (VCT) services, as well as a manual on how to use the pads (Fleischman, 2011).

Meanwhile, in April 2011, the Afri-can foundation – in partnership with women in Kisumu – produced 600 packs containing 4 sanitary pads with the involvement of the community banks and schools, where the pads would be sold. This project follows a market-based approach to the provision of sanitary towels, although donors are being sought to support this project (Afri-can, 2011). Safaricom has also contributed immensely to keeping girls in school by donating sanitary towels to 43 secondary schools in Rachuonyo district in April 2012. Over 5000 girls benefitted from the organisation's support, which constituted a drawstring bag,<sup>24</sup> packets of sanitary towels and three pairs of underwear (Otieno, 2011).

Although such interventions are good short term measures, there is a need for policy interventions that can potentially change the situation of more girls and young women in the long term. And we have started seeing some positive steps, such as the allocation of KSh300 million in the education budget to the provision of free sanitary wear to schoolgirls in 2011. However, since the Ministry of Educations plans to provide sanitary pads to girls throughout the country, the 300 million allocated to the project is still insufficient and will only cater for schools in the most poverty-stricken areas – just like the school feeding programme (Siringi, 2011).

It is worth noting that this development was the result of persistent pressure from female Kenyan parliamentarians about the plight of the girls during menstruation. Following the budget allocation in June 2011, the Kenyan Education Secretary, Professor Godia, announced that money would be provided to schools to buy sanitary towels for their female pupils at the beginning of the term in September 2011, as part of the free education for all campaign. Positive though this step is, it should be noted that the funding is not sufficient considering that an estimated 2.7 million girls aged between 9 and 18 are in need of sanitary ware. Another KSh1.3 billion is still needed to make the programme viable nationwide. There is also need to provide underwear to hold the pads in place if this initiative is to be truly successful (Siringi, Aug 2011).

### **Conclusions and recommendations**

This paper has shown that the provision of sanitary ware is a major determinant in achieving gender parity in education in Kenya and there is a need to consider this as a significant factor in education policy planning and development. There is also a need to address the underlying menstrual issues that restrict adolescent girls' from achieving their full potential in relation to schooling and their public lives. An understanding of how adolescent girls reflect on what it means to be a woman in their world during these moments, and what such days mean to their schooling is crucial.

Policy makers should prioritise, and clearly articulate, a policy position on the provision of sanitary ware for girls in schools, as a right for all girls that need them. In addition, the school curriculum should include information on the female body with a view to demystify issues of women's sexual and reproductive health for the benefit of all. This should also include pedagogical processes that can enable learners to develop a critical understanding of the body/subject, power and control dynamics in their society. These could be incorporated into activities at

school and would break the silence around this tabooed area. In addition, water-sanitation facilities and proper toilets, which offer privacy, should be a priority in all Kenyan schools to increase attendance among adolescent girls.

The Kenyan government should buttress such a policy with the necessary financial resources to ensure that the provision of sanitary ware actually takes place. The target should increase from girls in slums to girls all across the nation – and should also expand to include girls at all levels of education who need assistance. It is a matter of rights, and it should be treated as such.

In the meantime, campaigns to demystify menstruation need to be rolled out nationally at both grassroots and elite levels. These campaigns should aim to make adolescent girls recognise that they are contributing to the silence and stigma around menstruation by collaborating – and encourage them to use their voices to talk about the topic and themselves, and to demand their rights.

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## References

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- Africanews (2011). Sanitary Towels for Kenyan Teenage Schools Girls. < [www.africanews.com/site/list\\_message/34104](http://www.africanews.com/site/list_message/34104) > accessed, 15/8/ 2011
- APHRC (2007). Factors Affecting Transition to Secondary Education in Africa.
- APHRC (2010). Experiences and Problems with Menstruation among Poor Women and Schoolgirls in Nairobi, Kenya
- Bharadwaj, S., Patkar A. (2004). Menstrual Hygiene and Management in Developing Countries: Taking Stock. Mumbai: Junction Social.
- Dalton, K. (1979). *Once a Month: the Menstrual Syndrome; its Causes and Consequences.* Stanford: Harvester.
- FAWE (2006). Experiences in creating a Conducive Environment for Girls in School: FAWE centre of Excellence.
- Fleischman (2011). Re-Useable Sanitary Pads Helping Girls in School: Center for Strategic & International Studies. <[www.smartglobalhealth.org/blog/entry/sanitary-pads](http://www.smartglobalhealth.org/blog/entry/sanitary-pads)> accessed 15/8 /2011.
- Fountain of Hope life Center Kenya (2011). Sanitary Towels providing sanitary towels to the needy girls, orphaned girls and widows. <[fohlc.org/projects/sanitary-towels](http://fohlc.org/projects/sanitary-towels)> accessed 14/8/2011.
- Githaigah, M. (2011). Gender Responsive Planning and Budgeting at Work. <<http://www.ips.org/africa/2011/07/kenya-gender-responsive-planning->> Accessed 15 /8/2011 and 26/3/2011.
- Kirk, J., Sommer, M. (2006). Menstruation and Body Awareness: Linking girls' health with girls' education. <[www.kit.nl/smartsite.shtml?ch=fab&id=5582](http://www.kit.nl/smartsite.shtml?ch=fab&id=5582) > Accessed 30/7/2011.
- Kottoh, M.A. (2008). Traditional Menstrual Practices: Sexual and Reproductive Health And Gender implications for Adolescent Girls. Institute of African Studies Research Review NS 24.1:1<[www.sabinet.co.za/abstracts/inafstud/inafstud\\_v24\\_n1\\_a3.html](http://www.sabinet.co.za/abstracts/inafstud/inafstud_v24_n1_a3.html) -> accessed 23/8/2011.
- Lukalo, F.K. (2010) 'Ethnography in the margins': Schooling in Rural Kenya. Presented in a Conference on schooling in Kenya in Nairobi -Kenya, Nov 2010.
- Muvea, F. (Mar.2011). Menstruation a Hindrance to Girls Education in Kenya. EzineArticles.com. <<http://ezinearticles.com/?Menstruation-a-Hindrance-to-Girls-Education-in-Kenya&id=6064293> > Accessed 29 Mar. 2011.
- Obonyo, S.A. (2003). "A Study of Knowledge and Practices of Slums in Nairobi" Unpublished Thesis, Kenyatta University.
- Otieno, S. (2011). Safaricom Keeps Girls in Rachuonyo in School. <[allafrica.com/stories/201104080190.html](http://allafrica.com/stories/201104080190.html)->accessed 15/8/ 2011.
- Siringi, S. (2011). Ministry Rolls out Project to give Girls Sanitary Pads <http://allafrica.com/stories/201108090044.html> Accessed August 15 2011
- Siringi, S. (2011, October). Sanitary pads for girls in January. Daily Nation.
- Sharma P, Malhotra C., Teneja DK, Saha R. (2010 February). Problems related to menstruation amongst adolescent girls in Indian Journal of Paediatrics, 2008 vol 75(2) p.125-9.
- Rembeck G. (2008). The Winding Road to Womanhood: Adolescents attitudes towards menstruation, womanhood and sexual Health-observational studies

# THE BEAUTIFUL ONES ARE NOT YET BORN

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***“It’s difficult to determine a beautiful person unless stringent guidelines are set up to identify beauty. To me I still think the beautiful ones are not yet born.”***

Njungbwen Olando, Bamenda, Cameroon –  
Africa: Have Your Say, BBC News

In the 1970s, conservative Malawian president Dr. Hastings Banda imposed a strict dress code on his country, prohibiting women from wearing short skirts and trousers. A decade later, Zimbabwe’s then Minister for Community Development and Women’s Affairs, Joyce Mujuru, banned beauty contests in her country. And at the beginning of this century, 200 people were killed in northern Nigeria after an article on the Miss World pageant being held in the country sparked religious riots.

In each case, the protagonists saw themselves as defenders of the African female body being exploited by Western conceptions of beauty. It is a debate that has been raging since the advent of colonialism and the introduction of a contradictory set of ideals.

Taking a cue from the quote above and from Ayi Kwei Armah’s novel of the same name, *The Beautiful Ones Are Not Yet Born*, I set out to photograph how body-related issues play out in the lives of ordinary African women on a daily basis – how the debate is negotiated on the street today. The idea was simply to get a contemporary picture of how African women regard their bodies and their beauty.

I am a fourth generation Zimbabwean of mixed Indian and white descent. Neither white nor black, in some ways I fell outside of the debate I was photographing – this actually proved advantageous as women opened up to me, eager to explain to a perceived outsider and perhaps more willing to answer questions that for a black Zimbabwean might seem trivial.

However, photographing such a personal issue is always tricky, especially in Zimbabwe where everyone is naturally suspicious of a camera. When I showed up to cover the gym for example, half the class was not there because they had heard I was coming. But generally, as a woman, I was able to access feminine spaces, like hair salons, that have not been covered at all in the mainstream media, which is driven by male news photographers.

Choosing what to photograph was not difficult – having grown up in post-independence Zimbabwe, I also had to learn where my comparatively Westernised upbringing placed me when it came to living in such a conservative country. As we grew up and our appearance became more important, I became aware that my black Zimbabwean friends had to make difficult choices, especially in relation to what they could wear. Talking to some of these friends for this story, I was able to narrow down the debate about African versus Western beauty ideals into 5 main areas:

1. Hair – kinky and short vs. straight and long
2. Body shape – curvy vs. skinny
3. Clothing – concealing vs. revealing
4. Skin Tone – light vs. dark
5. Morality – virtuous vs. loose

I then set out to find images that could be representative of these five issues. The resulting story looks at these themes from the perspective of women from both younger and older generations. Although the photographs were all taken in Harare, they are representative of what I have seen across southern Africa in my travels as a photographer.

Personally, although I was fascinated by the amount of time and money women spend on hair care and intrigued to hear about bum shaping underwear and virginity creams, the most interesting part of the assignment was meeting Tsitsi Chiyangwa. Tsitsi is a 28-year-old albino, who is patiently working towards her goal of becoming a model – not despite the prejudice against her condition but because of it. She explained how people who do not know her often call her ‘murungu’ (white person) and children ridicule her in the street because of her light skin. She always takes the time to explain to these children what her condition is, so that the next time they call her by her name, Tsitsi. Her struggles stand in stark contrast to the triviality of buying skin-lightening creams to satisfy a desire to look like Beyoncé or Rihanna.

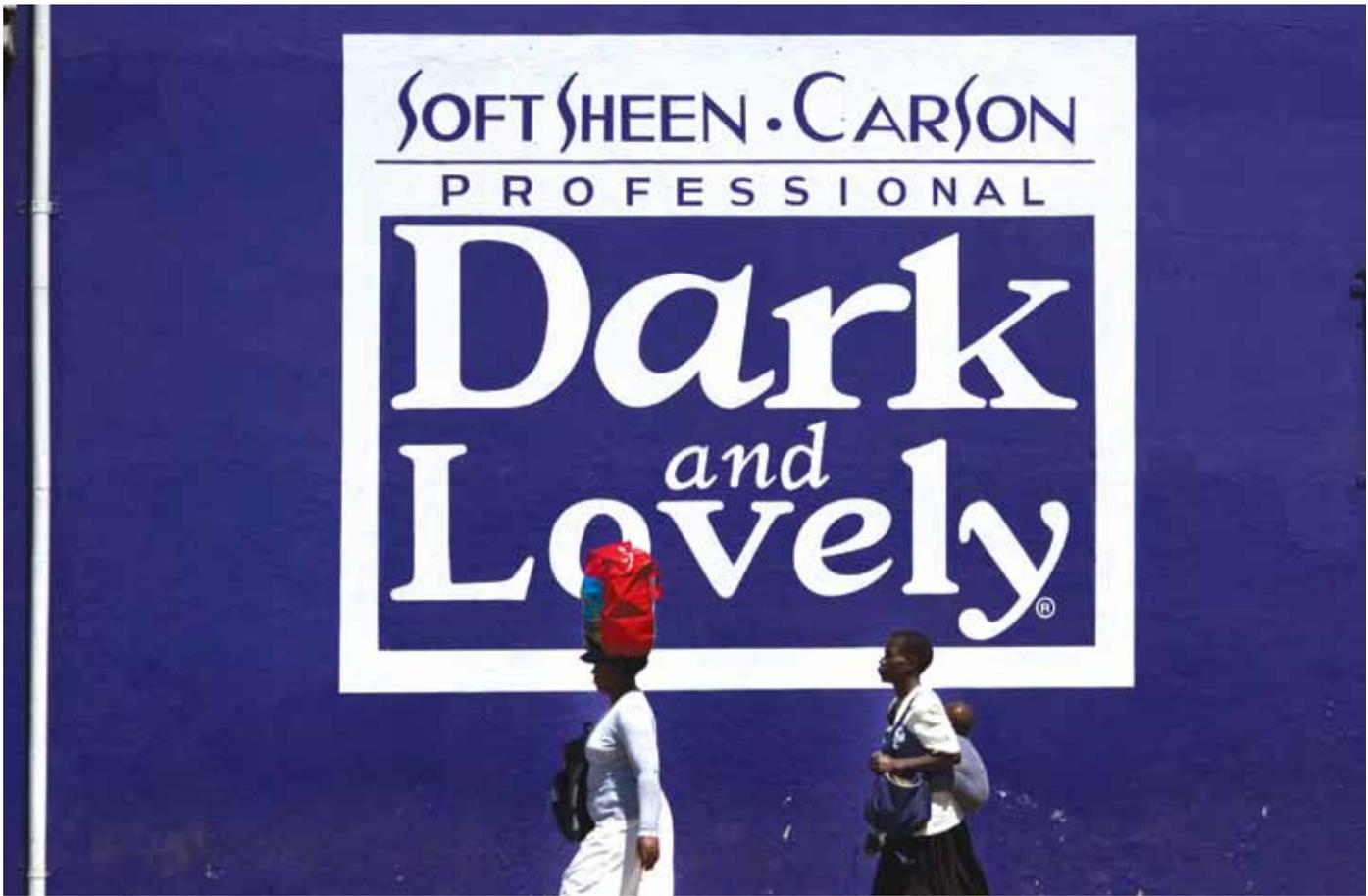


Tsitsi

*"Nobody picked me," says 28-year-old model Tsitsi Chiyangwa, sitting on her bed next to an image taken of her for an advertising campaign. Although she has modelled in several fashion shows, none of the designers at the Zimbabwe Fashion Week selected her until her agent made a fuss. And when she took to the catwalk, the audience burst into spontaneous applause. "With time, things will change," she says. Southern Africa has a high rate of albinism, with around 1 in 4500 Africans being affected by it. Although education is slowly changing perceptions, albinos like Tsitsi continue to suffer from discrimination because of their unnaturally light skin tone.*

***Davina Jogi, 29, is a freelance photojournalist from Harare, Zimbabwe whose mission is to gain access to, and tell positive stories about her country that are not covered by the mainstream media.***





Dark and Lovely

Caro skin lightening cream

*Ironically, considering the discrimination aimed at albinos, demand for skin lightening creams remains high enough in central Harare for a vendor to risk selling it openly, despite a nationwide ban. Opinions about skin lightening creams have shifted in recent years because of the damage and uneven tones they create. Women who use them are popularly known as 'Fanta face, Coca Cola bottom'. However, the issue remains controversial and, although brands like Dark & Lovely appear to be in support of dark skinned African women, many of their products, like hair relaxing creams, are used to create a more Western look.*





### What is Beautiful?

*Billboards on a Harare street appeal to two different conceptions of women in their sales pitch, one portraying a hard working traditionally dressed African woman and the other attempting to attract customers to a water irrigation system with the image of a young, scantily dressed, voluptuous white girl. Nowhere is the Western influence in African cities more pronounced than on these large, shiny billboards. Through such advertising, African women are forced on a daily basis to negotiate a complex minefield of mixed messages in relation to their appearance.*

Margaret, seamstress

*Margaret Nyakakweto would definitely not approve of the water irrigation advertisement.*

*She and her sister, Colleen, argue that for older generations it is neither acceptable nor attractive. "It's all about culture, the way we have grown, we were told to wear long clothes down to the knees." She admits that things are changing and that women like her are faced with the challenge of becoming more accepting. "Now it's very difficult, the fashion is tight jeans, we can't say 'you can't wear them', time is moving..."*



Angeline Mandaba

*Angeline Mtambo was the Face of Zimbabwe's Miss August 2011. She was also the first winner that year who actually lived in Zimbabwe. She says that it is much easier for the girls from the diaspora because they don't have to contend with traditional notions of what they should look like, "If I look like I'm trying to be Western, it irritates people.*

*'She's trying to be something that she's not,' they say." Not wanting to offend the older generation, Angeline says that she covers up and removes her makeup and jewellery when she goes home to the rural areas. "Anyone that thinks that trousers are a problem is lost in time, but we do have to learn where and when to wear stuff."*





### Elizabeth and Beatta braiding hair

*Beatta braids Elizabeth's hair outside their home on the outskirts of Harare. The girls, both in their early 20s, say that for them beauty is not about makeup or hairstyles but about morality. Echoing the words of the older generation, they are quite adamant that a woman should not reveal her body because it was unattractive. Though traditional, the*

*girls were not old-fashioned and they both described how they used face creams and hair lotions as part of their beauty routines. Ironically, they went on to use the example of international pop stars to make a point – they considered Shakira more beautiful than Rihanna because from what they had seen, she did not show off her body as much.*

### Girls legs

*Young women attending a show Harare illustrate Angeline's point. In the 1970s, Malawi's president Dr Hastings Banda banned short skirts and dresses, forcing more traditional long skirts on the female population. More recently, in February 2008, a woman was sexually assaulted at a Johannesburg taxi rank for wearing a miniskirt. According to a Mail & Guardian article about the incident, there were mixed*

*reactions from the crowd with some supporting the girl and others saying she should have known better than to expose her body. The incident is not isolated and when I asked women if they would wear miniskirts and shorts, every respondent independently brought up the example of riding a taxi and said that though they may wear them at home, they would not wear one in town because it was easier not to.*





Virginity creams

"Why did you marry me?" I asked.  
"I wanted a Nigerian wife and my mother said you were a good girl, Quiet. She said you might even be a virgin."  
'The Arrangers of Marriage', Chimamanda Ngozi Adichie

This quote from Adichie's book shows how morality and attractiveness go hand-in-hand across Africa. And the virginity soaps for sale in downtown Harare illustrate how women are caught between Western lifestyles and African expectations when it comes to their sexual attractiveness. When I asked if many women bought the creams, the male shopkeeper's response was, "You wouldn't believe it, it just shows how sick women really are!" He didn't have an answer when I pointed out that perhaps it wasn't the women, but rather African men who put certain unfair expectations on them in a modern and increasingly Western world.





### Suzanne in the mirror

Suzanne Abera, primping herself in a mirror at a downtown beauty salon, brought up the issue herself. “Look at my nails, I did them for my boyfriend. He said, ‘I’ve seen girls with those nice nails’, so I went and did mine. I don’t even like it.” Every single one of the women I spoke to said that they were heavily affected by male opinion when it came to their appearance and cosmetic choices. So I asked, “What do African men want?” The universal answer was big bums and a caramel skin tone.

### Hair styling at salon

“There is a new style I want you to do for me.” How often have I heard these words, usually followed by a folded picture torn from some glossy American magazine...There’s only one secret to being a successful hairdresser...‘Your client should leave the salon feeling like a white woman.’ Not Coloured. Not Indian. Not Chinese.”

‘The Hairdresser of Harare’, Tendai Huchu

Doreen Nyarande, a beautician, confirmed that a large majority of women bring in magazines as templates for what they want to look like. Her employer, Lizwe Bunu, says she always gives these women the same advice, “brand yourself, get to know who you are, what suits you, don’t follow fashion trends.” But she said that “the pressures of the market which are targeted at unstable minds,” proved too much for some.



### Wigs and Mugabe

*A snap survey among the women I interviewed shows that African women spend on average US\$100 per month on beauty products and regimens regardless of their salaries – a large chunk of which goes towards hair. Melody Frank said, “I love a different me all the time,” which is why she buys hair at least twice a month. She said her hairstyles were usually inspired by other women, “someone copies the TV and then we copy her.” Another woman told me how her sister had jokingly confided in her, “If my husband found out how much I spend on beauty products he would probably kill me.”*

**IF MY HUSBAND FOUND OUT HOW MUCH I SPEND ON  
BEAUTY PRODUCTS HE WOULD PROBABLY KILL ME.**





*Miriam and the gym*

*Alongside beauty products, African women are beginning to spend money on gyms and fitness programmes, which were previously considered a very Western pursuit. Miriam Kabongo, an instructor at a wealthy Harare gym, explained that despite misgivings about exercise attire, a significant number of middle-aged African women were now making use of gyms, “Most African women don’t come to the gym because they don’t want to wear tight gym clothes, they are afraid of the white women in their tiny shorts...we were raised to cover, cover, cover...Things are changing though, we are slowly beginning to understand and value fitness.” Miriam laughed as she explained how many women come in with false expectations of what is achievable, and she has to gently let them down with, “I want to be Beyonce, but I’m not sweetie.”*

“

**I WANT TO BE BEYONCE,  
BUT I’M NOT SWEETIE.**

Model

*"Theirs is just an aping of Western ideologies of beauty with nothing African other than their faces; which again are not purely African having undergone such harsh and heavy makeup!"*

- Ndung'u wa Ndegwa, Kipipiri, 'Africa: Have Your Say', BBC News

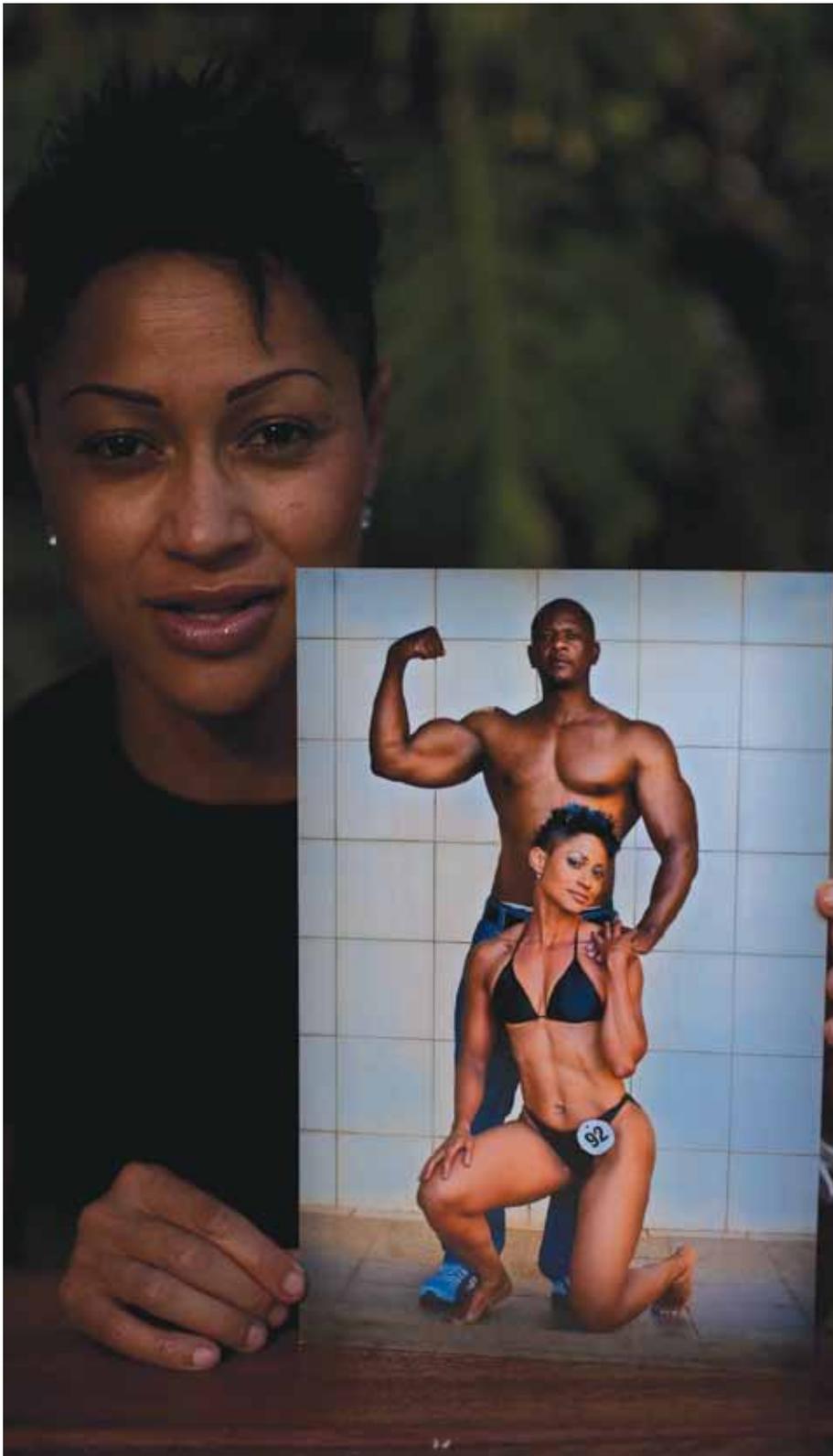
*Beauty pageants and fashion shows, more than anything else in the industry, seem to cause controversy across Africa. Opinion is heavily divided as to whether adopting very Western-styled pageants are a negative or positive development for African women. The pageants do highlight one of the least popular aspects of Western culture when it comes to beauty, which is the application of heavy makeup. Floriana Chigariro, said, "An African beauty doesn't wear too much makeup, it is someone who is natural." Despite this, there is a growing interest in pageants and fashion shows – such as Zimbabwe Fashion Week.*



*Judith, seamstress*

*Judith Nzirawa, who works alongside Margaret Nyakakweto, used the same word as Floriana to describe what she thought was important when it came to beauty in Africa, "A beautiful African woman must have a natural skin; she doesn't put on something to be fancy-fancy." She told me how she had allowed her daughter to choose a Western-style wedding dress with no sleeves when she got married, but had sewn her a small jacket to wear as a compromise to tradition. She was very definite when I asked her who was to blame for the Westernization of the younger generation, "These Facebooks are contributing."*





Pearl, bodybuilder

*Pearl Thompson, an amateur bodybuilder, shows off her competition photos from Miss ProFitness 2011. "I couldn't wait to be on stage to show off my body, I love the reactions...This Zambian woman who watched the competition kept saying, 'No, that's pornography!' But she realised she was the only one reacting in a negative way." Many more women participated in the competition than ever before and Pearl said she revelled in the positive atmosphere around her. She agreed with some of the women I had spoken to previously who said that African women should be able to do what they like as long as they are happy and feel confident.*



## CHRISTIANITY, SEXUALITY AND GENDER

Grace Chirenje and Brian Nachipo

***Recently in Harare, we gave a lift to a couple from our church and after several minutes of healthy discussion on political issues in the country, the couple suddenly went quiet. Later on, we (the authors) realised that they had just discovered a box of ‘public sector’ – commonly known as free Panther condoms – placed at the back of the seat. The condoms were there because it is company policy for Brian to move around with condoms in the car for distribution to communities. But they had no idea about that. And we can just imagine the questions that must have been going through their minds when they spotted them. Which of us owned them? Or had someone else forgotten them in our car? Was either of us involved in an extra-marital affair, and if so why then would the condoms be placed where they were? Are condoms not supposed to be hidden away?***

**A**s we learned later – during the heated debate on issues surrounding sex, gender and religion that occupied the rest of the journey – the possibility that the condoms were for us as a married couple to use had never crossed their minds. We realised that for this Christian couple – and possibly for thousands of other Christians in Zimbabwe – there was a significant information gap or naive ignorance about sex, particularly safe sex. The idea of a married couple using condoms was a weird thing for them but they also demonstrated a lack of knowledge about condoms in general, asking questions about whether or not condoms killed spontaneity during sex since you have to spend a little time putting them on. The fact that condoms could be carried around was also astonishing to them. As was the whole discussion we had with them – talking about sex openly with another couple, and from the same church was totally mind blowing!

And while it got them thinking about condoms, it got us thinking about how the Christian community regards issues of sex, sexuality, sensuality, gender, family planning and religion.

### **Sex on the Christian agenda?**

There are some issues such as adultery, fornication, sexual orientation, and polygamy that many members of the Christian community do not have questions about, as the Bible is clear on them. However, there are certain issues that the Bible is not very clear on. For instance, the Bible understandably makes no reference to condoms and therefore

gives no guidance to Christians. And there are a number of other grey areas when it comes to sex.

For example, who is responsible for negotiating sex in a married couple? Is it morally acceptable for the wife to initiate sex? In our largely patriarchal society, sex has always been deemed to be the prerogative of the man. However, sex is meant for both the wife and husband to enjoy. In this regard, it should be perfectly fine for the wife to confidently initiate sex, even though it is generally men who initiate it. But surely it is fair that a wife can initiate it when she feels like it and can safely ask for it from her husband? And it is not only about initiating, both parties should also be allowed to experience pleasure.

The Bible mandates the woman to submit to her husband. This is not meant to make her a subject of her husband, but it is a wilful act of showing love to her husband, who is also given the task of loving his wife – not on account of her being submissive, respectful and so forth but simply because he ought to love her. So since a husband loves his wife, he should also allow her to initiate sex if she wants to. And even if the woman does submit as the bible instructs, then she should be still be allowed to discuss the different ways that they can enjoy sex together. It does not simply have to be a ‘husband thing’ because he is the biblical head of the house!

Paris (2007) argues that what has been said about submission in Christian marriages (and this applies even to sex) is not an

endorsement of an irresponsible pursuit of pleasure, sexual or otherwise, in disregard of the biblical principles of love which call on us to guard the well-being of ourselves and others in all of our activities. In terms of the sexual sphere, the way the Bible is interpreted should not provide an excuse for an obnoxious, discourteous or careless approach to sexual activity, which might include such foolish behaviour as disregard for the emotional sensitivities of others. What is important is that both husband and wife engage in safe and satisfying sex that leaves both of them fulfilled by the encounter.

So if it is okay for a wife to initiate sex, she should also be free enough to negotiate for safe sex. Indeed, the idea of sex being safe should guarantee a more pleasurable act as psychologically the couple can fully engage knowing that they are completely safe from any negative consequences of sex, such as sexually transmitted infections (STIs), including HIV, and unplanned pregnancies.

Indeed, the HIV and AIDS pandemic has not spared any community, including Christian communities. Considering the scale of the pandemic, Christians obviously need to take necessary precautions and begin a useful and open dialogue around these matters, particularly about using condoms as a way of guaranteeing safe sex, even for married couples. And couples should freely discuss issues around sex and condom use and how to derive pleasure for both partners. The same way couples can negotiate and agree to have sex; they can negotiate and agree to make it safe. In this regard, couples also ought to know their HIV status all the time. Making an informed decision to get tested and counselled at regular intervals would be a good first step to ensuring this happens.

While traditionally sexual gratification is the preserve of the man, Ellison et al (2010:100) argue that our bodyselves are intended to express the language of love. They add that sexuality is God's way of calling everyone, both man and woman, into communion with others through our need to reach out, to touch, to embrace – emotionally, intellectually and physically. Therefore, since human beings have been created with the desire for communion, the positive moral claim upon humans is that they become what they essentially are: lovers – in the richest and deepest sense of that good word. A sexual ethic grounded in love need not be devoid of clear values and sturdy guidelines. Indeed, such norms are vitally important in ensuring the balance of Christianity, sexuality and gender. However, women will become empowered enough to claim their bodies as sexual symbols and to liberate themselves to enjoy sex with their husbands.

### Reclaiming our sexuality

The interaction with the Christian couple showed how traditional and religious backgrounds can turn sex into something that is taboo. But

it should not be. The Bible talks about it and people do it whether with the light on or off – they have sex. Why then does it become something shameful to talk about? Couples should be proud of their sexuality, especially when it is expressed in the way God intended it to be. Sexuality is the expression of who we are as human beings and it starts at birth and ends at death. It includes all the feelings, thoughts and behaviours of being female or male, being attractive, being in love, as well as being in relationships that include sexual intimacy and physical sexual activity.

In the bible, the Song of Solomon chapter seven verses 1 to 13 say:

*You are a princess, and your feet are graceful in their sandals. Your thighs are works of art, each one a jewel; your navel is a wine glass filled to overflowing. Your body is full and slender like a bundle of wheat bound together by lilies. Your breasts are like twins of a deer. Your neck is like ivory, and your eyes sparkle like the pools of Heshbon by the gate of Bath-Rabbim. Your nose is beautiful like Mount Lebanon above the city of Damascus. Your head is held high like Mount Carmel; your hair is so lovely it holds a king prisoner. You are beautiful, so very desirable! You are tall and slender like a palm tree, and your breasts are full. I will climb that tree and cling to its branches. I will discover that your breasts are clusters of grapes and that your breath is the aroma of apples...*

Is this not a wonderful description of sexuality? So if the bible talks about it, then we should surely also talk about it? Why then are couples confident in doing it, but not in discussing it? For Christians, the bible is the standard, and with this reference, it is clear that sex should be openly talked about it. And we believe that by talking about sex freely and responsibly, relationships will improve and our efforts to address the challenges brought about HIV and AIDS will surely be enhanced.

Motsei (2011,31) argues that the above concept of sex is a noble one. However, she goes on to say that influenced by beliefs such as Christianity and patriarchy, society has developed rules to police appropriate sexual behaviour. It is sad to say that women suffer the most from these rules on what is and what is not appropriate. Amadiume (undated) argues that the notion of sex as pleasure is counter to fundamentalist thinking that insists on sex as either marital duty or sin with the balance of scale tilted in favour of men. Therefore, it is important that women begin to reclaim their sexual prowess – not only to please their husbands in bed but also to ensure that they too share in the ecstatic moment of sex and all the pleasures it brings.

Speaking of women's liberation when it comes to their sexuality, Mcfadden (2003) adds that there has been a shift in recent years with discussions beginning to link reproductive health with women's rights to safe sexual behaviour. She explains that discourses on sexual rights have also been woven into the burgeoning work on reproductive health

and women's well-being, and there is no doubt that African women are increasingly speaking out about their rights to make informed choices in terms of contraception, safer sex, and safe motherhood.

### Christianity and Sensuality

Sensuality is a key component in sexuality, but one that religious people often dismiss. Sensuality is awareness about your own body and other people's bodies, especially the body of your sexual partner. It enables us to feel good about how our bodies look and feel and what they can do. The bible states in Psalm 139 verse 14 that everyone is wonderfully made – and since each person's body has been created with such perfect engineering and craftsmanship, it should surely be enjoyed by the person's spouse.

McDoogle (undated) explains that a Christian relationship filled with sensuality is also the ultimate display of appreciation for God. Living

day-to-day and just 'managing to make it to Church' certainly does not cut the mustard in relation to the true Christian practice of living a fulfilling, sensuous life celebrating God. He notes that what many Christian couples do not understand is the potential they have for a Christian marriage with strong love and sensuality.

### Conclusion

There is so much to discuss when it comes to sex, in the same way there is so much to discuss when it comes to religion, and yet the two are usually discussed separately – as if they do not intersect. But since so many people are Christian, it is critical to discuss sex in the context of Christianity to help couples to understand the issues better – and to live more fulfilling lives. Sex is an integral part of a married couple's life and openly talking about sex, sensuality, gender and condomising would be worth everyone's while.

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### References

Amadiume. I. Undated. Sexuality, African Religio-Cultural Traditions and Modernity Expanding the Lens.

Ellison Marvin and Douglas Brown Kelly. 2010. Sexuality and The Sacred: Sources for Theological Reflection, Westminster John Knox Press, Kentucky

McFadden Patricia. 2003. Sexual pleasure as feminist choice. Feminist Africa: Changing

Cultures. Issue 2.

Motsei. M. 2011. Embrace the Virgin in You. South Africa: Pinagare Media:

Ojo Matthews. 2005. Religion and Sexuality: Individuality, Choice and Sexual Rights in Nigerian Christianity. Lagos: Nigeria.

Paris. B. Undated. Sexual Freedom, Polyamory And Christianity: The Case For Compatibility

Standing, H. 1989. Sexual behaviour in sub-Saharan Africa: A review and annotated bibliography. London: UK.

UNAIDS report on the global AIDS epidemic 2010

Internet sources

<http://EzineArticles.com/513105>  
<http://Christian-Intimacy.info>

## TRAPPED IN THE CLOSET: WHY SEXUAL PLEASURE AND THE EROTIC REMAIN LOCKED AWAY

Tinashe Mema

***Over a decade into the 21st century, it is sad to note that the erotic still remains largely in the closet, despite all the gains made by feminist and women's movements across Africa. Indeed, women's right to sexual pleasure remains on the periphery – rarely figuring among the 'key' concerns of activists on the continent. So little progress has been made and African societies remain full of women who have been silenced and disempowered by patriarchal structures as far as their sexual pleasure and the erotic are concerned.***

Culture has been cited as one major tool employed by patriarchy to stop women from enjoying sexual pleasure, which has been defined as the “physical and/or psychological satisfaction and enjoyment one derives from any erotic interaction”<sup>1</sup> – with erotic referring to a state of sexual arousal or an insistent sexual impulse and desire.

Many patriarchal cultures in Africa force women to suppress the erotic since it is not deemed to be good behaviour for women to desire or to express their sexuality and sexual pleasure. Culture has even made talking about sex and pleasure taboo, especially for women. Take Patricia McFadden for example – a feminist activist who openly and publicly challenges the notion that the erotic should be kept in the closet and was deported from Zimbabwe after she gave presentations on sexuality to women's movements. The Zimbabwean government felt that she was

pushing a discourse on sexuality that was against the country's culture and family values. It was telling to note that the women's movement in Zimbabwe did not protest her deportation – neither did it defend her feminist critique of how the government was protecting the patriarchal system that denied women the right to sexual pleasure. This, for me, signalled how strong a grip the patriarchal system in Zimbabwe still has on issues of sex, sexuality and pleasure for women.

In Africa, ‘good women’ or ‘respectable women’ are those that do not talk about sexuality and pleasure in public. Patriarchal societies in Africa regard these issues as morally wrong and corrupting. It is assumed that young women who publicly discuss, and express a desire for, sexual pleasure are immoral and ‘loose’ and are often labelled ‘bad girls’. Therefore, it is not surprising that when women become independent

and make their own choices about sex and pleasure, society clamps down on them heavily and pressurises them to stay within the accepted boundaries in relation to expressing the erotic.<sup>2</sup> Hollibaugh, cited in McFadden, aptly captures the impact of this cultural clampdown on women's sexuality when she says, “Women in this culture live with sexual fear like an extra skin. Each wears it differently depending on our race, class, sexual preference and community, but from birth we have all been taught our lessons well. Sexuality is dangerous. It is frightening, unexplored and threatening.”<sup>3</sup>

So how does a ‘good woman’ experience sex in such cultures? ‘Good women’ are wives first before they are sexual beings. As such ‘good women’ are supposed to have sex in the context of a marital relationship. Outside of such a relationship, their sexuality and pleasure is not considered legitimate.

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**ELDERLY WOMEN IN UGANDA PRESCRIBE TO YOUNGER WOMEN AS PART OF THEIR INITIATION AND SOCIALISATION PROCESSES THAT MARRIED WOMEN SHOULD BE A MALAYA (PROSTITUTE) FOR THEIR HUSBANDS, AND HAVE TO 'PACKAGE' THEIR VAGINAS FOR THE PLEASURE OF THEIR HUSBANDS. THEIR PRIMARY DUTY IS TO ENSURE THEIR HUSBANDS' SEXUAL PLEASURE.**

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This is because patriarchal societies regard it as important to ensure that women only exercise the erotic in the service of men.<sup>4</sup> This explains why elderly women in Uganda prescribe to younger women as part of their initiation and socialisation processes that married women should be a Malaya (prostitute) for their husbands, and have to 'package' their vaginas for the pleasure of their husbands. Their primary duty is to ensure their husbands' sexual pleasure. Their own need for – and indeed right to – sexual pleasure is not considered important. Their second responsibility is to procreate and bear children, especially sons. Therefore, sex is explicitly tied to their role as mothers and to their duties as wives.

Yet, research shows that the erotic, if expressed freely and healthily, gives women the chance to open up and become fearless of revealing the joy within them.<sup>5</sup> According

to Audre Lorde, there is a power in the erotic that is an unrecognised and unexpressed feeling in most women.<sup>6</sup> Women, especially in Africa, have been made to falsely believe that it is only by the suppression of their erotic desires and sexual pleasure that they can be fully strong, which is not true!

Since sexual pleasure has traditionally been defined in the context of marital relationships, it is limited to heterosexual people. This marginalises not only single unmarried women, but women of other sexual orientations and preferences. Yet, the reality is that single women, whether straight or queer, often have sexual partners despite cultural taboos – and they also have an erotic that needs to be expressed. However, their right to discuss the erotic is usually suppressed, and their relationships are not considered legitimate in most African societies.

Religion has been used to buttress these arguments. Indeed, religion – along with culture – plays a major role in socialisation processes, and in the development and maintenance of norms and values on the erotic. The idea that sexuality is not a good thing was introduced to Africa through colonialism and Christianity, particularly the Catholic Church.<sup>7</sup> In Islam, sexuality is viewed as a very powerful tool that needs to be controlled. However, women also have the right to enjoyment during sex, and if their husbands deny them pleasure, they are allowed to divorce them. This assists women to express the erotic. However, while seemingly progressive in this regard, it is important to note that Islam allows polygamy, which adversely affects women's sexual enjoyment.

Christianity does not say anything about women's right to pleasure during sex. In Christianity, sex is mainly associated with marriage and reproduction<sup>8</sup> – or with fornication and prostitution, which are considered sins. This effectively limits sex and pleasure to people in heterosexual marital relationships, and marginalises the rights of all other women.

Meanwhile, the capitalist system also emphasises the regulation of women's sexuality and reproduction<sup>9</sup> in order to strengthen male domination and control of resources, including control of women. Having a wife becomes more about demonstrating your manhood and authoritative position, and this spills over into controlling how and when they will have sex. Capitalism also encourages the exploitation of women's bodies for generating income through pornography and prostitution – for the pleasure of men. In addition, the entertainment and advertising industries have increasingly commercialised and profited from women's bodies – once again with the desires of men primarily in mind.

## Changing times?

Globalisation and greater access to information have begun to influence young people's understanding of the erotic – and to slowly open the closet door. The stunningly swift growth of social media has had a huge impact in many countries. Meanwhile, sex is increasingly visible in television shows and magazines, on billboards and internet sites. The role of aunties and grannies as custodians of sex and sexuality education is being rapidly eroded. Sex tips are now readily available for many young people. In some southern African countries, TV programmes have been created to provide information on sex and sexuality. South Africa's '4Play sex tips for young women' is a case in point. However, there is no real debate underway. There is just a growing conflict between the values and views of younger and

older generations around their understanding of, and desire to express, the erotic. There is an urgent need for an intergenerational dialogue on sexual pleasure – and for activists to couch the discourse as a rights issue not simply a clash of generations and cultures.

Indeed, there is a need for women's and feminist movements to scale up advocacy around the right to sexual pleasure by creating open, safe spaces where women can talk about the erotic and how best to express it. There is also very little research done on women's sexuality, resulting in the subject being poorly understood and usually repressed<sup>10</sup> – and even causes most literature to erase the complexities and contradictions in African women's realities.<sup>11</sup> Efforts to produce well-researched literature on sex and pleasure should

be scaled up, as a strategy to challenge oppressive patriarchal interpretations of sex and pleasure. New research and greater evidence will also strengthen activism and advocacy on these issues and will hopefully encourage open and informed communication among sexual partners.

Only when societies appreciate that every woman has the right to sexual pleasure and that the erotic warrants public discussion and debate by men and women will there be equality. And that will only happen after the closet has been opened and sexual pleasure and the erotic have been brought out of the private space and into the public – because then they can be made political.

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## Bibliography

Bright, S, *Totally Herotical* New York Publications, 1995

Lorde, A "The Uses of the Erotic: The Erotic as Power" in *Sister Outsider: Essays and Speeches*. Crossing press, 1984

Pereira, C, "Where Angels Fear to Tread? Some Thoughts on Patricia McFadden's Sexual Pleasure as Feminist Choice", *Feminist Africa Changing Cultures Issue 2*, 2003

Philpott, A, et al, "Pleasure and Prevention: when Good Sex Is Safer Sex", *Reproductive Health Matters*, 2006

McFadden, P, "Sexual Pleasure as Feminist Choice", *Feminist Africa Changing Culture Issue 2*, 2003

Mama, A et. al. "Feminist Africa 5: Sex Cultures Issue 5 University of Cape Town, 2005

## Endnotes

1. Philpott, A, et al, "Pleasure and Prevention: when Good Sex Is Safer Sex", *Reproductive Health Matters*, 2006, p. 23

2. McFadden, P, "Sexual Pleasure as Feminist Choice", *Feminist Africa Changing Culture Issue 2*, 2003, p.2

3. Loc Cit

4. Lorde, A Op cit. p. 3

5. Loc Cit

6. Loc Cit

7. Loc Cit

8. Loc cit

9. Mama, A et. al. "Feminist Africa 5: "Sex Cultures Issue 5" University of Cape Town, 2005, p.10

10. Pereira, C, "Where Angels Fear to Tread? Some Thoughts on Patricia McFadden's Sexual Pleasure as Feminist Choice", *Feminist Africa Changing Cultures Issue 2*, 2003, p.1

11. Loc Cit

# SEXUAL PLEASURE:

## AN INTIMATE JOURNEY

Rudo Chigudu

***Across almost all societies, the notions of “pleasure” and “choice” are rarely mentioned or acknowledged as being among the most contentious aspects of human sexuality, particularly female sexuality. For many African women, even the suggestion that sexual pleasure and eroticism have political implications elicits alarm, and it is seldom recognised that sexual pleasure is fundamental to our right to a safe and wholesome lifestyle.***

Patricia McFadden



**I**n different societies, these contentious aspects of human sexuality manifest differently between sexes, races, religions, cultures and social classes. In my own non-academic exploration of the subject of sexual pleasure I sought to examine the pulsating and often secret human desire for sexual pleasure and alternatively the absence of such pleasure. Sexual pleasure comes in varied forms and is experienced very differently between individuals. Sexual expression and sexual inhibition manifest in a multiplicity of ways that one might easily observe in daily life. In this journey I looked inwards to unravel layers of intimate experiences of sexual pleasure and also looked outwardly in conversations with friends about their feelings and experiences. These experiences are moulded in various ways by context, socialisation, culture and religion among many other social factors in a way that also makes them play out differently for men and women.

I have likened sex to many other day-to-day activities but my favourite one is eating fruit salad.

### **Sex in a bowl**

Imagine that sex was a fruit salad, filled with varying textures, smells and flavours. Imagine the whole process from the preparation of the ripened fruit to the tingle of anticipating taste buds to the sudden and unexpected taste of a despised fruit. Imagine the bursts of flavour as taste buds receive each juicy sweet piece of fruit. Imagine the subtlety of some flavours and the strength of others, the intensity of smells, the trickle of juices and the comfort offered by the simplicity of other fruits.

I wonder if the term ‘forbidden fruit’ developed from recognition of the amazing wonder that is the texture, sweetness, flavour and juiciness of fruit. The term ‘forbidden fruit’ tells a story of sex as a dirty, nasty and hidden experience. This of course has many variations. There are contexts where marriage is the one sanctioned space for sex and other places where sex outside of marriage is not demonized. Sex for money, same-sex sexual relationships, pregnancy as an undesired product of sex – all these are all hotly debated issues. The reasons why these are so contested are many and these can be explored more deeply at another time but for now let us return to the fruit salad. Each fruit represents a different sexual experience.

As one picks the ripened fruit, washing it gently so as not to bruise it:

**Pear:** Like breasts – soft, fleshy emerging into a nipple. Smooth but grainy a sensitive fruit with easily broken peels, fragile like our bodies. We can be split open, bruised, scraped....be aware but also connect with the tenderness of the pear, embracing vulnerability. A bruised body can become a source of pain and fear, pleasures taken away, sensual enjoyment gone. Don’t let anyone take away your pleasure, your sensual enjoyment.

**Tomato:** Be fully present in the moment, focus on the sensation of a tomato on the lips, flavours on the tongue, body becomes an anchor. Cut the tomato open and indulge all the senses...gaze at the lustre of the skin, the glistening seed inside, take a bite, let the integrity of its rich, tangy flavour fill you up. Explore the different layers of texture,



**WATER MELON:** SLICE, LOOK AT THE  
FRUIT GLISTENING INSIDE, FLESH  
FALLS INTO YOUR LAP, SO WILLING  
TO SHARE ITSELF. LET JUICES LEAK  
THROUGH YOUR FINGERS, AND ONTO  
YOUR CHIN, ONE GLORIOUS BITE AFTER  
ANOTHER. PRESS THE SWEET FLESH  
AGAINST THE ROOF OF YOUR MOUTH,  
RELEASING ITS FLAVOUR. LICK THE  
STICKY PULP FROM YOUR PALMS

the slick surface surrounding the seeds, the glossy skin that snaps between your teeth, silky inner flesh, so complex beneath the smooth outer surface.

**Mango:** Peels and strips away masks, clothes peeling off like a mango. Letting the juices flow and licking them off your arms. Juicy and soft, a mango bite can slide down your throat lubricated by its abundant juices caressing the throat as it goes down.

**Avocado:** Goddess form, creamy and soft on the inside with a shell protecting the delicate and smooth interior.

**Papaya:** Flesh, slick and smooth and generous and slippery. Slice a bit of the flesh and feel its integrity, just as much as its soft strengths.

**Water melon:** Slice, look at the fruit glistening inside, flesh falls into your lap, so willing to share itself. Let juices leak through your fingers, and onto your chin, one glorious bite after another. Press the sweet flesh against the roof of your mouth, releasing its flavour. Lick the sticky pulp from your palms

**Pomegranate:** Cut them and see the vulva shaped inside and the seeds. The beauty of the female symbol, subtle scent.

Each deliciously fruity experience highlights how fragile and delicate sexual experiences can be and also how varied these experiences are. Whatever fruit one prefers may vary from day to day. The way the fruit is prepared and consumed also varies and it is this that is beautiful, sensual and erotic but it is also this that may reflect the displeasure, pain or violence that individuals experience. My sister is repelled by avocado but never has she sat me down to tell me how repulsive avocados are or how I should not consume them or enjoy them. Why then is there so much judgment surrounding sex, why are levels of homophobia so high? This is quite a simplistic example but even in that simplicity there is for me an interesting reality that might allow someone to think of sexual pleasure without being consumed by heterosexuality as the only 'legitimate' space for sexual expression and pleasure.

### **Masturbation: My own dirty little secret**

Masturbation is a very common practice yet it is treated publicly as dirty and filthy. A lot of sexual self-discovery and awareness begins with masturbation yet it is publicly condemned. I long for the day when people no longer have to hush their voices in order to say the word 'sex'. Below is the experience of a woman I had the privilege to engage with and who trusted a circle of sisters enough to share a very intimate experience.

## My Vacuum Cleaner

*Was sex only created for men to enjoy? What about us, do we not have feelings down there? What should I give my vagina, am I supposed to feed it with porridge?*

*We were created equally and yet as women, we are not supposed to admit that we have sexual urges. They say a good African woman is supposed to be well behaved and disciplined ,only having sex in the missionary position .We are not supposed to initiate sex oh no ,no, no, never! We are meant to lie down, quietly open our legs and let them have their way with us.*

*Well not me, not anymore. I used to wait and wait everyday hoping that the day would come when I would have an orgasm, pure sexual satisfaction but that day never arrived. He would have fun on his own, no consideration for me, without asking me if I was enjoying myself. Did I also cum? Did I want more? I had fourteen years of that shit, him always first, his pleasure always.*

*I decided to try something new and one day something crossed my path. I was holding my vacuum cleaner, it was strong and it vibrated heavily. It always gave me this sensation between my legs whenever it vibrated. I wondered – could there be more to it, more to the tingling sensation I felt? Then I closed my curtains and locked the door and then I switched on the storm .With just a small bit of contact between my legs, a sudden euphoria struck me and I sailed in deep pleasure.*

*After going through this sensation, I was proud that I could do it on my own. No need for lying still and satisfying someone while I am left with a deep, throbbing, burning desire. Behind closed doors, I can cum on my own.*

I wondered what it meant for this woman to be able not only to touch herself, explore and reach what she felt was the highest level of sexual pleasure after many years of frustration but also to be able to verbalize it. In the moment of sharing, it ceased to be a dirty little secret and became a story of her sexual liberation and discovery of pleasure. Some fear that masturbation will make a partner redundant but I argue that it helps you understand your body better so as to better guide your partner about how to really pleasure you.

## Conclusion

As one explores sexual pleasure, many issues surface, the social norms that exist around the issue as well as the impact of cultural and religious beliefs. Having recognised that ignoring the meaning and importance of sex and the pleasure resulting from it could lead to the disintegration of relationships this indicates that there is a clear need

for communication around this 'taboo' issue. Communication in a relationship allows for individuals to better understand each other's desires and work towards ensuring satisfaction for all parties involved.

This process involves crossing some boundaries where there is shame associated with asserting oneself sexually, particularly for women in heterosexual relationships where sex may be considered the agenda of the man. Other boundaries must also be crossed surrounding the how, when and where sex may occur as this breaks the monotony of having sex the same way and in the same place constantly. It is important for couples to find room to 'sexplore'.

Environments that are socially enabling help to develop relationships; they nurture love and make intimacy between couples easier. The strain of an undesirable relationship makes love more difficult and strains a relationship which can make intimacy difficult. This is often the case with same sex relationships in contexts that are hostile; the fear and public inhibition can be strenuous. A same sex couple in a homophobic environment has to navigate very differently from accepted heterosexual couples.

However, all that being said, sex can provide the most intense pleasure when one is uninhibited, engaging with a partner of one's choice and free to communicate one's desires or when one is alone and free to explore. Sexual pleasure need not be a guilty pleasure and it should not matter what race, class, religion one belongs to or whom one has chosen to be intimate with. As juicy, sweet and succulent as a ripened fruit such is the joy of sexual pleasure. No one should take this away from you.

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## BOOKS AND THOUGHTS ON FEMALE GENITAL MUTILATION

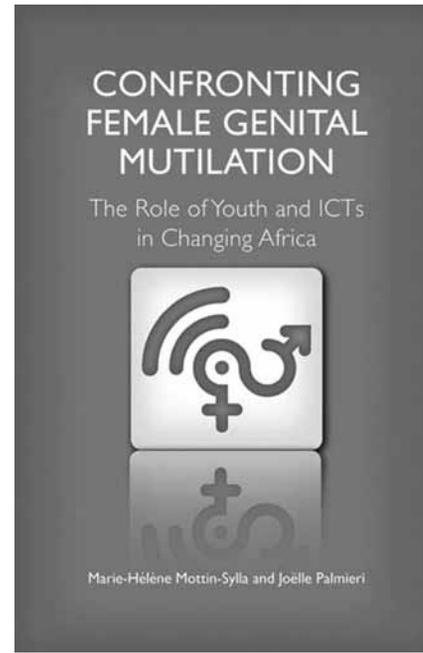
Mazuba Haanyama

***In my feminist lifespan (both as a self-naming feminist and also as a young girl who knew instinctively that girls didn't have to wear skirts), I have often struggled with how to speak about female genital mutilation and/or female circumcision. I find myself hampered by the limitations of language in prescribing a framework from which to understand these practices. For each linguistic construction predicates a path within which to think about, talk about and create understandings and meanings for these practices. So it is with a feeling of trepidation that I set about to write this article, knowing the innate differences in the imagination of 'mutilation' and 'circumcision' and using these terms intermittently, though, I perhaps I should not.***

One definition offered for female genital mutilation by the WHO/ UNICEF/UNFPA is 'all procedures that involve partial or total removal of female external genitalia and/or injury to the female genital organs for cultural or any other non-therapeutic reason are considered female genital mutilation (FGM)'.<sup>1</sup>

I have not personally been circumcised and/or mutilated. I concluded it to be a practice foreign to southern Africa. In fact, I was unaware of even labia-pulling until quite recently when I came to hear about the practice among women from Zambia, my home. I have usually purposefully avoided engagement with any kind of discourse regarding these terms for the fear of being swallowed by a North-orientated definition of 'traditional practice' as mutilation. While also being swallowed by resistance to all things 'imposed' and ignoring the violations of my sisters on the continent.

FGM has become a rather hairy discourse in African feminist theory. It is something we need to engage with yet often lack the tools (both linguistically and practically) to do so. Hence my interest in a new book on the subject - *Confronting Female Genital Mutilation: The Role of Youth and ICTs in Changing Africa*. I imagined it would provide an avenue for me to think through FGM, while simultaneously providing other conceptual frameworks and a more contextualised picture.



And after reading the book, some questions and comments were left percolating in my mind. I raise these questions as a call for deeper understanding of the practice, context and conditions of FGM. The questions are:

- What in fact constitutes female genital mutilation (in different contexts) and whose definition is being used?
- What are the political processes at play when we name something 'mutilation'? Who become the actors and perpetrators? (This may have been outside the scope of this book but I think it is relevant when engaging in discourse around FGM.)
- When do we speak about FGM as opposed to female circumcision? Does female circumcision 'exist' conceptually or discursively outside of 'mutilation'?
- What is the African feminist engagement in FGM? Why have our responses been seemingly so limited?
- What are some of the mechanisms and approaches adopted by communities in dealing with the structures that allow for the continued exercise of FGM?
- Where are the voices of the women who have undergone FGM?

This book raises an interesting 'false' dichotomy around 'youth' and 'gender' as organising conceptual frameworks. For instance, how do

we understand tradition from a feminist perspective, particularly when tradition is defined and understood as being a location of much abuse for women? Who are the custodians of tradition and how is tradition understood and articulated with shifting notions of modernity in a post-colonial era?

I think FGM forces us to consider the meanings of rites of passage. What is the place of FGM in the rites of passage of women who live in communities that practice it? And what are other rites of passage that support FGM? How do we think about rites of passage in a traditional versus modern context?

Furthering the discussion and broadening the theoretical trajectory to understand where FGM/female circumcision fits, I turned to the Politics of naming sexual practices by Brigitte Bagnol and Esmeralda Mariano in *African Sexualities: A Reader*.

This article raises questions about what it means to alter the vagina, whether by stretching, cutting, drying or pulling and how do such practices fit into a sexual framework that predicts pleasure and pain for women's experiences. The article recognises both the linguistic and historical quandary created by terms such as female genital mutilation and the need to understand and think carefully about these definitions. The article endeavours to understand the cultural context in which the stretching/elongating of the labia minora may prescribe particular meanings for female sexuality.

"In recent research and publications, a need to 're-think sexualities in Africa' has emerged in order to reconceptualise old colonial and post-colonial paradigms and to give voice to an African understanding of health, sexuality and eroticism. Far from a vision of African sexuality that focuses on otherness and difference, new points of view on the issue stress the diversity and the contextualised ways in which individuals shape their sexuality in light of a myriad of factors, including the linguistic group they belong to, their religion, social class, gender race/colour."<sup>2</sup>

The article allows us to question certain practices and their value in the communities that practice them. Understanding that these practices may not be 'harmful' in the way we interpret mutilation but may have severe health implications (which are under-researched) may allow us to think holistically about practices named FGM. Understanding the elongating of the labia minora or the use of vaginal substances requires us to understand the meaning of sexuality, femininity and masculinity in particular contexts. The desire to have 'longer labia'

and to have 'tight and dry vaginas' does not exist in a vacuum and is articulated through cultural meanings and practices.

This article also attempts to provide an answer to the political undercurrents in naming a practice as mutilation.

"...the answer lies in the understanding of the ethnocentrism underlying the production of discourses and objectification of the African and Asian female body, in the othering and the stigmatisation of others' practices."<sup>3</sup>

Talking about sexuality is complex. It is made even more complex when we talk about sexuality in African contexts, where there are shifting meanings of tradition and contemporary. It is neither my desire nor place to conclude on what may constitute FGM. However, I do wish to deepen the discourse on the meanings of pleasure and pain within women's sexuality. Furthermore, I hope to find many more tools for which to understand female circumcision and mutilation – and perhaps uncover some answers to these concluding questions. What are the cultural productions of subjectivity that dictate that we alter our vaginas in some way? How are meanings of femininity negotiated daily through some violent practices and through mundane, 'invisible' requirements?

*Confronting Female Genital Mutilation: The Role of Youth and ICTs in Changing Africa* is edited by Marie-Helene Mottin-Sylla and Joelle Palmieri and published by Pambazuka News

*African Sexualities: A Reader* edited by Sylvia Tamale, published by Fahamu/Pambazuka

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Endnotes

1. Bagnol and Mariano, 2011. "Politics of naming sexual practices" *African Sexualities: A Reader*. Pg 271
2. *ibid*. Pg 282
3. *Ibid*.

# SEX ON TRIAL: THE MORALISATION AND CRIMINALISATION OF SEXUALITY IN ZIMBABWE

Sian Maseko



*In the last few years, the public discourse surrounding sex and sexuality in Zimbabwe has been dominated by morality, religion and culture rather than, as one might expect, issues of HIV and AIDS or public health. Although there has been some very recent and limited exploration of sexual rights in the media, the main areas of concern have been alternative sexuality destroying the ‘moral fibre’ of Zimbabwean society. Issues of same-sex sexual relationships have been linked to issues of sovereignty and the West and a Christian religion and culture<sup>2</sup> that is being threatened by human rights that seek to ‘dehumanise us’<sup>3</sup>. Sex work has been blamed for denigrating the morality of Zimbabwean society<sup>4</sup>, while the debate on abortion has been muted by accusations of human rights gone too far<sup>5</sup>.*

**‘HOMOSEXUALITY DEGRADES HUMAN DIGNITY. IT’S UNNATURAL AND THERE IS NO QUESTION OF ALLOWING THESE PEOPLE TO BEHAVE WORSE THAN DOGS AND PIGS...IF YOU SEE PEOPLE PARADING THEMSELVES AS LESBIANS AND GAYS ARREST THEM AND HAND THEM OVER TO THE POLICE.’  
(PRESIDENT MUGABE, 1995)**

**T**his article will examine the context in Zimbabwe, reflect on the impact that this has had on women and women’s realisation of ‘sexual citizenship’ and analyse the power and resistance that is enabling women to challenge perceptions of ‘sexual citizenship’ and what this could mean for women in the future. Finally, this article will argue that the struggle of the lesbian, gay, bisexual, transgender and intersex (LGBTI) and sex worker movements in Zimbabwe is more than just a struggle for individual rights, but a call for everyone to demand, and exercise, their sexual rights.

## **What are the current laws and legislation?**

**Same-sex sexual conduct:** The sodomy law in Zimbabwe does not account for consent: acts of sodomy are criminalised whether they are consensual or not. In July 2006, the government of Zimbabwe expanded the definition of ‘sodomy’ to include any physical contact between two male individuals ‘that would be regarded by a reasonable person to be an indecent act’.<sup>6</sup> The ‘sexual deviancy’ law sought to criminalise any act that was perceived to be homosexual as well as women having sex with women.

**Sex work:** Sex work is not officially criminalised in Zimbabwe but criminalised acts include running a brothel and profiting from ‘prostitution’. However, it is difficult to prove guilt under the more

specific legislation governing 'prostitution' and, therefore, miscellaneous criminal and local laws are applied to act as a deterrent and a punishment to sex workers. Sex workers are often arrested and detained under the following provisions:

- Soliciting;
- Blocking the pavement;
- Tarnishing the image of the local area (this is often referred to as 'clean-up operations' and is used to justify raids); and
- Possession of, or dealing in, drugs.

Related to debates about sex, sexuality and reproductive health rights in Zimbabwe – as elsewhere in the region – is the issue of abortion. The termination of pregnancy is permitted under certain circumstances – danger to the life of the mother; physical health, physical or mental deformities of the unborn child; and unlawful intercourse (rape, incest but excluding marital rape). Termination may take place only at a designated hospital with the written permission of the hospital superintendent. In cases of suspected birth defects, or life and death situations, the authority of two medical practitioners is also required. For rape, a certificate by a magistrate is needed, and is issued only after consideration of a police report and an interview with the rape survivor.<sup>7</sup> People who perform and women who undergo illegal abortions face strict criminal sanctions.

### **What is the impact of these laws on lesbian, bisexual and transgender (LBT) women and female sex workers?**

Broadly, the immediate impact of the law on women is that it harms and violates their right to sexuality. Given their fear of being ostracised and criminalised, LBT women and female sex workers often remain undocumented and are therefore ignored in terms of both policy and programmes.<sup>8</sup> LBT women and female sex workers experience extensive violence including verbal, physical

and sexual abuse. Many sex workers have been detained and forced to engage in sexual activities with police officers to ensure their release. There is a continued stream of reports of police officers offering sex workers protection for free sex. The number of incidences of police raping sex workers is very high, although cases are never officially reported for fear of repercussions. The experiences shared by sex workers range from being picked up by police and dumped far out of town at night, being raped by plain clothes officers at their places of work, being arrested and raped by multiple officers, being detained in cells with police dogs and being tortured, as indicated in recent research findings by ASWA.<sup>9</sup> The criminalisation of sex work dehumanises sex workers and makes them an invisible group – marginalised and excluded from society.

Zimbabwean laws are no different from those of most countries in the region with regards to criminalising sex work, same-sex relationships and abortion.<sup>10</sup> However, the law, in itself, is not the real culprit in the politics of sex and sexuality, and there is very little evidence to indicate how powerful the law is in acting as a deterrent. This is because the laws are founded on a moral code, but they equally seek to impose a concept of morality on all citizens, not just so-called minority groups. Although many organisations, institutions and NGOs have cited the law as one of the reasons that makes it difficult to work on sexual rights, I would argue the hate speech and the didactic morality of the leadership are the real reasons why individuals are not realising their potential as sexual citizens, and are instead being actively prevented from accessing their rights. This hateful behaviour is born of patriarchal values and social systems that are propped up by laws, policy, the media and other institutions.

I would like to clarify the understanding of the term 'sexual citizenship' used in this article. This article draws on Waites' understanding of sexual citizenship to describe 'the ways in

which individuals are included and excluded from communities on the grounds of their assumed or real 'sexual' identities, thoughts, feelings and/or behaviours'.<sup>11</sup> Although the notion of citizenship as a broad category that defines who should acquire status as full and equal members of their society is highly contentious in Zimbabwe,<sup>12</sup> it remains a site of struggle. And with the advent of the discourse and framework of sexual rights in Zimbabwe, the notion of 'sexual citizenry' will become more important. As the debate around sexuality moves beyond 'identity politics' to explore the realm of sexual behaviour and sexual practice, then it becomes imperative to reflect on the importance of choice and freedoms. Sexual rights are not 'new' rights and the realisation of sexual rights is integral to affirming all human rights.<sup>13</sup>

### **Hate speech – unique to Zimbabwe?**

'Homosexuality degrades human dignity. It's unnatural and there is no question of allowing these people to behave worse than dogs and pigs...if you see people parading themselves as lesbians and gays arrest them and hand them over to the police.' (President Mugabe, 1995)<sup>14</sup>

President Mugabe's infamous speech against homosexuality, which marked the opening of the Harare International Book Fair (whose theme was, ironically, human rights and justice), set the tone for similar expressions throughout the region and particularly in Zimbabwe over the next fifteen years.<sup>15</sup> Zimbabwe's President has become synonymous with homophobic hate speech that has defined a particular 'moral' code that oppresses open and honest discourse about the topic of sex and sexuality, not just for the LGBTI community in Zimbabwe but also, I would argue, for every individual Zimbabwean.

The legislation appears to reflect 'the morals and [sic] religious beliefs espoused by our (Zimbabwean) society'.<sup>16</sup> The criminalisation of same-sex and sex work denies the

**I BELIEVE THAT THE HATE SPEECH UTTERED BY THE LEADERSHIP IN ZIMBABWE HAS CREATED AN ENVIRONMENT OF PERMISSIBLE HOMOPHOBIA**

broad LGBTI community and sex workers the same rights accorded to other Zimbabwean citizens. The criminalisation of the conduct of a particular group of people ‘has the effect of marking individuals as criminal on the basis of their sexual orientation’.<sup>17</sup> Although same-sex sexual activity between women is not criminalised, the laws regarding ‘sodomy’ and sexual deviancy have a serious impact on lesbian, bisexual and transgendered women in that they are also regarded as engaging in ‘deviant behaviour’ and are often harassed by both police and communities.

I believe that the hate speech uttered by the leadership in Zimbabwe has created an environment of permissible homophobia, which was demonstrated regularly during the people-driven constitutional reform process in 2010.<sup>18</sup> This process created a platform for conservative and oppressive opinions and views on sex and sexuality to come to the fore. The process was notable for the homophobic and protectionist discourse around same-sex sexual relations as well as views on abortion that sought to undermine the democratic process. There were frequent statements from the government, leadership, media, Christian Church and traditional Chiefs condemning attempts to include recognition of, and protection for, sexual minorities in the constitution.<sup>19</sup> At the time of writing the outcome is unclear, but it is widely accepted that sexual minorities, including

LGBTI, will not be protected in the new Zimbabwean constitution.

It is important to analyse the language that was used by the political parties as they commented on, interfered with and attempted to manipulate the constitution-making process. The rhetoric of the process was ‘people-centred’ and participatory. However, the messages of democracy and human rights were juxtaposed with outrage that acts ‘which offend human and public morality’,<sup>20</sup> such as abortion and homosexuality, were being recommended for inclusion in the new constitution. Obviously, the moral, religious and cultural outrage expressed by rural communities, religious figures, politicians and political commentators was an attempt to polarise the process and to force participants, parties and politicians to take a position on these contentious ‘moral’ issues, while diverting attention away from issues such as presidential term limits and governance. Nelson Chamisa of the Movement for Democratic Change (MDC-T) acknowledged the strategy and stated “They (ZANU-PF) are going around telling people that our party supports homosexuality and abortion. These are all lies meant to disturb the masses attention on the new constitution process.”

Unfortunately, in their eagerness to expose the lies, the MDC-T also denied the importance of these issues and dismissed them as attempts to ‘disturb’ rather than crucial issues that needed to be addressed. The discourse and the language was divisive and advanced the perspective of ‘them’ and ‘us’, positioning human rights in direct opposition to the sacred cows of religion and culture.

What emerged in the discourse was the perception that human rights, culture and religion are ultimately irreconcilable in Zimbabwe. In a clearly patriarchal discourse and mindset, the same sentiments that chastised homosexuality were unleashed on dress code and women. As Pastor

Chikoshlana publicly proclaimed, “We must address the issue of a dress code through the enactment of laws that bar certain types of dresses, especially those that leave some parts of women’s bodies uncovered. People should also be empowered to bring to book lesbians or gays and all found dressed indecently”.<sup>21</sup> The conflation of issues demonstrated that conservative patriarchal forces wanted to use the threat of homosexuality as an opportunity to reverse many of the gains made by the women’s movement in Zimbabwe. This has resulted in a backlash, not only on sexual minorities and sex workers, but also on women rights activists on issues of abortion and sexual reproductive health rights in general. It would appear that there is nothing more alarming in Zimbabwe to the government and other institutions that prop up patriarchy, than citizens who have the freedom of choice, especially about their own bodies.

### **LBT women, female sex workers and sexual citizenship**

LBT women regard themselves as part of a broader LGBTI movement, which is directly affected by the laws that protect a particular morality (buttressed by religion and culture) and create fear and stigma around freedom of sexual expression. The law is often used to justify mistreatment of, or discriminatory treatment towards, women. For example, a woman in a same-sex relationship was charged with sexual assault and sentenced to a period of community service.<sup>22</sup> One of the conditions of her bail was that she had to be accompanied by a man when in the company of another woman: which is a clear violation of her right to association, in addition to exposing her to the danger of ‘corrective rape’. In this kind of case, the law that protects citizens against sexual assault ends up exposing citizens to the very dangers that the law is purported to be safeguarding them against. In addition, the law also becomes an instrument to instil fear in the citizens it is expected to protect.

Although very few cases of 'sodomy' actually reach the courts, the mere existence of the law – compounded by the environment created by the comments of the leadership – prevents the LGBTI community from freely exercising their right to choose a sexual partner. There is always the possibility of being arrested and charged under one law or another. This does not affect just the LGBTI communities, but even those organisations that are working to support their rights and welfare. For instance, many organisations and individuals in the LGBTI movement are not free to openly support LGBTI communities for fear of criminalisation, and in some cases have resorted to couching their work within the broader ambit of HIV and AIDS.

The laws governing sex work are equally premised on a moral and religious code that purports to protect women's chastity and purity.<sup>23</sup> Where morality and religion are used as arguments, those who are seen to be deviant are often subject to stigmatisation. For instance, sex work is highly stigmatised in Zimbabwe and considered a 'moral issue',<sup>24</sup> which results in social, religious and cultural ostracization and discrimination. Female sex workers are doubly discriminated against – because they are women and because they are sex workers. The Zimbabwean State report 2010 to the Committee on the Convention on the Elimination of All Forms of Discrimination Against Women CEDAW explains that the law has changed to 'ensure a higher degree of reasonable suspicion is applied before one is arrested for prostitution.'<sup>25</sup> In reality, this law is persistently misapplied and sex workers still report being arrested for loitering. However, this speaks to a more serious issue of police abuse of power, deliberately arresting and detaining sex workers with no formal charges, denying them the right to legal representation, denying them access to medication, as well as subjecting them to torture, abuse, harassment and rape. The State report notes that the police are influenced by societal

beliefs that 'women should not be found in certain places at certain times',<sup>26</sup> which clearly shows government's complicity in this behaviour. In some cases, sex workers have also reported that carrying condoms have been used as evidence of sex work and a justifiable reason for arrest and detention.<sup>27</sup>

Sex workers that have attempted to report cases of sexual violence have been told 'it is not possible to rape a sex worker' and 'what do you expect because women should not behave like that?'<sup>28</sup> The fact that the behaviour of the police can be justified by unexplained 'societal beliefs' demonstrates a deeper problem about perceptions of female sexuality and sexual expression. Despite the fact that the law specifically targets sex workers and the LGBTI community, these single pieces of legislation result in not only multiple human rights violations in relation to these particular groups, but also in a subtle game of power and control over the rights of all Zimbabweans as 'sexual citizens'.

Sexual violence against lesbian and bisexual women on the basis of their sexual orientation or gender expression or 'corrective' rape of lesbian and bisexual women is a serious problem. Due to fear of criminalisation, cases of violation of LGBTI communities' and sex workers rights mostly go unreported in Zimbabwe. This makes it challenging for organisations and researchers to collect and access accurate data about their experiences. There is need for advocacy to 'decriminalise' these groups to enable them to freely enjoy their rights and access services in the country. For instance, in seeking HIV and AIDS services, LBT women cite the problems of disclosing their sexual orientation as a major barrier to getting accurate, appropriate and relevant treatment.<sup>29</sup> The hetero-normative model of healthcare delivery that assumes that all clients are heterosexual is very restrictive in relation to providing healthcare but also in relation to gathering accurate data about sexual practices and behaviours.

The criminalisation of same-sex sexual conduct results in the invisibility of this group. A good example of this is the most recent draft of the National HIV and AIDS Country Strategy, which includes men who have sex with men (MSM) and sex workers. However, women who have sex with women (WSW) are excluded and the plan does not acknowledge the need to decriminalise in order to ensure that MSM groups can freely access HIV and AIDS services. Arising from recent research by the National AIDS Council in Zimbabwe was a recommendation that 'homosexuality and prostitution (must be dealt with) in a pragmatic way.'<sup>30</sup> However, the research has not been widely circulated. In an interview about the research, Gays and Lesbians of Zimbabwe (GALZ) said that "decriminalising consensual same sex practice will reduce fear, stigma and discrimination as it has to be accompanied by education, trainings and sensitisation of all stakeholders including the police."<sup>31</sup>

The criminal laws and resulting stigma prevents sex workers from participating in professional bodies and organised associations that protect the rights of other professions. This has made it difficult for them to organise themselves as a profession that monitors and promotes their professional rights. This is part of the reason why there is not reliable data even on the numbers of women and men involved in this profession. In most cases, the only available data is that which has been collected in the context of access to HIV and AIDS services. And although this is not complicated research, even this data is limited in the region. Indeed, only 6 countries out of 21 in East and southern Africa reported HIV rates amongst sex workers to UNAIDS in 2010.<sup>32</sup>

In addition to issues of violence, which increases sex workers vulnerability to HIV, there are numerous barriers to sex workers accessing healthcare services. Many sex workers report problems in seeking health services from government hospitals because

medical staff refuse to treat sex workers unless they bring their sexual partner for similar treatment.<sup>33</sup> The criminalisation of sex work prevents sex workers from full disclosure about their profession and their specific health needs. Limited access to sexual reproductive health services available in Zimbabwe has a detrimental impact on the ability of sex workers to seek and access treatment, including pap smears and breast screening. Evidence has suggested that there are clear linkages between the decriminalisation of sex work and increased access to sexual reproductive health services for sex workers.<sup>34</sup>

If sex workers are a high-risk group, as society largely believes, what then is the impact of excluding them from policy formation, development and implementation? The criminal law and resulting stigma prevents sex workers from participating in law and policy formulation and implementation, let alone service provision programmes. As such, their voices are silenced and they often struggle in silence, out of fear of being arrested and victimised.

### Impact on all human rights

Laws based on protecting a moral code that targets the conduct of particular groups have a serious impact on wider human rights. In Zimbabwe, these laws have resulted in the exclusion of issues affecting LBT women and female sex workers from civil society work and from the 'mainstream' women's and human rights movements. In a recent civil society shadow report to the Universal Periodic Review, for example, broader human rights issues affecting LBT women and sex workers were not mentioned. The criminalisation of abortion was not highlighted in the report as an issue of concern in relation to attempts by Zimbabwe to meet the Millennium Development Goals or fulfil state obligations under various treaties to which Zimbabwe is a signatory. During the Sixteen Days of Activism in 2010, female sex workers and

LBT women were not permitted to make statements about 'corrective rape' or violence perpetrated by the police. The police cited the law as one of the reasons, but the other reason given was that the police 'do not agree with these people.'<sup>35</sup> This illustrates that there are many factors at play in the game of cat and mouse between the state and citizens regarding the sexual rights of the latter.

But activism around these issues is slowly making an impression. During the Sixteen Days of Activism, media coverage analysed the extent to which LBT women and female sex workers were excluded from commemorating violence against women and questioned why the Sixteen Days of Activism was not for everyone to participate in. Thabitha Khumalo, who is an MP, also stated that sex workers were 'pleasure engineers' and should not be persecuted. Meanwhile, we are beginning to see more visibility of organised movements of LBT and sex worker communities in some parts of the country. For instance, the informal networks of sex workers and LBT women in Bulawayo participated in the constitution-making process and placed key demands around sexual rights, which they submitted to the committee. There are also

organisations in Zimbabwe working to put the 'sexual' and the 'rights' back into sexual reproductive health rights.

### Conclusion

I would argue that although the language of morality, religion and culture dominates the space for discussion about sex and sexuality, the constant references to sexuality are at least raising the profile of this issue. Ultimately, sexual rights are the 'last frontier of rights'.<sup>36</sup> At a recent meeting of LBT women,<sup>37</sup> one lesbian woman stood up and said, "we have to challenge our thinking and then gradually we will be able to challenge the thinking of our society in Zimbabwe." This is real resistance. The government can put laws in place that seek to silence LBT women and sex workers, but gradually, women are pushing back against oppressive forces that seek to dictate to them what they should do with their bodies. Women are gradually reclaiming their bodies through the language of rights and LBT women and sex workers are leading the way. But they have a long way to go – so there is an urgent need for solidarity and support from other social justice and human rights movements.

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1. President Robert Mugabe at Official Opening of Zimbabwe International Book Fair, whose theme was Human Rights and Justice, August 2, 1995.
2. African Centre for Law and Justice pamphlet called for 'constitutional prohibitions on both abortion, by defining life as "beginning at conception', Pat Robertson's Women Warriors Leading Spiritual Warfare In Zimbabwe. Sokwanele Article: August 2nd, 2010
3. We are Zimbabweans and have a culture for Zimbabweans to preserve... Human rights should not be allowed to dehumanize us. ZANU-PF's Women's League in support of the President following responses from international and some local human rights groups on the president official opening speech at the Book Fair, August 18, 1995
4. In a raid on brothels in Beitbridge a local man commented: "I would like to commend the police for launching a blitz on brothels as they are also a haven for criminals and again morally it is wrong as it undermines the human values. This practice is destroying the moral fibre of our town and therefore we hope such raids will address this challenge in which our children are exposed to such immorality,' The Chronicle, 3 December 2010.
5. We cannot recognise homosexuality in Zimbabwe: ZANU-PF Sokwanele Article: September 20th, 2010
6. Criminal Law (Codification and Reform) Act [Chapter 9:23] Act 23/2004.
7. ZIMBABWE: Abortion figures underscore need for more reproductive health education, 30 March 2005
8. Sixteen Days of Activism Not for All, Z. Ndebele, IPS News, 2 December 2010.
9. "I expect to be abused and I have fear": Sex workers' experiences of human rights violations and barriers to accessing healthcare in four African countries. ASWA, 2011.
10. IGLHRC report – how HIV/AIDS programmes are failing sexual minorities.
11. Waites, Matthew. The Age of Consent and Sexual Citizenship in the United Kingdom: a History.....
12. Amendments to the current Constitution limited the rights attributed to citizens and tightened the criteria required for people to be recognised as citizens of Zimbabwe. One of the important issues for ZANU-PF was to oppose dual citizenship in the new Constitution.
13. IPPF Declaration on Sexual Rights, 2008.
14. President Robert Mugabe at Official Opening of Zimbabwe International Book Fair, whose theme was Human Rights and Justice, August 2, 1995.
15. Off the Map: How HIV/AIDS Programming is Failing Same-Sex Practising People. International Gay and Lesbian Human Rights Commission, 2007.
16. President Robert Mugabe at Official Opening of Zimbabwe International Book Fair whose theme was Human Rights and Justice August 2, 1995
17. International Human Rights Law and the Criminalisation of Same-Sex Sexual Conduct, ICJ Briefing Paper, May 2010.
18. The new Constitution is currently being drafted.
19. 'Allowing gays to run free would see Zimbabwe, a Third World country, fighting a losing battle against diseases that emanate from homosexuality. It is well established that there are high rates of psychiatric illnesses, including depression, drug abuse, and suicide attempts, among gays and lesbians.' Attempts to sneak homosexuality into constitution exposed, S.Chiwanga, Sunday News, September 2010.
20. No room for gay rights in new constitution, RadioVOP: 20/06/2010.
21. Include dress code in constitution say pastors. Sokwanele Article: July 9th, 2010
22. In a recent case in Bulawayo a woman in a same-sex relationship was charged with sexual assault when the mother of her girlfriend reported her to the police. One of the conditions of her bail was that she had to be accompanied by a man when in the company of another woman.
23. Legalise Prostitution, Newsday, 2011.
24. Ibid.
25. State report to CEDAW, 2010.
26. Ibid.
27. Interviews with Sexual Rights Centre coordinators who reported that, 'we were walking home from the bar in the early evening. Police drove past in a truck. The truck stopped and the police jumped out and demanded to search us. We asked what they were searching for and they said condoms because we think you are prostitutes. Luckily we didn't have any condoms.'
28. "I expect to be abused and I have fear": Sex workers' experiences of human rights violations and barriers to accessing healthcare in four African countries. ASWA, 2011.
29. Informal questionnaire-based research conducted by the Sexual Rights Centre in 2010.
30. Zimbabwe: Proposal to Decriminalize Homosexuality and Prostitution, The Standard, 12 July 2011.
31. Ibid.
32. Unpublished UNAIDS Report, 2011.
33. "I expect to be abused and I have fear": Sex workers' experiences of human rights violations and barriers to accessing healthcare in four African countries. ASWA, 2011.
34. Sex work and the law: The case for decriminalisation, Sex Work Factsheets, World AIDS Campaign, 2010.
35. Interview with Mojalifa Ndlovu, LGBT Officer at the Sexual Rights Centre.
36. Report of the Special Rapporteur on violence against women, its causes and consequences. Addendum: 15 years of the United Nations Special Rapporteur on aw, its causes and consequences (1994-2009) – A critical review, A/HRC/11/6/Add. 5, 27 May 2009
37. Workshop hosted by Sexual Rights Centre.

# SEX WORK AS A TEST CASE FOR AFRICAN FEMINISM

Marlise Richter

***This is what we call ‘tragedy porn’: a desire in the feminist movement to hear tragic stories of hardship from sex workers, and when we don’t tell them, we face the accusation that we are covering up the ‘truth’ about sex work. For example, when we speak about the lack of incidents of trafficking in the sex industry, we are accused of being in denial about migrant sex workers’ lives. Or when we present actual statistics about drug use in the sex industry, we are told that we are ignoring or lying about drug use in sex work. We are expected to ‘perform’ stereotypical tragedy porn for feminist audiences and when we don’t we are disbelieved.***

***Well I am going to tell you something that you may not have considered. We don’t want to perform for you... Because to live our lives with strength, you need to accept us at our best. We want the feminist movement to stop punishing us for our strengths, stop rewarding us for our pain, stop gaining privilege on the back of our needs, and to listen when we speak.***

**– Elena Jeffreys, ‘Why feminists should listen to sex workers’**

*“We will no longer be silenced – human rights are for everyone.”  
Mickey Meji, ‘Africa’s sex workers take to the streets’<sup>2</sup>*

## Introduction

**I** stopped to stare at the body showcased in the Amsterdam window and inadvertently shuddered. It was a white body – Eastern European-looking like the stereotype – with a white bra and G-string. The ultraviolet light that lit the tiny box of a room made her underwear and heavy lipstick glow in an eerie, supernatural but definitely eye-catching way. She was ostensibly chatting on her cellphone, her one leg up on the only chair in the box-like room, ignoring the group of male tourists that had gathered around her window, pointing. One brave one – brimming with testosterone – stepped forward and knocked on the ornate front door next to the box. The lady promptly finished her call and slipped in behind the velvet curtain that separated the window

box and the room behind – I briefly caught a glimpse of a bed and a box of tissues – before the curtains were drawn shut to let the male customer in. I did not have time to see how long the transaction lasted, or how the male conqueror returned to his mates from behind the curtain, probably getting ‘high 5s’ and slaps on the back all-around. There were too many other window boxes to stare at in the ‘red light district’ in De Wallen in Amsterdam. Free access to observe male fantasies played out in small square spaces – observable from the street. The spectators safe and anonymous, like in a zoo.

My trip to Amsterdam in 2009 perplexed me. I had been doing sex work research in southern Africa for a couple of years,

and had become a passionate advocate for the decriminalisation of sex work. My conversations with sex workers in the inner-city Johannesburg district of Hillbrow, my work with the Sisonke Sex Worker Movement,<sup>3</sup> the many, many reports of brutal attacks and rape of sex workers – mostly executed by police and clients – and the overwhelming HIV prevalence among sex workers in South Africa and the region have made one thing completely clear to me: the law is the biggest oppressor of sex workers at present. The current law that makes sex work illegal in South Africa also makes it possible for police to bribe, extort and mistreat sex workers; increases the stigma that attaches to sex work; compounds barriers to sex worker access to

health and legal services; and empowers clients to do great harm to sex workers without fearing any legal consequences.

But the question is – is the only alternative to this criminalised system, those boxes in Amsterdam where sex work is legalised?

In this article, I explore the discomfort that some feminists feel when discussing this question by looking at the current debates about definitions of sex work and the ideological work that is employed to conflate sex work with social evils like child prostitution and human trafficking. I focus on how two strands of feminism – radical feminism and sex-positive feminism – have responded to the dilemma posed by sex work. I argue that an African, sex-positive feminist perspective would provide useful entry points into making feminist sense of the scenario described above. I conclude by showing that the type of feminism one identifies with would have no impact on the feminist imperative to support the decriminalisation of sex work.

### **Sex work, law and social control**

During a writing workshop with female sex workers for submissions to the South African Law Reform Commission in 2008,<sup>4</sup> my writing partner lifted her blouse to show me the scars of a knife slashing at her ribs. A cruel client's work. Another burst into tears when she recounted how the police threw her out of a speeding police car and she broke several bones. Every time I see her staggered walk on the streets of Hillbrow, bile of anger rises in my throat.

The law in South Africa currently makes every aspect of sex work a crime and a punishable offence. The law is as old and outdated as the hills – the current Sexual Offences Act is a remnant of the Immorality Act of 1927; the law that prohibited relationships across the colour bar and, later, same sex relationships under apartheid (Bodin and Richter, 2009). Very few people in South Africa would dispute that criminal law has no place in determining what race or gender the person should be with whom you start a relationship or with whom you have sex. These sections of the criminal law were struck down as unconstitutional and slated as an antithesis to human rights very early on in South Africa's democracy. Our society seems mostly to be in agreement that the state should not interfere with the sexual, private lives of individuals – provided that they are adults, and that the sex is consensual. Nonetheless, many want to make an exception for sex work. Why is that?

### **Definitions of sex work**

Sex work is the term preferred to prostitution and is indeed the language used by international organisations such as the United Nations, and more importantly: sex workers themselves (Naidoo,

2009). But while the terminology is clear, the definition and content are not. Most people have a very clear picture in their mind (usually based on a stereotype) when one talks about sex work but very few can verbalise a precise definition.

UNAIDS provides the following definition of sex work:

*Female, male and transgender adults and young people who receive money or goods in exchange for sexual services, either regularly or occasionally (UNAIDS, 2009)*

I believe that this definition is unworkable as it is too broad. It does not define 'sexual services', whether 'young people' include children, and whether 'regularly or occasionally' means that this definition explicitly includes transactional sex.

The South African Law Reform Commission (SALRC) has been reviewing South Africa's sex work laws for almost a decade and has still not come to agreement on what to recommend to government. Its current definition is 'the exchange of any financial or other reward, favour or compensation for the purpose of engaging in a sexual act' (South African Law Reform Commission, 2009, p.9). The description of 'reward' encompasses 'both a monetary reward and other forms of compensation with pecuniary value, for example, clothing, food or accommodation' (South African Law Reform Commission, 2009, p.16). The definitions of the SALRC and an earlier useful review of southern African laws on commercial sex work (Legal Assistance Centre, 2002) are unable to draw a unequivocal distinction between 'sex work' and 'transactional sex'.

There is a graphic representation of the difficulties with pinning down meanings for 'sex-for-reward' interactions, see Figure 1. The sexual interactions described have an element of 'reward' as provided for in the SALRC definition above. What makes the various scenarios so different that some parties could be prosecuted, while others not? Might it be because the women on the 'illegitimate' side of the continuum are more dependent on the reward for their survival (and the survival of their dependants) than those on the 'legitimate' side? Is it thus that class and financial status ultimately make the difference in terms of whether the state prosecutes women for sexual exchanges? Is it that rich women can have sex for whatever reason or reward they choose, but if poor women use sex as an informal livelihood strategy, they are deemed criminals? Is the difference related to the reward being given before the sexual act occurs (Scenario A and E in the Figure 1), or that the reward is explicitly negotiated before sex (Scenario A and perhaps C and D?) or that it is implicit in the interaction but not verbalised (Scenarios B, E and F)? Or is the only distinguishing factor that Scenario A contains an individual who self-identifies as a sex worker, and that this should be grounds for prosecution?

I would argue that the difference between the scenarios in Figure 1 is arbitrary and that no clear distinction between ‘sex-for-reward’ interactions exists – least of all a difference that would hold up in court and would cause a woman to be jailed for it.

Sex workers across Africa make it clear that their profession relates to ‘sex that is paid for’ and that it is a service that is rendered and their job should be respected (Naidoo, 2009, Legal Assistance Centre, 2002).<sup>5</sup> Sex work researcher Johanna Busza identifies three main forms of ‘sexual exchange’: sex work, transactional sex and survival sex (Busza, 2006a). The latter she argues is characterised by an attempt to alleviate extreme poverty. Sex work she sees as a ‘financial arrangement whereby a client pays a sex worker an agreed fee for sexual services, which is a ‘professional’ interaction. She notes that transactional sex – by contrast – is a financial arrangement ‘within other relationships often characterised by friendship, affection, or romantic attachment’ (p135). Once again, the definitions are so nuanced and could be placed along a continuum, that it is not clear to me who should be put in jail and who should not – particularly so in southern Africa, where transactional sex is prevalent.<sup>6</sup>

The most succinct definition of sex work I have come across is the following:

*“Sex work is any agreement between two or more persons in which the objective is exclusively limited to the sexual act and ends with that, and which involves preliminary negotiations for a price. Hence there is a distinction from marriage contracts, sexual patronage and agreements concluded between lovers that could include presents in kind or money, but its value has no connection with the price of the sexual act and the agreement does not depend exclusively on sexual services.” (Source: Regional UNAIDS workshop on sex work in West and Central Africa, Abidjan, Cote d’Ivoire, 21–24 March 2000)*

The contractual relationship between client and service provider and the upfront negotiation of price is clear, which none of the other definitions thus far have provided. However, the critiques of the other definitions still apply – even if we are able to better define who a ‘sex worker’ is, what concrete grounds exist to prosecute them as criminals but not those who deliberately engage in other sexual exchanges for personal, financial gain, but where the reward may be implicit?

Perhaps what sex workers (and their sisters) do with sex is nobody’s business except their own, and that terribly blunt instrument – the criminal law – has no place in this interaction and should rather focus its energies on murder, hijacking, rape and corruption?

## What sex work is not

One of the common denominators of the diverse definitions discussed above is the following: that sex work relates to adult, consensual sex. Sex work does not include the sale of sex by children. Under South African law – and across the region – the sale of sex by children is termed ‘commercial sexual exploitation’ and carries high criminal penalties. The New Zealand’s Prostitutes Collective puts it succinctly: ‘Children should be at the school. Not on the streets.’ (Healey, 2009)

Similarly, sex work is not human trafficking. The UN defines trafficking as follows:

*“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” (Section 3A of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000 (often called the Palermo Protocol))*

Thus, for a person to be regarded as having been trafficked, three minimum conditions have to be met: (1) the person should have been moved, (2) by means of force or coercion, and (3) for the express purpose of being exploited. Human trafficking is modern-day slavery and constitutes a gross human rights violation (Butcher, 2003). Adult, consensual sex work does not fulfil these conditions.

In the literature, child prostitutes, or people who have been trafficked are often referred to as ‘victims’. The Oxford English Dictionary (8th ed) defines a victim as ‘a person injured or killed as a result of an event or circumstances’. It also includes the synonyms ‘prey’ or ‘dupe’. The term ‘victim’ often implies that the person had no choice in what happened to them – life dealt them a cruel blow and they were completely powerless in the face of it. Gender based violence advocates have long protested the labelling of women who have been raped as ‘rape victims’. Many insist that this terminology erases the agency and tenacity of the women who have survived horrendous attacks, that ‘rape survivor’ is preferred and celebrates the fortitude and strength of the survivor (Dunn, 2005). These critiques may also apply to the discourses of victimhood with regard to child prostitution and trafficking, but I would like to make a different point: in calling sex workers ‘victims’, or conflating sex work with trafficking or child prostitution, opponents of sex work try to remove the agency and choice of sex workers. A ‘victim’ could be constructed as someone who is so bewildered or traumatised that they don’t know what is good for themselves – indeed some ‘prostitution rehabilitation programmes’

allege that they assist sex workers to deal with 'Stockholm Syndrome'.<sup>7</sup> These campaigns ignore the following: taking up sex work to provide for yourself – and often your extended family – could be a resourceful strategy and a rational choice of livelihood activity, albeit that it could constitute a constrained choice in many circumstances.

In casting certain groups as 'victims', the dialectic automatically sets up another group as heroic 'saviours' (Doezema, 2000, Doezeema, 2001). Examples include: some abolitionist feminist groups (often from the Global North) who endeavour to save sex workers from themselves by trying to eradicate sex work through criminal laws and international conventions;<sup>8</sup> some misguided anti-trafficking campaigns – particularly when executed in the Global South – that initiate 'Raid and Rescue' operations in brothels that leave many sex workers worse off than before;<sup>9</sup> and religious-based interventions that attempt to 'rehabilitate' sex workers and channel them into more worthy livelihoods like beading and sewing.<sup>10</sup> These groups share the following characteristics: in casting sex workers as 'victims' and themselves as 'saviours', a power structure is created in which the 'saviours' can superimpose their ideologies onto the bodies of the 'victims' and be exempted from asking sex workers what they think or want. Such programmes can attract a lot of (often well-meaning) donor funding.

### **But isn't sex work unfeminist?**

Before deciding what the most appropriate feminist response to sex work is, we have to pin down what 'feminism' is. While a detailed discussion of various strands of feminism would be an impossible task in this article, the most salient point is that there are vigorous debates about what constitutes contemporary feminism(s).<sup>11</sup> Yet, much of the overlap of different feminisms relates to the effects of male dominance on women and a 'theory of power relations' (Ramazanoglu and Holland, 2002). With regard to various forms of African feminism, Desiree Lewis identifies the following commonalities: 'a shared intellectual commitment to critiquing gender and imperialism coupled with a collective focus on a continental identity shaped by particular relations of subordination in the world economy and global social and cultural practices' (Lewis, 2001, page 4).

If the definition of feminism is an on-going debate, how feminism should relate to sex work is even more hotly contested.<sup>12</sup> Priscilla Alexander describes the tension in what has been called the 'Sex Wars' in the following way:

*As feminists, we abhor the exploitation of women's sexuality by profiteers, and some of us feel instinctively, that prostitution supports an objectification of women's sexuality and of women, that is somehow related to the pervasive violence against us. In addition, we are defined,*

*by ourselves and others, by our place in the age-old whore/Madonna dichotomy. However, there is a growing realisation among many feminists that the laws against prostitution, and the stigma imposed on sex work, keep all women from determining their own sexuality. (Alexander, 1996, page 342)*

The tension in the Sex Wars ultimately centres on women's sexuality and how it relates to patriarchy. Catharine MacKinnon – an anti-sex work and anti-pornography feminist – describes sex work as inherently harmful and always a form of violence against women.<sup>13</sup> In MacKinnon's view and those of other abolitionist or radical feminists, sex workers are trapped under the dominance of male clients and pimps, and are sexually exploited by them (Ahmed, 2011). This strand of feminist thought does not allow for sex worker agency or choice – sometimes maintaining that sex workers suffer from 'false consciousness' (Barry, 1996) or 'Stockholm Syndrome' – and that the industry should be abolished by criminal sanction. Some effects of the view that 'sex workers don't know what is good for them' include attempts in China to 'rehabilitate' sex workers by sending them to labour re-education camps (Yardley, 2005), while more than a 1000 'marriage volunteers' from the Dera Sacha Sauda religious sect in India have pledged to marry sex workers in order 'to stop the women from being exploited in brothels' and to help halt the spread of HIV and AIDS (BBC News, 2009).

One form of feminism that resists the abolitionist feminists' reading of sex work is sex-positive feminism. Carol Queen describes this intersection of sex radicalism and feminism:

*[T]here is a community of people who are sex-positive, who don't denigrate, medicalize, or demonize any form of sexual expression except that which is not consensual. These 'sex-positive feminists' [...] embrace the feminist analysis of gender inequality, but challenge the silence or conservative positions of [Andrea] Dworkin and [Catharine] MacKinnon-influenced feminism on sexual issues. (Queen, 2001, page 95)*

While abolitionist feminists view female sexuality as being repressed by patriarchy, sex-positive feminists hold that this repression is produced by heterosexism and 'sex negativity' (Glick, 2000, page 21) and that women's sexual autonomy and choice should be respected. Sex-positive feminists do not see anything inherently oppressive about sex work if it is regarded as 'work', reflects women's choices and takes places within a human rights framework. Indeed, sex-positive feminists would view De Wallen in Amsterdam through a different lens: one that recognises a woman's choice to engage in sex work, to creatively manoeuvre and negotiate around men's sexual fantasies to make a living, and to render a service that is in demand.

The answer to the question posed above – is sex work unfeminist? – is therefore dependant on what form of feminism you identify with. However, I would argue that your view on feminism should not influence your position on how the law relates to sex work. One could be a staunch radical feminist and believe that sex work is deeply oppressive to all women, but still acknowledge that the sex industry will not be eradicated by the criminal law, that sex workers are worse off under a criminalised system, and that centuries of criminal and societal prohibition of sex work have not had any significant impact on the industry, except to make those who work in it vulnerable to violence, coercion, stigma and illness. Indeed, the criminalisation of sex work has far-reaching public health consequences in making sex workers, their clients and partners more vulnerable to HIV and other STIs (Richter et al., 2010). From this point of view, radical feminists should support the decriminalisation<sup>14</sup> of sex work as heartily as sex-positive feminists do.

### **African, sex-positive feminism and sex work**

It is curious that, while the prevalence of female sex workers and proportion of female sex workers to the general population are higher in sub-Saharan Africa than in any other region of the world (Vandepitte et al., 2006), African feminisms have not grappled

much with the issue of sex work. This is of particular concern against the backdrop of the staggering prevalence of HIV amongst sex workers in Africa – sex workers generally have a 10-20 fold higher HIV prevalence than the general population (Scorgie et al., 2011a) – and the on-going human rights violations against sex workers (Scorgie et al., 2011b, Arnott and Crago, 2009, Okal et al., 2011). Sex work and sex worker rights are conspicuously absent from most discussions on gender in Africa, and many feminists and gender practitioners avoid the issue like the plague – thus perpetuating the stigma and silence that surround the sex industry in Africa.

In concluding this article, I invite other African feminists to consider the growing literature on sex-positive feminism, and to apply and mould this to the African context. In particular, I would like to see feminists from all persuasions, gender activists, womanists, human rights advocates and AIDS workers grapple and wrestle with the issue of sex work. There is rich ground for discussion and debate on a matter that cuts across analyses based on class, race, migration and mobility, relative deprivation, development economics, the law, sexual and reproductive health rights, and many others. Vital to these conversations and debates are the voices of sex workers – those who are most often silenced by law-enforcers and by feminists who deem they know best.



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- AHMED, A. 2011. Feminism, Power, and Sex Work in the Context of HIV/AIDS: Consequences for Women's Health. *Harvard Journal of Law and Gender*, 35, 225.
- ALEXANDER, P. 1996. Prostitution - a difficult issue for feminists. In: JACKSON, S. & SCOTT, S. (eds.) *Feminism and sexuality - a reader*. New York: Columbia University Press.
- ARNOTT, J. & CRAGO, A.-L. 2009. Rights not Rescue: A Report on Female, Male, and Trans Sex Workers' Human Rights in Botswana, Namibia, and South Africa. Open Society Institute.
- BARRY, K. 1996. *The Prostitution of Sexuality* New York, New York University Press.
- Author. 2009. Indian sect members vow to marry sex workers. BBC, 16 December. [http://news.bbc.co.uk/2/hi/south\\_asia/8416739.stms](http://news.bbc.co.uk/2/hi/south_asia/8416739.stms)
- BODIN, C. & RICHTER, M. 2009. Adult, Consensual Sex Work In South Africa – The Cautionary Message Of Criminal Law And Sexual Morality. *South African Journal on Human Rights*, 25, 179-197.
- BUSZA, J. 2006a. For love or money : the role of exchange in young people's sexual relationships. In: INGHAM, R. & AGGLETON, P. (eds.) *Promoting young people's sexual health - international perspectives* London, New York: Routledge
- BUSZA, J. 2006b. Having the rug pulled from under your feet: one project's experience of the US policy reversal on sex work. *Health Policy Plan*, 21, 329-32.
- BUTCHER, K. 2003. Confusion between prostitution and sex trafficking. *Lancet*, 361, 1983.
- DOEZEMA, J. 2000. Loose women or lost women? The re-emergence of the myth of white slavery in contemporary discourses of trafficking in women. *Gender Issues*, 18, 23-50.
- DOEZEMA, J. 2001. Ouch! Western Feminists' 'Wounded Attachment' to the 'Third World Prostitute'. *Feminist Review*, 67, 16-38.
- DUNKLE, K. L., JEWKES, R., NDUNA, M., JAMA, N., LEVIN, J., SIKWEYIYA, Y. & KOSS, M. P. 2007. Transactional sex with casual and main partners among young South African men in the rural Eastern Cape: prevalence, predictors, and associations with gender-based violence. *Soc Sci Med*, 65, 1235-48.
- DUNN, J. L. 2005. "Victims" and "Survivors": Emerging Vocabularies of Motive for "Battered Women Who Stay"\* . *Sociological Inquiry*, 75, 1-30.
- FARLEY, M. 2004. "Bad for the Body, Bad for the Heart": Prostitution Harms Women Even if Legalized or Decriminalized. *Violence Against Women*, 10 1087-1125.
- FARLEY, M., BARAL, I., KIREMIRE, M. & SEZGIN, U. 1998. Prostitution in Five Countries: Violence and Post-Traumatic Stress Disorder. *Feminism & Psychology*, 8, 405-426.
- GLICK, E. 2000. Sex Positive: Feminism, Queer Theory, and the Politics of Transgression. *Feminist Review*, 64, 19-45
- HEALEY, C. 2009. New Zealand's legal framework in relation to sex work. In: RICHTER, M. & MASSWE, D. (eds.) *Consultation on HIV, Sex Work and the 2010 Soccer World Cup: Human Rights, Public Health, Soccer and beyond*. Cape Town: Workshop Report.
- LEGAL ASSISTANCE CENTRE. 2002. *Whose body is it? Commercial sex work and the law in Namibia*. Windhoek: Legal Assistance Centre, Namibia.
- LEWIS, D. 2001. African feminisms. *Agenda*, 50, 4.
- MACKINNON, C. 2010 *Legal approaches to adult prostitution*. In: CENTRE FOR APPLIED LEGAL STUDIES (ed.) *Feminist Legal Approaches to Adult Prostitution; Workshop report compiled by Deborah Brand*. Johannesburg: Centre for Applied Legal Studies..
- NAIDOO, N. 2009. Report on the 1st African Sex Worker Conference: Building Solidarity and Strengthening Alliances. Johannesburg, South Africa: Sex Worker Education & Advocacy Taskforce, Reproductive Health & HIV Research Unit.
- NICHOLSON, L. (ed.) 1997. *The second wave - a reader in feminist theory*, London: Routledge.
- OKAL, J., CHERSICH, M. F., TSUI, S., SUTHERLAND, E., TEMMERMAN, M. & LUCHTERS, S. 2011. Sexual and physical violence against female sex workers in Kenya: a qualitative enquiry. *AIDS Care*, 23, 612-8.
- QUEEN, C. 2001. Sex radical politics, sex-positive feminist thought, and whore stigma. In: RYAN, B. (ed.) *Identity Politics in the Women's Movement* NYU Press.
- RAMAZANOGLU, C. & HOLLAND, J. 2002. *Feminist methodology - challenges and choices*, London, Sage.
- RICHTER, M., CHERSICH, M., SCORGIE, F., LUCHTERS, S., TEMMERMAN, M. & STEEN, R. 2010. Sex work and the 2010 FIFA World Cup: time for public health imperatives to prevail. *Globalization and Health*, 6, 1.
- SCHNEIR, M. (ed.) 1995. *The Vintage book of feminism - the essential writings of the contemporary women's movement*, New York: Vintage.
- SCORGIE, F., CHERSICH, M. F., NTAGANIRA, I., GERBASE, A., LULE, F. & LO, Y. R. 2011a. Socio-Demographic Characteristics and Behavioral Risk Factors of Female Sex Workers in Sub-Saharan Africa: A Systematic Review. *AIDS Behav*.

SCORGIE, F., NAKATO, D., OGUTU, A. D., NETSHIVHAMBE, M., CHAKUVINGA, P., NKOMO, P., ABDALLA, P., SIBANDA, S. & RICHTER, M. 2011b. "I expect to be abused and I have fear": Sex workers' experiences of human rights violations and barriers to accessing healthcare in four African countries. Johannesburg. [http://www.plri.org/sites/plri.org/files/ASWA\\_Report\\_HR\\_Violations\\_and\\_Health-care\\_Barriers\\_14\\_April\\_2011.pdf](http://www.plri.org/sites/plri.org/files/ASWA_Report_HR_Violations_and_Health-care_Barriers_14_April_2011.pdf)

SHACKLETON, S.-J. & YINGWANA, N. 2011. Africa's sex workers take to the streets [Online]. Cape Town, 30 March 2011. Available: [http://www.sweat.org.za/index.php?option=com\\_k2&view=item&id=70:africa%E2%80%99s-sex-workers-take-to-the-streets&Itemid=139&tmpl=component&print=1](http://www.sweat.org.za/index.php?option=com_k2&view=item&id=70:africa%E2%80%99s-sex-workers-take-to-the-streets&Itemid=139&tmpl=component&print=1) [Accessed 21 October 2011].

SOUTH AFRICAN LAW REFORM COMMISSION. 2009. Discussion Paper 0001/2009: Sexual Offences: Adult Prostitution South African Law Reform Commission.

SPECTOR, J. (ed.) 2006. Prostitution and Pornography - Philosophical debates about the sex industry, Stanford: Stanford University Press.

UNAIDS. 2009. Guidance Note on HIV and Sex Work. Geneva: UNAIDS. [http://data.unaids.org/pub/BaseDocument/2009/jc1696\\_guidance\\_note\\_hiv\\_and\\_sexwork\\_en.pdf](http://data.unaids.org/pub/BaseDocument/2009/jc1696_guidance_note_hiv_and_sexwork_en.pdf)

VANDEPITTE, J., LYERLA, R., DALLABETTA, G., CRABBE, F., ALARY, M. & BUVE, A. 2006. Estimates of the number of female sex workers in different regions of the world. *Sex Transm Infect*, 82 Suppl 3, iii18-25.

WEITZER, R. 2005. Flawed theory and method in studies of prostitution. *Violence Against Women*, 11, 934-49.

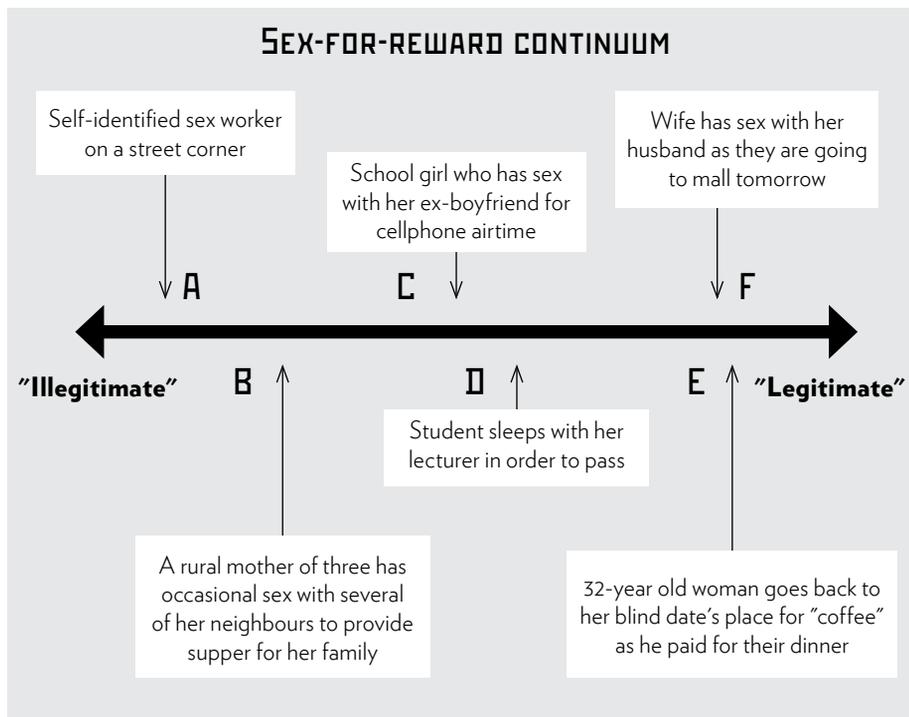
WEITZER, R. 2010. The Mythology of Prostitution: Advocacy Research and Public Policy. *Sexuality Research and Social Policy*, 7, 15-29.

WORLD AIDS CAMPAIGN. 2010. Sex work and the law - the case for decriminalization. Cape Town: World AIDS Campaign. <http://www.worldaidscampaign.org/en/content/download/90952/894415/file/Sex%20Work%20&%20the%20Law.pdf>

Author. 2005. Issue in China: Many in Jails Without Trial. *New York Times*, 9 May. <http://www.nytimes.com/2005/05/09/international/asia/09china.html>

Figure 1

Different examples of 'sex-for-reward' interactions. If these interactions take place in a country where sex work is criminalised, which scenarios do we prohibit under the criminal law? Which of the individuals – if any - involved in the scenarios should be put into jail?



Endnotes

1. "This is an edited version of a talk given by Elena Jeffreys, national president of the Scarlet Alliance Australian Sex Workers Association, at the Feminist Futures conference in Melbourne, Australia 28-29 May 2011 on the panel "Why Feminism Matters". Also note "the Feminist Futures conference split: Sheila Jeffreys and other radical feminists rented a space to have what they called the "real" feminist conference in protest to the pro-sex work and pro-trans and gender-diverse speakers who were invited at the last minute" Available from <http://www.thescavenger.net/feminism-a-pop-culture/why-feminists-should-listen-to-sex-workers-732.html>
2. Meji is the South African Coordinator of the African Sex Work Alliance (ASWA). (Shackleton and Yingwana, 2011)
3. Sisonke is a sex worker-lead human rights organisation in South Africa.
4. To read some of the submissions, see "Johannesburg Sex Workers Speak Out" available <http://www.womensnet.org.za/campaign/decriminalise-sex-work-now>
5. The first African Sex Workers' conference was held in Hillbrow, Johannesburg in

February 2009. Sex work participants defined themselves as follows:

- “It is a job, we support our families, we are single parents, and we are breadwinners.”
- “It is a career like any other, but in the eyes of society it is not and they call us names. So we have to show them that we are something more than just sex workers, we are peer educators. Need to educate clients and other sex workers who refuse to use condoms. Need to join movements.”
- “Sex workers are unemployed women who are using their bodies to make a living”
- “A sex worker is someone who is earning and selling for an exchange of money. We help those who are in need of sex. We are market sellers because we are marketing ourselves” ((Naidoo, 2009)page 28-29).

6. “Financial and material exchange as a motivating force underlying sexual relationships is a well-recognized dynamic in the HIV pandemic, particularly in sub-Saharan Africa (Luke, 2003). Often referred to as transactional sex, it is a motive for women to have sex in situations where they might otherwise refrain” (Dunkle et al., 2007)

7. ‘Stockholm Syndrome’ refers to the psychological process in which victims of a crime start identifying with their captives - often in hostage situations. For a programme that assists sex workers to do deal with ‘Stockholm Syndrome, see the Lola Greene Baldwin Foundation in Portland, USA. Available [http://www.prostitutionrecovery.org/stockholm\\_syndrome.html](http://www.prostitutionrecovery.org/stockholm_syndrome.html)

For a discussion of the Stockholm Syndrome and Post-Traumatic Stress amongst sex workers, see (Farley et al., 1998) Weitzer has criticised Farley’s and other radical feminists’ research here (Weitzer, 2010)

8. See for example Melissa Farley: “Prostitution is an institution that systematically discriminates against women, against the young, against the poor, and against ethnically subordinated groups [...]. It is a particularly vicious institution of inequality of the sexes” (Farley, 2004)

For a critique of Farley’s – and other radical feminists’ – research on sex work with regards

to methodology, study assumptions, see (Weitzer, 2005)

9. See for example the raids to eradicate sex work in brothels in the Svay Pak (outside Phnom Penh, Cambodia) and the impact on sex worker risk and access to health care, as described by (Busza, 2006b)

10. See for example an outreach project by the Tenth Presbyterian Church in Philadelphia, USA: “Since 1998, Ghanaian Christians working with AE [African Enterprises] have been involved in the rehabilitation of prostitutes. Tenth Church’s ESO [Easter Sacrificial Offering] has funded this program over the last decade, reaching over 320 former prostitutes. The program’s training removes social stigma, gives new hope, and teaches the vocational skills necessary to leave a life of poverty and become economically empowered.

The program begins with an intensive month of counseling and Bible study. During this time, most of the women make commitments to Christ and the Holy Spirit begins to transform their lives. They spend the next two months learning tie-dye, batik, silk-screening, soap-making, and baking. Learning such marketable skills helps restore dignity, and ongoing counseling helps to heal the wounds of abuse” Available: <http://www.tenth.org/index.php?id=743> Accessed: 10 Oct 2011

11. See for example (Schneir, 1995) (Nicholson, 1997) and the three editions of the feminist journal *Agenda* entitled “African Feminisms” 2001(50), 2002(54) and 2003 (58).

12. See (Spector, 2006)

13. See for example “Prostitution is an institution based on a denial that prostitutes are no longer little girls. Often, there is not much difference between these two groups in that the law waits for them to become voluntary adult prostitutes before processing them. Prostitution cannot be made safe. It is intrinsically harmful and cannot be allowed to continue. There is no dignity in sex work.” (MacKinnon, 2010 ) page 10.

This workshop was organised by feminists Prof Raylene Keightley and Prof Elsje Bonthuys and co-hosted by the human rights

organisation– the Centre for Applied Legal Studies (CALS) – and the Wits Law School, with a grant from the NoVo Foundation.

The workshop did not invite any sex work participants, and when challenged on it, one of the organisers responded that “While we respect your particular views [that sex worker representatives be invited], the programme has been constructed deliberately to allow for very important theoretical and academic consideration of the issues in the seminar, followed by a full workshop in April given over entirely to allowing for a full examination of the issues at ground-level.” (Email correspondence between Marlise Richter and Raylene Keightley: Director of CALS, 08/02/2010.) The April workshop never took place.

14. Decriminalisation of sex work is the complete removal of criminal law from adult, consensual sex work. Sex work is regarded as “work” and regulated under occupation health & safety and other labours laws. There is an important difference between legalising sex work (such as in the Netherlands) and decriminalisation (such as in New Zealand) in that under the former system, sex workers might have to fulfil onerous conditions such as registering with police or health authorities, carrying cards to show that they are sex workers and/or going for frequent health checks. Many most marginalised sex workers – such as cross-border migrants or intravenous drug using sex workers – are unlikely to come forward to register under a legalised system, thus reinforcing their vulnerability. See (World AIDS Campaign, 2010)

## MARITAL RAPE IN SOUTH AFRICA: ENOUGH IS ENOUGH

Gemma Hancox

*South Africa currently holds the title of rape capital of the world with headlines stating that “a woman is raped every 17 seconds,” (Solidarity Helping Hand Women in Action, 2010). Such statistics are shocking and are hard for many to comprehend. This is in spite of the fact that the country has laws that clearly make rape an offence. The situation is even more dire regarding marital rape – a form of rape that is arguably the least recognised of all forms of rape. One wonders whether the law is enough to deal with what appears to be an attitudinal problem more than anything.*



**A WOMAN IS RAPEED EVERY 17 SECONDS**

**T**his paper discusses and evaluates the law surrounding marital rape in South Africa and explores evidence that suggests that the law alone is not enough to shift a country away from discriminatory practices, and concludes that more needs to be done within society before positive change on the ground is realised. The article also argues that marital rape will continue to exist until gender inequality and the patriarchal systems that disempower women are eliminated.

### **So what...he is the husband!**

Marital Rape has been described as ‘one of the most serious violations of a women’s bodily integrity’ and yet it is a term that many people still have a problem comprehending, with some still describing it as a ‘contradiction in terms’ (South African Law Commission, 1997; Ali, 2008). The attitude of many – not just in South Africa, but also in southern Africa, and perhaps the whole continent – is that it is not rape as long as the perpetrator is one’s husband, or known partner.

This attitude mainly survives because of the widely held myth that rape is only executed by strangers. Yet, marital rape is included in the definition of gender-based violence given by the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which states that ‘violence against women shall be understood to encompass...marital rape’. ‘Marital rape is any unwanted sexual acts by a spouse or ex-spouse, committed without consent and/or against a person’s will, obtained by force, or threat of force, intimidation, or when a person is unable to consent’. (Stritof S. & B.)

With 18.8 percent of South African women admitting to being subjected to marital or partner rape on one or more occasions, marital rape is clearly not a myth (Lucas, 2010: 3). The World Health Organisation's 2006 study on domestic violence, which encompasses marital rape, found that intimate partner violence is the most common form of violence in a woman's life – much more common than assault or rape by strangers or acquaintances (World Bank in Soul City 1999: 9). Some have even argued that marital rape causes more lasting effects than rape perpetrated by a stranger as it not only includes the physical violation but also the additional violation of trust between a husband/partner and wife. In addition, given that the nature of the marital relationship, the rapists often repeat the offence many times over (Mhlanga, 2007). Research has shown that marital rape survivors are twice as likely to suffer physical injury compared to rape by strangers. (Myhill & Allen, 2002, 33)

The high incidence of rape in South Africa owes much to the violent apartheid system that was in place from 1948-1994 (CEDAW, 1998: 6). Women were the hardest hit by the impacts of apartheid, suffering both racial and gender discrimination. There were few if any legal rights for women, who were seen as the property of their husbands; and to this day, such beliefs are still common in across the country. For instance, a report by the UN Population Fund showed that 'the right of a husband to beat or physically intimidate his wife' was a 'deeply held conviction' rooted within tradition and that even within societies where women retain a higher status they would 'condone or at least tolerate a certain amount of violence against women' (UNFPA, 2000, Chapter 3). Marital rape thus seems to be a way of life within South Africa, and seldom stimulates the public outrage that it ought to (Reganass in Armstrong, 1994, 1).

In addition, many myths and stereotypes have surrounded marital rape and arguably still do. Two significant cases highlight these and it is clear from the judges' opinions and decisions that simply criminalising marital rape is not enough to combat the problem and that further protection for marital rape survivors is needed. In *S v. Moipolai* [2004], Judge Mogoeng, when discussing the complainant's visit to the home of the appellant's parents, stated that she "must have come knowing that this [sexual intercourse] was either likely to happen or was going to happen for sure and she was, given the nature of their relationship, willing to take part in the intercourse." For a judge to make such an assumption sends the message that he does not believe marital rape can occur due to the 'nature of their relationship'. This only reinforces the myth that because a woman has previously consented, she is likely to do so on future occasions, and so further forced intercourse is not seen to be rape. The judge went on to state that "this rape should therefore be treated differently from the rape of one stranger by another between whom consensual intercourse was almost unthinkable." (Mogoeng JP, 2007: 24)

Similarly, in *S v Modise* [2007], Judge Gura stated that "The desire to make love to his wife must have overwhelmed him, hence his somewhat violent behaviour...however...minimum force, so to speak, was resorted to in order to subdue the complainant's resistance." He then went on to conclude that, "This relationship, of husband and wife, should never be overlooked by any judicial officer." However, the law now states that a relationship of husband and wife can no longer be a mitigating factor and so marital rape must be treated like any other rape (Criminal Law (Sentencing) Amendment Act, 2007: S.3(aA)).

Reporting rape, particularly marital rape, is not easy for survivors, and a 2010 Medical Research Council study showed that sexual violence by an intimate partner was the least often reported – with only 2.1 percent of women experiencing this form of attack saying that they had reported it. Finkelhor and Yllo (1985) found that marital rape survivors suffered a number of affects after the incident, including 'betrayal and shock that someone who loved them would hurt them in that way, and feeling that they were to blame'. Several factors, such as a fear of police, lengthy court cases and many women being unaware that the forced sex her husband is subjecting her to is a criminal offence, all contribute to this lack of reporting. Women also fail to report rape because of their financial dependence on their husbands. One study of 20 wives' experience of sexual violence by their husbands found that, within unequal relationships, women sometimes feel obliged to suffer acts of non-consensual sex with their husbands in return for the food and shelter that they are provide (Kottler in Mhlanga, 2007). Such evidence supports the theory that women living in poverty are more at risk and more vulnerable to such non-consensual sexual acts as they are generally uneducated and lack financial independence (WHO, 2006).

The introduction of rules within the Criminal Law (Sentencing) Act 2007, which prohibit lesser sentences based on any of the reasons listed in S.3(aA), also address the myths that surround rape. 'Violence Against Women in South Africa, A Resource for Journalists' discusses many of these myths with one of the most damaging being that rape can only be committed by a stranger and a husband cannot rape his wife (Soul City, 1999). Another myth and one also tackled by the implementation of these rules is that a woman was not really raped if she did not fight back and has not suffered any physical injuries.

In addition, in many of the rural villages within South Africa, customary laws take precedence over national law, resulting in discriminatory behaviour. One of the prime examples and linked to marital rape is the customary practice of lobolo. This is paid by the husband or his family to his new wife's family, and a husband then believes his wife becomes his property. Such a practice can make a woman vulnerable to domestic violence, decreasing her ability to resist or flee abusive situations, while her husband may use it as justification for this abuse (Curran & Bonthuys, 2004; S.2.3).

One case that highlighted the problem with lobolo was the case of *S. v. Mvamvu* (2004), in which the complainant did not reimburse her husband for the lobolo he had paid when she decided to leave him. As such, the husband believed that they were still married when he kidnapped and raped her. The judge recognised that “his actions, though totally unacceptable in law... were shaped and moulded by the norms, beliefs and customary practices by which he lived his life” and that “the complainant’s rights to bodily integrity and dignity and her entitlement to have these rights respected and protected were not foremost amongst his concerns” (Mthiyane JA, 2004; [16]).

This case was heard in 2007, and Judge Mthiyane held that the court was entitled to depart from the mandatory minimum life sentence because there was the probability that they were still married under customary law and that he believed he had some right to ‘conjugal’ benefits. The judge gave a lot of weight to customary traditions, even though they were discriminatory and the complainant’s basic human rights had been violated. The judge offered no comfort but only lessened the appellant’s sentence, sending a negative message to other men that they could get away with abusing their wives on account of lobolo.

### Hope is born as laws are enacted, reformed and amended

For a long time, there was no hope for married women regarding rape, as it was sanctioned by law, and condoned by culture and social norms. The law then recognised other forms of rape, except for marital rape. This meant that consent was an irrevocable part of a marriage contract as illustrated in this statement – “A husband cannot be found guilty of raping his wife, by reason of her consent in marriage” (*R v Gumede*, 1946). This gave men power to legally force their wives to have sex with them, whenever they wished, with impunity. This legal status bred the attitude that marital relations are a private matter and should be dealt with at home; family and friends rarely got involved either (*Wandia in Kimani*, 2007: 4). Culture and social norms sealed the fate of women in that, once married, women were offered very little protection, legal or otherwise, from their sexually abusive husbands. It was not until 1993 that South Africa passed the Prevention of Family Violence Act, which, among other things, criminalised marital rape. The law stated that “Notwithstanding anything to the contrary contained in any law or in the common law, a husband may be convicted of the rape of his wife.” South Africa became one of the first countries within Africa – and one of the few members of the 15-member Southern African Development Community (SADC) – to criminalise marital rape. The question is, whether this has changed the situation of married women significantly?

One would expect that with such a law – along with a world class Constitution that was enacted a few years later in 1996 to ‘heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights’ (Preamble of the Constitution of the Republic of South Africa, 1996 Act 108 1996) – marital rape would be a thing of the past. Indeed, since the introduction of the Constitution, the law regarding marital rape has continued to be amended and improved with the Criminal Law (Sexual Offences and Related Matters) Amendment Act, No 32 of 2007. The criminalisation of marital rape – and the elimination of a defence to such action – means that marital rape is now incorporated into the offence of rape, which is governed by this Act. The Act confirms the country’s legal status on marital rape stating that “it is not a valid defence for an accused person to contend that a marital or other relationship exists or existed between him or her and the complainant.” The Act also improved the definition of rape so that ‘penetration’ now includes ‘into or beyond the genital organs, anus, or mouth of another person’ using the ‘genital organs [or] any other part of the body of one person or, any object, including any part of the body of an animal’.

It was through this same Act that the controversial ‘cautionary rule’ was abolished. For a long time, the cautionary rule allowed a judge the freedom to apply caution to the credibility of a rape survivor, particularly when her testimony was not corroborated, which rarely happens in rape cases. However, S.60 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act now states that “Notwithstanding any other law, a court may not treat the evidence of a complainant in criminal proceedings involving the alleged commission of a sexual offence pending before the court, with caution, on account of the nature of the offence.” S.59 of the same Act also attempts to protect survivors stating that “In criminal proceedings involving the alleged commission of a sexual offence, the court may not draw an inference only from the length of any delay between the alleged commission of such offence and the reporting thereof.” This means that victims cannot be treated differently for not reporting an incident immediately.

With marital rape having been criminalised for over 14 years, South Africa introduced the Criminal Law (Sentencing) Amendment Act 2007, which offered minimum sentencing guidelines for rape, along with unsatisfactory and prohibited reasons for justifying a lesser sentence. S.3(aA) states that “When imposing a sentence in respect of the offence of rape the following shall not constitute substantial and compelling circumstances justifying the imposition of a lesser sentence: (i) The complainant’s previous sexual history; (ii) an apparent lack of physical injury to the complainant (iii) an accused person’s cultural or religious beliefs about rape or (iv) any relationship between the accused person and the complainant prior to the offence being committed.”

It is worth noting that in comparison to some of its neighbouring countries, South Africa is setting a good example in eliminating discriminatory laws and promoting equality for women throughout its legal framework. In terms of marital rape, South Africa is one of the few SADC countries to have criminalised it – others include Zimbabwe, Lesotho, Namibia, Seychelles and Tanzania. Malawi, for instance, only defines rape outside of the marriage context despite the fact that 75 percent of married women in the country have admitted to being raped by their husbands (White, in BBC News, 2001). In a number of other southern African countries, women's groups advocating for the criminalisation of marital rape are have been told by policy makers and traditional leaders that it would be difficult to convince the 'ordinary man on the street' that having sex with his 'lawfully wedded' wife can ever be rape (Ali N, 2008). Mozambique has adopted several laws to eliminate gender discrimination and violence but they have failed to include marital rape within their law on domestic violence.

### **What still needs to be done in South Africa?**

Despite South Africa's progressive laws, the country still has a huge problem regarding marital rape. In June 2009, figures released by the Medical Research Council showed that 14.3 percent of men had disclosed the rape of a current or ex-girlfriend. As recently as 2010, the Medical Research Council reported that 18.8 percent of women admitted to being subjected to marital/partner rape on one or more occasion, with a similar figure of 18.2 percent of men admitting to forcing their current or ex partners or wives to have sex when they did not want to (Lucas, 2010, 4). The rise in these figures over time is significant and could be because more women are able to admit when they have been subjected to marital rape and/or because of a rise in the prevalence of the offence. Either way, these statistics show that despite the introduction of laws criminalising marital rape, there is still a lot of work that needs to be done beyond the legal sphere to tackle South Africa's shockingly high rates of marital rate.

There is a need to focus on society and shift peoples' perspectives and attitudes. Sex stereotypes must be eliminated as these are part of the reason behind marital rape and discrimination against women (Gonzalez in CEDAW, 2002:9). Education and awareness for men and women are key to combating marital rape. The media are invaluable for such a purpose – with journalists having 'the power to dramatically impact the perceptions and worldviews of their target audiences' since their reports can 'shape understandings of particular crimes and also affect attitudes towards both the survivors and perpetrators of violence' (Boswell, 2003: 2; Soul City, 1999:4). The study found that media articles largely reinforced myths about rape and that survivors were given little empathy. Indeed, they were often blamed for the rape. Therefore, there is an urgent need for media to be more sensitive.

More work also needs to be done in rural areas, where many people's lives are still guided by culture and tradition. There is need for comprehensive research to inform how South Africa can change attitudes and behaviours, which are shaped by discriminatory traditional and customary practices. More support groups and organisations are needed to raise awareness on women's rights within these rural areas, as well as offer support to women who need it. Additional training is also required for police officers since there have been countless reports from survivors of police insensitivity when they report that they have been raped – a fact that discourages other survivors from coming forward (Human Rights Watch, 1995:7).

### **Conclusion**

Eliminating marital rape begins with a country recognising the need for general equality and the rights of women. South Africa is one of the leading democratic states in Africa and has managed to enact progressive laws in relation to violence against women (Chamuka, 2011). This is a historical step in eliminating violence against women. However, the question still remains whether laws alone are enough, as incidents of marital rape seem to be on the increase.

In practice, 'law can reflect social change, even facilitate it, but can seldom if ever initiate it' and amending or creating a law is only a small positive step on the path towards eliminating individual problems (Fineman, 1991). It has been suggested that 'criminal justice systems are probably the least effective institutions to look to for transformative change' and this has arguably been proved within South Africa as the statistics show a very different picture to the progress made in terms of enacting equality laws and policies (Snider, 1998: 11). Indeed, since 'violence against women...is deeply embedded in cultures around the world – so much so that millions of women consider it a way of life' (Hopkins in Kimani, 2007: 4), it is crucial to focus on education and awareness-raising among the next generation in order to really turn the tide and end the plight of women who are raped in the context of marriage.

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Bibliography – Books, Journals, Articles, Reports

Ali N., August 18 2008, The Costs of Marital Rape in Southern Africa, *The Independent* (UK).

Armstrong S., June 1994, Population and Reproductive Rights – Rape in South Africa: an Invisible Part of Apartheid's Legacy, *Focus on Gender*, Vol. 2, No.2

Artz L. & Smythe D., 2007, *Feminism vs. the State?: A Decade of Sexual Offences Law Reform in South Africa*

Boswell B., 2003, Representation of Gender-Based Violence in the Media: A case study of Two Cape Town Newspapers, 2003

Chamuka Takura, 17 August 2011, The SADC Gender Protocol: Are the 2015 Objectives Achievable?, *Ngo Pulse*

Committee on the Elimination of Discrimination against Women, 2002, Summary Record of the 390th Meeting – Consideration of Reports Submitted by South Africa

Curran, E. & Bonthuys E., October 2004, Customary Law and Domestic Violence in Rural South African Communities, Centre for the Study of Violence and Reconciliation

Fineman MA (1991) 'Introduction'. In MA Fineman and NS Thomadsen (1991) 'At the Boundaries of the Law', London: Routledge

Finkelhor, D and Yllo, K., 1985, License to Rape Sexual Abuse of Wives, The Free Press, New York

Henrica A.F.M. Jansen, March 2006, WHO Multi-Country Study on Women's Health and Domestic Violence against Women - Initial results on prevalence, health outcomes and women's responses, Department of Gender, Women and Health

Human Rights Watch, Violence Against Women in South Africa: State Response to Domestic Violence and Rape, 1 November 1995

Kilmani M., July 2007, Taking on Violence Against Women in Africa, *Africa Renewal*, Vol. 21 No. 2

Lucas Debi, 2010, The War at Home – Preliminary Findings of the Gauteng Gender Violence Prevalence Study, Gender Links and the Medical Research Council.

Mhlanga Pamela, 2007, Southern Africa: Justice for survivors of marital rape, how far has SADC come? *Pambazuka News*, Issue 332

Myhill A. and Allen J., March 2002, Home Office Research Study 237 - Rape and sexual assault of women: the extent and nature of the problem. Findings from the British Crime Survey, Development and Statistics Directorate

Pettifor A.E., Measham D.M., Rees H.V. and Padian N.S., November 2004, Emerging Infectious Diseases – Sexual Power and HIV Risk, *South Africa*, Vol. 10, No. 11

Solidarity Helping Hand Women in Action, Media Statement, 29 November 2010, <http://www.helpinghandfund.co.za/media-statements/a-woman-raped-every-17-seconds-in-sa/>

Soul City Institute for Health and Development Communication, 1999, *Violence Against Women in South Africa – A Resource for Journalists*

Soul City, February 2003, Rape in South Africa – The 'Soul City' Research Report, Rape Crisis

South African Law Commission, 1997, Discussion Paper 70 Project 100 on Domestic Violence.

Stritof S. & B., Marital Rape Definition, About.com Guides

United Nations Population Fund UNFPA, 2000, State of World Population, Chapter 3, <http://www.unfpa.org/swp/2000/english/index.html>

White, S, in BBC News, 26 December 2001

Cases

R v Gumede 1946 (1) PH H68 (N) Hathorn JP

S v. Mvamvu (350/2003) [2004] ZASCA 90, [2005] 1 AU SA 435 (SCA)

S v. Moipolai (CA 53/2004) [2004] ZANWHC 19

S v. Modise (113/06) [2007] ZANWHC 73

Law

Prevention of Family Violence Act 1993, No. 133 of 1993

The Constitution of the Republic of South Africa 1996, Act No. 108 of 1996

Criminal Law (Sexual Offences and Related Matters) Amendment Act No 32 of 2007

Criminal Law (Sentencing) Amendment Act 2007, No. 38 of 2007



## CLASSIFYING 'CORRECTIVE' RAPE AS HATE CRIME: A CALL FOR JUSTICE

Tiffani Wesley

***South Africa has proven to be one of the most progressive countries on the African continent in terms of observing tolerance and people's rights, especially the rights of minority groups. However, although South Africa has made positive strides in equality and in guaranteeing rights, especially pertaining to sexual orientation, the country has seen a dramatic rise in brutal attacks against lesbians. This is in spite of Section 9 of the South African Constitution of 1996, which guarantees the right to equality and prohibits discrimination on the basis of sexual orientation, as well as in spite of South being a signatory to the 2008 United Nations Human Rights Council Resolution on Sexual Orientation & Gender Identity. One would also imagine that South Africa, being the only African country to recognize same sex marriage practice would make it safer for all, including lesbians. The reality unfortunately is not so. Despite this progressive legislation, corrective' rape – otherwise known as 'curative rape' – is a growing problem in many townships across South Africa.***

### One step forward, five steps backwards

**D**uring its transition from the horrors of apartheid, South Africa has been seen as a beacon of tolerance and understanding. However, incidences of violence against women are on the rise. Rape has become a huge problem for the country. One survey has shown that one in four men in South Africa admit to having raped at least one woman (Smith, Quarter of Men in South Africa Rape, Survey Finds, 2009). In spite of the high statistics on violence, South Africa is still seen as one of the most liberal countries in Africa. It has been lauded for its constitution, as it guarantees a life of dignity and equality for all, thus guaranteeing the right to equality and prohibiting discrimination on the basis of sexual orientation.

It is my position that South Africa needs to adopt both a legislative and judicial approach to hate crimes and ensure that 'corrective' rape – or any rape occurring due to the victim's sexual orientation – be included in that definition. South Africa already has the foundation it needs to make corrective rape a hate crime. The 1996 Constitution guarantees a life of equality and dignity and protects sexual orientation as a class. Under certain case law, the judiciary also has the right to create common law that brings the country into alignment with the Constitution and the Bill of Rights. The Promotion of equality and Prevention of Unfair Discrimination 4 of 2000 prohibits 'hate crimes'

committed against persons of a specific group. However, sexual orientation is not included under the section that grants a sentence enhancement for crimes based on certain protected classes.

## Hate Crimes

A hate crime is any incident that constitutes a criminal offence perceived as being motivated, in whole or in part, by prejudice, hate, or bias. (International Association of Chiefs of Police, 1998) It is not just a crime committed against an individual, but also encompasses crimes against property, organisations or communities. The crucial element in a hate crime, which truly sets it apart from other crimes, is the motive. (Office for Democratic Institutions and Human Rights, 2009) Hate crimes differ from general crimes because the perpetrator is specifically targeting someone who identifies with a specific group. The perpetrator seeks to demean and dehumanise their victims based on their actual or perceived race, ethnicity, gender, age, sexual orientation, disability, health status, nationality, social origin, religious convictions, culture, language, or other characteristics (American Psychological Association, 1998). It is not just an attack on someone's physical self, but also an attack on someone's identity (American Psychological Association, 1998). Perpetrators target someone, not because of who they are as an individual, but because of what they represent thus denying victims the right to participate openly and equally in society. The Hate Crimes Act of 2000 eloquently states that:

*Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims, but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can, and do, intimidate. (N.Y. PEN. LAW § 485.00: NY Code - Section 485.00: Legislative findings)*

Hate crimes do intimidate and can disrupt entire communities and vitiate the civility that is essential to healthy democratic process. Women and girls in South Africa who are lesbians have been the recipients of some of the most brutal hate crime attacks.

## Corrective Rape

Corrective rape, also known as curative rape, is a brutal act of violence in which African women and teenagers who are, or are at least assumed to be, lesbians are raped to 'cure' them of their homosexuality. Although South Africa has some of the most progressive legislation pertaining to homosexuality (i.e. the legalisation of same-sex marriage and legalised adoption for

homosexuals) many still view homosexuality as a sin. Some see it as an 'imported white disease'. (Silvio, 2011) Perpetrators seek to 'correct' the women's behaviour through rape by 'teaching them a lesson' on how to behave like a 'real African woman' (J. A Nel, 2008). Some men view lesbians as a threat to their concept of masculinity because they fear that lesbians could possibly steal their girlfriends. In an interview with the BBC, Thulani Bhengu said "...when someone is a lesbian, it's like saying to us men that we are not good enough." (Fihlani, 2011) In a video featured on *The Guardian's* website, one man stated that:

*If there is someone who is trying to rape a lesbian, I can appreciate their thing. It's just to let them know that they must be straight. For me, I have no time to rape them but if another guy wants to teach them the way, they must rape them, they must rock them. Once she gets raped, I think she'll know which way is nice. (Mieses, 2009)*

Lesbians, mostly those who live in poor black communities, live in constant fear. They could be attacked not just by strangers, but also by family members, friends, acquaintances or neighbours. They are taunted and harassed and are unable to live a life of dignity and equality. One victim told ActionAid: "We get insults every day, beatings if we walk alone...you are constantly reminded that you deserve to be raped. They yell '...if I rape you then you will go straight, you will buy skirts and start to cook because you will have learnt how to be a real woman.'" (Geen, Rise of 'Corrective Rapes' on Lesbians in South Africa, 2009)

The most well known case of 'corrective' rape involved Eudy Simelane, the former star of South Africa's Banyana Banyana national female football team. She was training to be the first female referee for the 2010 World Cup (Funda, 2011). On 28 April 2011, she was found in a creek in a park in Kwa Thema on the outskirts of Johannesburg. Her attackers had dragged her across the ground, stabbed her 25 times in the face, chest and legs, gang raped her, and left her, half-naked, in a ditch to die (Ahmed, 2009). Simelane's case has been one of the only cases so far that has resulted in a conviction when one of the perpetrators pleaded guilty. The two other men on trial were found not guilty due to lack of evidence (Bearek, 2009). During sentencing, however, the judge stated that Simelane's sexual orientation played no part in the crime. Moreover, the judge made no effort to hide his own prejudice when he showed how uncomfortable he was using the world 'lesbian' during the trial. At one point, he asked the prosecutor if there was another word he could use in its place (Bearek, 2009).

While Simelane's case brought international attention to the issue of 'corrective' rape, there have been many other victims – some as young as 13 years of age (Smith, Teenage Lesbian is Latest Victim of 'Corrective Rape' in South Africa, 2011).

## BOX 1

### Some reported cases of 'corrective' rape in South Africa

- Zoliswa Nkonyana: a 19-year-old lesbian was stabbed to death in Khayelitsha in 2006. She had been living openly as a lesbian and received constant taunts and threats from her community. Nine men stood trial for her murder. On 7 October 2011, five years after her death, judgment was finally delivered. Four of the men were found guilty, while the other five were released. The case has become infamous due to various failures of the criminal justice system. Proceedings were postponed more than forty times, suspects escaped, evidence had been collected improperly, and cases against most of the accused have been dismissed for lack of evidence (Treatment Action Campaign, 2011).
- Sizakele Sigasa: a gay rights activist, and her partner Salome Massoa were tortured, raped, and brutally murdered. Sizakele was found with her hands tied together by her underwear and her ankles tied with her shoelaces. She had three bullet holes in her head and three in her collarbone (Isaack).
- Millicent Gaika: Millicent was on her way home in Gugulethu when she was stopped by a man she recognised. He asked her for a cigarette, and as she was reaching for one, he pushed her into a nearby shack, beat and raped her for five hours. During the attack, she claims he said "You think you're a man, but I'm going to show you you're a woman" (Middleton, 2011).
- Zukiswa Gaca: a woman from Khayelitsha was raped by an acquaintance in 2009. During the attack, the perpetrator told her he was going to 'teach her a lesson'. (Middleton, 2011).

Reliable statistics are few and far between because police do not systematically collect data on suspected hate crimes based on sexual orientation (Long, 2003). Some officers, because of their beliefs, refuse to even consider sexual orientation as a motivating factor, and simply refuse to investigate because of their hatred of homosexuality. When interviewed by the BBC, Thando Sibya, a lesbian from Soweto said that... "Some policemen in the township mock you saying: 'How can you be raped by a man if you are not attracted to them?' They ask you to explain how the rape felt. It is humiliating." (Fihlani, 2011)

Consequently, many women are too afraid to make a police report when they have been raped. According to one study, at least 500 lesbians are victims of 'corrective' rape each year (Middleton, 2011). On record, 31 lesbians have been reported murdered in homophobic attacks since 1998, and yet there have only been two convictions. Support groups claim that the actual number is much higher. A report from Triangle, a South African gay rights organisation, revealed that a staggering 86 percent of black lesbians from the Western Cape said they lived in fear of sexual assault. The group says it is dealing with up to 10 new cases of 'corrective' rape every week.

*"What we're seeing is a spike in the numbers of women coming to us having been raped and who have been told throughout the attack that being a lesbian was to blame for what was happening to them," said Vanessa Ludwig, the chief executive at Triangle" (Kelly, 2009).*

There have been numerous documented side effects for victims of hate crimes. In fact, victims of such crimes suffer greater harm than victims of ordinary crimes. Some of the effects include psychological injury, and increased feelings of vulnerability, depression, and anxiety (American Psychological Association, 1998). Hate crimes not only impact the victim; they are unique because they have a serious impact on the entire group to which the victim belongs. Often times, perpetrators commit these crimes to 'send a message' to the groups as a whole.

Some argue, however, that there is no need for specific hate crime legislation. South African police ministry spokesman Zweli Mnisi told the BBC that "to us, murder is murder, whether somebody is Zulu, English, male or female – we don't see colour, we don't see gender." (South Africa Killing of Lesbian Nogwaza 'A Hate Crime', 2011) However, there are many arguments that support such legislation. First, it would mean that the government officially recognises that there is a problem and take actual steps to find a solution. Discussing legislation creates public discourse on the subject. It raises awareness country-wide. If hate crime legislation is enacted, it would require professional training, which would then increase police awareness of the issue and hold police officers accountable. As noted earlier, there is a serious lack of statistical data on 'corrective' rape in South Africa. Creating legislation would require systematic data collection, and make it more efficient and effective and lead to an accurate portrayal of the problem. It would lead to the lesbian community feeling more confident that there is a proper course of action and that rape will be taken seriously. Creating a specific penalty for hate crimes would also lead to a more effective punishment for the perpetrator and serve as a deterrent to future perpetrators. Moreover, South Africa has an affirmative duty based on current legislation, international legal obligations, and under case law to classify corrective rape as a hate crime.

## South Africa's Duty

South Africa has an affirmative duty based on the 1996 Constitution, The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000, international legal obligations, and cases like *S v. Champan and Carmichele v. Minister of Safety and Security* to classify corrective rape as a hate crime and provide extended protection to lesbians across South Africa. The 1996 Constitution creates a legal obligation and the judicial foundation upon which the government can seek to prevent and properly punish corrective rape. Cases like *S v. Chapman and Carmichele v. Minister of Safety and Security* provide further obligations to bring the common law in alignment with the 1996 Constitution and the Bill of Rights. The Equality Act, if expanded to include sexual orientation as a protected class, would provide victims with a foundation upon which they could take justice into their hands and have perpetrators receive a sentence enhancement for their acts. South Africa also has various international legal obligations, which obligate the government to provide further protection from corrective rape. Under various laws, South Africa could:

1. Define specific bias-motivated acts as distinct crimes;
2. Include sexual orientation as a protected class under a penalty-enhancement criminal law;
3. Make a distinct civil cause of action for any bias-motivated crime; and,
4. Require various administrative agencies to collect hate crime statistics.

## The Constitution as the bedrock

A closer look at each of the above laws and legislation shows how South Africa can use them as avenues and tools to fulfil its duty to all its citizens. The first is the Constitution: the bedrock of all citizens' rights. South Africa has been lauded internationally for its constitution. It is one of the most progressive constitutions in the world, and the first to grant equality on the basis of sexual orientation (Silvio, 2011). 'Corrective' rape violates numerous principles designated in the Constitution. Section 9 of the 1996 Constitution, known as the Equality Clause, guarantees the right to equality and prohibits discrimination on the basis of sexual orientation. Specifically, it states that neither the state, nor any person can unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, or sexual orientation. Section 10 states that everyone has inherent dignity and the right to have their dignity respected and protected. Section 11 grants everyone the right to life, and Section 12 grants the right to freedom and security of the person. This includes the right to be free from all forms of violence, including private sources, and the right not to be treated or punished in a cruel, inhuman or degrading way. Corrective rape robs its victims of their dignity and forces them to fear for their lives on a daily basis.

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**SEXUAL VIOLENCE AND THE THREAT OF SEXUAL VIOLENCE GOES TO THE CORE OF WOMEN'S SUBORDINATION IN SOCIETY. IT IS THE SINGLE GREATEST THREAT TO THE SELF-DETERMINATION OF SOUTH AFRICAN WOMEN.**

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In the case *S v. Chapman*, the Supreme Court denounced rape as “a humiliating, degrading and brutal invasion of the privacy, the dignity and the person of the victim.” The court noted that:

*The rights to dignity, to privacy and the integrity of every person are basic to the ethos of the Constitution and to any defensible civilisation. Women in this country are entitled to the protection of these rights. They have a legitimate claim to walk peacefully on the streets, to enjoy their shopping and their entertainment, to go and come from work, and to enjoy the peace and tranquillity of their homes without the fear, the apprehension and the insecurity which constantly diminishes the quality and enjoyment of their lives. Sexual violence and the threat of sexual violence goes to the core of women's subordination in society. It is the single greatest threat to the self-determination of South African women.*

The court then went on to declare the courts duty to the victim:

*The courts are under a duty to send a clear message to the accused, to other potential rapists and to the community. We are determined to protect the equality, dignity and freedom of all women, and we shall show no mercy to those who seek to invade those rights.*

Victims of 'corrective' rape are owed a similar protection by the courts. The victims, and those similarly situated, are unable to exercise their fundamental human rights because they live in a constant state of fear. They are continuously harassed, tormented, and attacked – in serious violation of the principles listed above. Under the rights granted in the Constitution, lesbians in South Africa deserve to be protected from this heinous practice of corrective rape.

Similarly, in the case *Carmichele v. Minister of Safety and Security*, the Court held that courts in South Africa have an obligation to develop common law consistently with the Constitution where the common law is deficient. The Court reasoned that lower courts were best equipped to develop the common law in light of the Bill of Rights. The court reasoned that:

*The Constitution is the supreme law. ...Section 173 of the Constitution gives to all higher courts, including this Court, the inherent power to develop the common law, taking into account the interests of justice. In section 7 of the Constitution, the Bill of Rights enshrines the rights of all people in South Africa, and obliges the state to respect, promote and fulfil these rights. Section 8(1) of the Constitution makes the Bill of Rights binding on the judiciary as well as on the legislature and executive. Section 39(2) of the Constitution provides that when developing the common law, every court must promote the spirit, purport and objects of the Bill of Rights. It follows implicitly that where the common law deviates from the spirit, purport and objects of the Bill of Rights the courts have an obligation to develop it by removing that deviation.<sup>1</sup>*

Since sexual orientation is a protected class designated in Section 9 of the Constitution, courts are obligated to extend further protection to victims of 'corrective' rape thus bringing common law into alignment with the Bill of Rights and the Constitution. And this goes beyond mere discretion. It includes granting extra protection against corrective rape and creating either a specific crime with a specific punishment, or creating sentence enhancements to those found guilty of corrective rape.

### **The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000**

The second tool is the existence of an equality courts mechanism. South Africa is unique in that victims do not have to wait for a criminal case to be brought by a prosecutor. They can seek justice for themselves in the Equality Courts. The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (otherwise known as The Equality Act) gives victims another opportunity to seek justice against perpetrators. It prohibits hate crimes committed against persons of a specific group. Harassment, which is prohibited under Chapter 2, section 11 is defined as:

*...unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by act or threatened adverse consequences which is related to*

- (a) sex, gender, or sexual orientation, or
- (b) person's membership or presumed membership of a group identified

*by one or more of the prohibited grounds or a characteristic associated with that group.*

However, it is important to highlight that Chapter 5, Section 28, entitled "Special measures to promote equality with regard to race, gender, and disability," fails to include sexual orientation in its protected classes. That section states that:

*(1) If it is proved in the prosecution of any offence that unfair discrimination on the grounds of race, gender or disability played a part in the commission of the offence, this must be regarded as an aggravating circumstance.*

And

*(2) ...*

*(3) The state, institutions performing public functions and all persons have a duty and responsibility to-*

- (a) Eliminate discrimination on the grounds of race, gender and disability;*
- (b) Promote equality in respect of race, gender and disability*

My argument is that if sexual orientation is included in the prohibition against harassment, it should also be included as an aggravating circumstance under Chapter 5. Including sexual orientation as a prohibited ground for discrimination and as an aggravating circumstance would allow victims to seek redress against perpetrators, and even police officers who specifically ignore complaints due to their own bias, in the Equality Courts. This would also force the police to take appropriate action when an individual claims to be a victim of corrective rape. Failure to do so could result in the police officers being brought before the Equality Courts. The Equality Courts' role is to adjudicate matters specifically pertaining to the infringement of the right to equality and unfair discrimination. Complainants need only prove a prima facie case – or that it was probably the case that some sort of discrimination did occur – and then the respondent must prove that it did not happen or that it was not unfair. Although Equality Courts are most similar to a civil court, there is a punitive aspect in that the judge could require:

- An unconditional apology;
- Instruction to the respondent to do or not to do something, or to restrain from an unfair discriminatory practice;
- Payment of damages to victims for actual financial loss, loss of dignity, or pain and suffering (including emotional and psychological suffering);
- Payment of a fine to an appropriate organisation; and
- A declaratory order.

On the progressive side, Chapter 5 also creates an affirmative duty for the State to promote and achieve equality:

(1) *The state must, where necessary with the assistance of the relevant constitutional institutions*

- (a) *Develop awareness of fundamental rights in order to promote a climate of understanding, mutual respect and equality;*
- (b) *Take measures to develop and implement programmes in order to promote equality; and*
- (c) *Where necessary or appropriate –*
  - (i) *Develop action plans to address any unfair discrimination, hate speech or harassment;*
  - (ii) *Enact further legislation that seeks to promote equality and to establish a legislative framework in line with the objectives of the Act.*

Therefore, it can be argued that under the Equality Act, the South African government has an affirmative duty to also create legislation and programming that addresses 'corrective' rape.

### **International Legal Obligation**

The third avenue is using South Africa's obligations under international law. South Africa has a duty under international legal obligations to develop legislation on corrective rape. South Africa is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). CEDAW was signed by South Africa on 29 January 1993 and ratified on 15 December 1995. The United Nations Committee on the Elimination of Discrimination Against Women, which was established under the Convention, recommended in 1992 that:

*...States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.*

In the case Carmichele, the Court referred to CEDAW, noting that:

*...one finds positive obligations on members of the police force both in the ....Constitution and in statute. In addressing these obligations in relation to dignity and the freedom and security of the person, few things can be more important to women than freedom from the threat of sexual violence...South Africa also has a duty under international law to prohibit all gender-based discrimination that has the effect or purpose of impairing the enjoyment by women of fundamental rights and freedoms to take reasonable and appropriate measures to prevent the violation of those rights (Charmichele v Minister of Safety and Security and Others, 2001).*

CEDAW not only requires legal measures, but also support services, training for police officers, and the gathering of statistics. Failure to do so could result in responsibility of the state when violence occurs.

CEDAW is not the only source of an international legal obligation to address corrective rape. The Universal Declaration of Human Rights requires all states to promote human rights and ensure equal and effective recognition of those rights. The International Covenant of Civil and Political Rights impose a duty to respect civil and political rights and to take steps to effect those rights and provide adequate remedies for violations.

### **Conclusion**

For South Africa to truly be a haven for equal protection under the law for all of its citizens, clear signals need to be sent that 'corrective' rape is a crime that the government takes seriously. It is important to note that South Africa has taken the first steps necessary to address the issue. In May 2011, a government task force was formed to develop a legislative plan, a public awareness strategy and LGBTI-sensitive shelters. The team will consist of six people representing the judiciary, police and department of social development and six people from the gay and lesbian community (News 24, 2011). However, in a country where 24 of every 25 accused rapists walk free, the government has a very long way to go (Geen, South Africa Lesbians Campaign Against Corrective Rape, 2011). Fortunately, South Africa already has the legal framework necessary to create effective change. Its constitution, the Equality Act, international legal obligations, and the holdings of various cases provide the necessary foundation upon which the government can formulate a judicial and legislative approach to eradicate corrective rape.



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## Bibliography

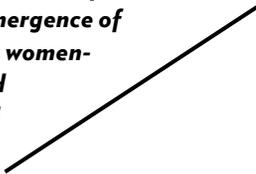
---

- Ahmed, S. (2009, March 12). 'Corrective Rape' in South Africa. Retrieved October 23, 2011, from Channel 4: <http://www.channel4.com/news/articles/world/africa/corrective+rape+in+south+africa+/3027797.html>
- American Psychological Association. (1998, January). Hate Crimes Today: An Age-Old Foe in Modern Dress. Retrieved October 19, 2011, from American Psychological Association: [www.apa.org/monitor/jan98/hate.html](http://www.apa.org/monitor/jan98/hate.html)
- Bearek, B. (2009, September 23). Mixed Verdict in S. african Lesbian's Murder Trial . Retrieved October 24, 2011, from New York Times: <http://www.nytimes.com/2009/09/23/world/africa/23safrica.html>
- Charmichele v Minister of Safety and Security and Others, SA938 (Constitutional Court August 16, 2001).
- Fihlani, P. (2011, June 30). South Africa's Lesbians fear 'Corrective Rape'. Retrieved October 22, 2011, from BBC: <http://www.bbc.co.uk/news/world-africa-13908662>
- Funda, N. (2011, April 25). Daughters of South Africa. Retrieved October 23, 2011, from Independent World Report: <http://www.independentworldreport.com/2011/04/daughters-of-south-africa/>
- Geen, J. (2009, March 13). Rise of 'Corrective Rapes' on Lesbians in South Africa. Retrieved October 22, 2011, from Pink News: <http://www.news.pinknews.co.uk/news/articles/2005-11596.html>
- Geen, J. (2011, March 15). South Africa Lesbians Campaign Against Corrective Rape. Retrieved October 31, 2011, from Pink News: <http://www.pinknews.co.uk/2011/03/15/south-african-lesbians-campaign-against-corrective-rape/>
- International Association of Chiefs of Police. (1998). Responding to Hate Crimes: A Police Officer's Guide to Investigation and Prevention. Retrieved October 19, 2011, from The International Association of Chiefs of Police: <http://www.theiacp.org/documents>
- Isaack, W. (n.d.). South Africa: Hate crimes and State accountability. Retrieved October 31, 2011, from Africa Files: <http://www.africafil.es.org/printableversion.asp?id=15869>
- J. A Nel, M. J. (2008). Exporing Hoophobic Victimization in Gauteng, South Africa: Issues, Impacts, and Responses. *Act Criminologica* .
- Kelly, A. (2009, March 12). Raped and Killed for Being a Lesbian: South Africa Ignores 'Correctie' Attacks. Retrieved October 22, 2011, from Guardian: [guardian.co.uk](http://guardian.co.uk)
- Long, S. (2003). More Than a Name: State Sponsored Homophobia and its Consequences in Southern Africa. Retrieved October 28, 2011, from The International Gay and Lesbian Human Rights Commission: <http://www.iglhrc.org/binary-data/ATTACHMENT/file/000/000/160-1.pdf>
- Middleton, L. (2011, March 8). 'Corrective Rape': Fighting a South African Scourge. Retrieved October 19, 2011, from Time: [www.time.com/time/world/article/0,8599,2057744,00.html](http://www.time.com/time/world/article/0,8599,2057744,00.html)
- Mieses, A. (2009, December). Gender Inequality and Corrective Rape of Women Who Have Sex With Women. Retrieved October 21, 2011, from GMHC Treatment Issues: <http://www.gmhc.org>
- Mittelstaedt, E. (2009). Safeguarding the Rights of Sexual Minorities: the International and Legal Approaches to Enforcing International Human Rights. *Chicago Journal of International Law* , 353-387.
- News 24. (2011, August 10). Team Starts Work on Anti-Gay Hate Crimes. Retrieved October 26, 2011, from News 24: <http://www.news24.com/SouthAfrica/News/Team-starts-work-on-anti-gay-hate-crimes-20110810>
- N.Y. PEN. LAW § 485.00: NY Code - Section 485.00: Legislative findings
- Office for Democratic Institutions and Human Rights. (2009). Hate Crime Laws: A Practical Guide. Warsaw: AI, Ujazdowski.
- S v Chapman 1997 (2) SACR 3 (SCA), 5b-e
- Silvio, L. D. (2011). Correcting Corrective Rape: Carmichele and Developing South Africas Affirmative Obligations to Prevent Violence Against Women. *The Georgetown Law Journal* , 1469-1515.
- Smith, D. (2009, June 17). Quarter of Men in South Africa Rape, Survey Finds. Retrieved October 2011, 31, from The Guardian: <http://www.guardian.co.uk/world/2009/jun/17/south-africa-rape-survey>
- Smith, D. (2011, May 9). Teenage Lesbian is Latest Victim of 'Corrective Rape' in South Africa. Retrieved October 24, 2011, from The Guardian: [www.guardian.co.uk](http://www.guardian.co.uk)
- South Africa Killing of Lesbian Nogwaza 'A Hate Crime'. (2011, May 3). Retrieved October 21, 2011, from BBC: [www.bbc.co.uk/news/mobile/world-africa-13265300](http://www.bbc.co.uk/news/mobile/world-africa-13265300)
- Timms, C. (2011, June 15). Can the South African Legal System Fight Coorrective Rape? Retrieved October 21, 2011, from Ethical Living: [ethicalLiving.org.au](http://ethicalLiving.org.au)
- Treatment Action Campaign. (2011, October 11). The Final Hearing In Zoliswa Nkonyana Murder Case. Retrieved October 21, 2011, from Treatment Action Campaign: <http://www.tac.org.za/community/node/3165>

## AFRICA ANTICIPATES ACCESS TO VAGINAL MICROBICIDES

Pauline Irungu

***Twenty one years ago, Professor Zena Stein, a South African scholar, published a seminal paper in the American Journal of Public Health calling for methods that women could use to protect themselves from HIV and other sexually transmitted infections<sup>1</sup> – sparking a global effort to put prevention in women’s hands. This bold suggestion was embraced by a few researchers and women’s health advocates whose efforts have led to the emergence of the microbicides field – the uniqueness of which lies in a combination of strong women-led advocacy for sustained funding, world-class research in highly marginalised communities, meaningful community engagement, robust policy response and access to microbicides once they are proven to be safe and effective.***



**O**ver the last two decades, the field has navigated tough challenges ranging from political backlash, community pushback, limited resources and scientific obstacles. Some clinical trials have been stopped after harming the participants, such as the nonoxynol 9 trials in Benin, Ivory Coast, South Africa and Thailand<sup>2</sup> and cellulose sulphate trials in Benin, Uganda, South Africa and India.<sup>3</sup> Others were stopped due to futility on the grounds that the particular study would not be able to show whether the product prevented HIV infection due to factors such as lack of adherence to the prescribed regimen, and low incidence of HIV in the trial communities; these challenges impacted particularly on the trials for Savvy in Ghana and Nigeria<sup>4,5</sup>. Meanwhile, some other studies did reach completion and were proven to be safe did not protect women from HIV; examples of these include the Carraguard trial in South Africa<sup>6</sup> and the PRO 2000 studies in South Africa, Tanzania, Uganda and Zambia<sup>7</sup>.

However, over the last two years, hopes for microbicides have been re-ignited, especially with the outcome of the CAPRISA 004 trial in South Africa testing 1 percent Tenofovir gel – an antiretroviral (ARV)-based vaginal microbicide. The results from CAPRISA announced in July 2010 showed a reduction in the acquisition of HIV of 39 percent, and even higher with greater adherence to the prescribed regimen.<sup>8</sup> The findings not only reenergised the field but also set it on the road towards preparing countries for access to the first microbicide for women by showing proof of concept. This outcome was further strengthened by the results

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from two trials testing oral pre-exposure prophylaxis (PrEP), which refers to taking treatment drugs, in this case ARVs, for the purpose of prevention of infection by non-infected people before being exposed to the infectious agent. In December 2010, the iPrEx study showed a 44 percent level of effectiveness in reducing HIV infection when used by men who have sex with men, while the Partners in Prevention Study announced in July 2011 showed 62 percent and 73 percent effectiveness for Tenofovir and Truvada respectively, among sero-discordant heterosexual men and women. With such results – and with effective approval, licensing and distribution in place – ARV-based prevention tools could be rolled out within the next five years. The challenge now is for countries in sub-Saharan Africa to prepare to deliver these lifesaving tools to the women who bear the highest risk – and the greatest burden of HIV.

One remarkable feature of the microbicides field, which has been catalysed by multi-stakeholder engagement, is the never-fading focus on access to this option when it is proven effective. Learning from other public health goods such as antiretrovirals, the field has ensured that as research moves forward, ensuring access continues to be on its radar – and has become increasingly prioritised as a consequence of the results from the CAPRISA 004 study.

Global level actors – including researchers, policy makers, normative agencies especially the World Health Organization (WHO) and UNAIDS, funding agencies and advocates – have initiated discussions to start planning for access. These conversations have notably cascaded to East and southern Africa as priority regions for the implementation of proven microbicides. This is largely due to the nature of the HIV epidemic in these regions and due to the fact that major clinical trials for microbicides have taken place in these areas. National level discussions are also starting to take place among policy makers, researchers and advocates to address the challenges and plan strategies to guarantee future delivery to vulnerable communities.

Global and national stakeholders committed to HIV prevention are facing the daunting challenge of manufacturing and delivery microbicides. Sourcing the funds to provide access in country is also a major challenge, especially given the shrinking resources available to meet the HIV and AIDS needs of sub-Saharan African nations. This is compounded by the gaps in funding for access to treatment for people living with HIV who are in need of treatment. In a country such as Kenya, this is a significant challenge – only 55 percent of those in need of treatment were on HIV therapy by the end of 2010.

**IN SOME COMMUNITIES VAGINAL SECRETIONS ARE REGARDED AS DIRTY AND WOMEN ARE PRESSURED INTO VAGINAL CLEANSING (SOMETIMES WITH HARMFUL SUBSTANCES), WHICH CAN PERPETUATE AND EXACERBATE THEIR VULNERABILITY TO HIV**

As macro-level debates take place, it is also crucial to develop a better understanding of community acceptability and the context in which women will adopt microbicides. Community preparedness for microbicides needs to be moving at the same pace as policy and research. The introduction of other sexual and reproductive health technologies in the past has underscored this need. In particular, the female condom provides important lessons for the microbicides field, as the tool has not been widely adopted despite its comparable level of effectiveness with the male condom. Researchers, policymakers, funders and normative agencies are cognisant of this but they may not be well positioned to engage with communities in the relevant settings to understand how microbicides will be accepted or resisted — critical factors that will ultimately determine the success of this novel sexual health technology. Advocates and civil society representatives, who have been engaged in mobilising communities to be involved in the search for an effective microbicide, have gained important skills and created relationships of trust with communities that position them well to lead conversations with women and other community members to promote greater acceptance.

Considering that women in the patriarchal societies of East and southern Africa have little decision-making power in sexual matters, using microbicides to prevent HIV infection promises to give women much more power to try and prevent infection. However, it is imperative that the gender-power dynamics that will influence acceptance of microbicides are understood upfront. Microbicides are not just an HIV prevention tool but also speak to women's agency and decision-making about their health. Additionally, women who are highly vulnerable to HIV are often extremely marginalised due to their economic status, sexual engagement especially sex work and even age. Therefore, it is necessary that conversations with women inform planning and access so that their realities may be factored into the product design and delivery processes.

While some studies have looked into sexual practices among women in the region, much more needs to be done to understand the diversity of practices as these that can influence the acceptance and adoption of microbicides. New trends are emerging that alter

sexual and vaginal practices among women as communities interact in the ever-expanding information technology space. For example in Kenya, sex-enhancing gels, creams and other vaginal products, which were not traditionally used, are finding their way into women's sexual practices and preferences. These products may interact with microbicides or even hinder use of microbicides by women. Identification of these products and research into the impact that they could have on women's sexual health and vulnerability to HIV as well as any potential effect on the effectiveness of microbicides needs to be conducted before any roll-out of microbicides.

Socio-cultural variables around women's sexuality in Africa need to be understood prior to the rollout of microbicides. In November 2011, a seminal book about women and their bodies "Our bodies, ourselves" was revised and relaunched in the US — encouraging women once more to know their bodies. Beyond gendered power relations, many women have been socialised to not touch their sexual organs — so they will clearly not fully know their bodies. These women may have difficulties in utilising technologies that require vaginal insertion, such as vaginal microbicide gels. Additionally, in some communities vaginal secretions are regarded as dirty and women are pressured into vaginal cleansing (sometimes with harmful substances), which can perpetuate and exacerbate their vulnerability to HIV. These traditions may influence the acceptance of technologies and need to be taken into consideration in relation to product introduction.

Stigma associated with HIV is still rife in many communities in Africa. While preparing to provide access to microbicides, strategies to address stigma need to be stepped up so that the use of microbicides is not hindered by it. For example, while male condoms may have been accepted as a tool that anyone can use, the perception among some communities that the female condom was a tool for sex workers — along with a number of other factors such as scarce supplies, noise during sex and negotiating usage — contributed to its low acceptance rate in many areas. While making sure that key populations have access to microbicides will be crucial, it will be important to ensure that this valuable prevention tool is not stigmatised. Similarly, the rollout must be strategic to ensure that women who are prioritised for access are not perceived to be

at higher risk of HIV than others in the community thus fuelling stigma against them. For instance, the tendency with the female condom was to target female sex workers as a 'high-risk group' to the exclusion of women in general. In the same manner, when considering rolling-out microbicides, care needs to be taken to ensure that women who do not fall into the high priority category for microbicides are not perceived as already being HIV infected hence the reason for them not being given priority access to the microbicides. Striking the right balance will be difficult but can be achieved with thorough stakeholder involvement.

It is also important to disaggregate women's needs and clearly tailor roll out plans for differentiated groups such as young women and girls, women living with HIV and AIDS, and women sex workers, who may use the product multiple times in a given day.

Living conditions are another important factor that needs to be considered when planning for access. Women who live in crowded dwellings especially in informal urban settlements have limited privacy – as they often share one tiny room with their children and even other relatives. In such settings, women are concerned about how a microbicide is packaged to ensure that it is not only discrete to store but also that the packaging cannot easily be opened by children. Besides being easy to store, the packaging should also ensure that a woman could take a single dose or a day's supply with her if necessary.

The disposal of microbicide applicators is also an important consideration. Environmental concerns are increasingly important. As countries struggle to maintain healthy environments, especially in rapidly urbanising communities, waste disposal has become a real challenge. Biodegradable applicators and containers for microbicides would be ideal so that they break down naturally after use and do not add to the already serious garbage and health-related problems in many communities. As manufacturers explore ways of developing suitable applicators with these environmental considerations in mind, countries need to start considering ways of promoting the healthy disposal of applicators.

The cost of a microbicide to the end-user also needs to be addressed. Considering that most women who are highly vulnerable to HIV infection are poor, acceptance and adoption of microbicides will not be high if there are huge costs attached to them. For example, the cost of female condoms has definitely been a factor in the low acceptance rate. Thus governments, funding agencies and other global health institutions need to find creative ways of providing affordable access to microbicides, including cost sharing and tiered pricing. While many sub-Saharan African countries signed up to the Abuja Declaration in 2001 committing themselves to allocating 15 percent of their budgets to

health, many are nowhere near achieving that target, which would ensure that HIV gets substantial support from national resources. Currently most HIV prevention programmes are financed by external donor funds. In Kenya, civil society is advocating for the allocation of one percent of government revenue to support HIV programmes so as to reduce this dependency. This internal resource could go a long way in ensuring that the cost of microbicides was subsidised and therefore affordable.

Another issue to consider is the need to have robust HIV testing programmes if the effective roll out of microbicides is going to be a reality. Normalising HIV testing is a good entry point for HIV prevention programming and needs to be creatively fast tracked to ensure that, as ARV based prevention modalities, including microbicides, are rolled out women are accustomed to regular testing. While countries such as South Africa and Kenya have been running massive HIV testing campaigns over the last two years, these efforts need to be sustained. Innovative service delivery strategies, such as the use of mobile counselling and testing services, home-based testing and convenient service hours (for example, night services dubbed 'moonlit' testing services that allow people to go for testing after their working day) have been useful in Kenya's HIV campaigns. Similar services could be explored and coupled with access to microbicides.

It will be critical to have accessible microbicide distribution centres, which are close to communities. The service at the centres will also need to be discrete and user-friendly. Task shifting – not only among health care workers but also across health care service providers including government, private and non-governmental health care facilities – will also need to be considered as a way of diversifying access points.

More work is also needed on the demand side. While the female condom has not taken off in many countries, in urban areas of Zimbabwe and Zambia mass marketing and educational campaigns led to increased demand for female condoms.<sup>9</sup> This underscores the centrality of intensive community education and advocacy to ensure acceptance, adoption and demand for new health technologies. While education and advocacy efforts to date have focused on community engagement in microbicide research, a shift towards access to eventual products is needed and more community-oriented actors need to be onboard. These efforts need to be well coordinated at different levels and information standardised to ensure that communities do not get mixed messages that negate the very goal of cultivating acceptance.

These community education and advocacy activities are a crucial part of access planning. Community advocacy and education efforts should go beyond women as the eventual end users and

include men as partners whose failure to accept microbicides may hinder their uptake. Creating an environment in which women can negotiate to use microbicides is crucial so it is important that men understand that microbicides are safe for them. In various conversations conducted by the Global Campaign for Microbicides with community members, the effect of microbicides on the male and on fertility as well as long-term side effects have stood out as important issues that community members need to understand as part of the decision making process around the eventual adoption of microbicides. Women have also intimated that decision making on health issues is influenced by family members and other gatekeepers in their lives such as friends and religious leaders. Educating and encouraging these important gatekeepers to support women in this process will go a long way towards influencing the use of this technology.

## Conclusion

Preparing for access needs to take a holistic approach that ensures that communities, advocates, governments, funding agencies, researchers, manufacturers and drug regulators are well synchronized in their efforts to ensure that microbicides are delivered efficiently and equitably to women, particularly in sub-Saharan Africa who face the threat of HIV infection on a daily basis. Achieving access and acceptability in communities who are highly vulnerable will not only contribute to tackling the HIV epidemic but will also pay tribute to the brave women in the region who have devoted their time and bodies to HIV prevention research to help find these much needed prevention tools. This process – now widely referred to as implementation science – needs to be driven not only by scientific and policy process but also from the perspectives of communities as the eventual beneficiaries of the research products.



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## Endnotes

1. Stein ZA. HIV Prevention: The Need for Methods Women Can Use. *The American Journal of Public Health* 80:460-462.
2. Van Damme L, et...al. Effectiveness of COL-1492, a nonoxynol-9 vaginal gel, on HIV-1 transmission in female sex workers: a randomised controlled trial. *The Lancet*. September 2002. 360 (9338): 971– 77.
3. Horwood J. Cellulose sulphate microbicide trial halted. *The Lancet*. March 2007. 7(3): 183.
4. Feldblum PJ, Adeiga A, Bakare R, Wevill S, et al. SAVVY vaginal gel (C31G) for prevention of HIV infection: A randomized controlled trial in Nigeria. *PLoS ONE* 2008;3(1):e1474.
5. Peterson L, Nanda K, Opoku BK, Ampofo WK, et al. SAVVY® (C31G) gel for prevention of HIV infection in women: A phase 3, double-blind, randomized, placebo-controlled trial in Ghana. *PLoS ONE* 2007;2(12):e1312.
6. Skoler-Karpoff S. Efficacy of Carraguard for prevention of HIV infection in women in South Africa: a randomised, double-blind, placebo-controlled trial. *The Lancet*. December 2008. 372(9654): 1977– 87.
7. Rossi L. What Happens Next: Understanding the Results of HPTN 035 and MDP 301 and the Promise of ARVs for HIV Prevention. Microbicides Trials Network (MTN). December 2009. available on [www.mtnstopshiv.org](http://www.mtnstopshiv.org)
8. What is CAPRISA 004? Available on <http://www.global-campaign.org/CAPRISA004.htm>
9. FHI360. Female Condom Acceptability and Sustained Use. Female condom research briefs series. 2007. 4. Available on <http://www.fhi.org/en/RH/Pubs/Briefs/FemCondom/acceptability.htm>

# SEXUAL AND HIV/AIDS EDUCATION IN SOUTH AFRICAN SECONDARY SCHOOLS

Lerissa Thaver and Astrid Leao

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***Teaching sexual and HIV and AIDS education in schools has been the subject of debate and discussion for a while now southern Africa. The debates have mainly centred around three key issues – at what stage to introduce it, what kind of curricula is appropriate and who is qualified to provide such teaching. South Africa is one the few countries in the region that have made attempts to introduce sexual and HIV and AIDS education at the secondary school level. Although this has had benefits, it has not been without its challenges. This paper discusses current sexual and HIV and AIDS education in secondary schools across South Africa, and analyses the content and quality of the curricula being implemented, focusing primarily on current life skills and HIV and AIDS programmes and the ability of teachers to effectively convey accurate information. The paper also analyses how sexual and HIV and AIDS education in South Africa can be improved, and serve as a model for other countries in the region.***

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**A**ccording to the UNAIDS 2008 report on the global AIDS epidemic, an estimated 5.7 million South Africans were living with HIV and AIDS in 2007. The South African government has attempted to address the epidemic through many means, including expanding sexual and HIV and AIDS education for the country's youth.

In 1995, the South African Department of Education, in conjunction with the Department of Health and Welfare, began to develop the National Policy on HIV and AIDS Education (Visser 2005, page 206). The policy was designed to respond to the HIV and AIDS epidemic across South Africa by creating and implementing a life skills curriculum in schools (Department of Education 1999). The goals of the national policy were to:

- Provide information about HIV and AIDS to reduce transmission;
- Develop life skills that would facilitate healthy behaviour in youth such as communication and decision-making skills; and
- Develop an environment of awareness and tolerance among youth towards those with HIV and AIDS (Visser 2005, page 206).

The policy served as a guideline for schools and institutions. The programme was not developed as a pre-set manual or curriculum but as a guide to provide the foundation for specific programmes that would be designed and implemented by schools and institutions across South Africa. While this has been a source of inconsistency, the government adopted this approach 'in order to meet the demands of the wide variety of circumstances posed by the South African community, and to

acknowledge the importance of governing bodies, councils and parents in the education partnership, this national policy is intended as broad principles only' (Department of Education 1999, page 11). In 1998, the implementation of the programme in schools began. In each province different procedures and approaches were followed when beginning to train the teachers (Visser 2005, page 207), who would be catalysts for developing life skills programmes in their schools.

However, while the national policy is well intentioned, there are a number of obstacles that must be overcome in order for its implementation to be successful.

## **Implementation**

### **Content of Curriculum**

The variety of different life skills curricula currently being implemented by South African schools and institutions focus largely on HIV and AIDS awareness and information and do not sufficiently emphasise the importance of physical and mental wellness in youth. The curricula seem to be having a positive effect on students' knowledge and awareness of HIV and AIDS, but they do not adequately meet the goals of the national policy – namely, to promote healthy behaviour and positive attitudes. Visser (2005, page 214) explains that the curricula being implemented emphasise information about HIV and AIDS and not the advancement of life skills that would allow students to develop 'healthy life styles'. This overemphasis on

HIV and AIDS information is affirmed by Sumeshni Govender and Stephen Edwards (2009). In their study, it was apparent that the curricula being implemented focused too much on HIV and AIDS prevention awareness (Govender and Edwards 2009). Govender and Edwards (2009, page 120) point out that there is a 'dire need' to emphasise physical and mental health and wellness. According to studies such as these, students are not being exposed to the life skills (decision-making skills, communication skills and the development of positive attitudes) that are an integral part of the national policy.

It has been shown by Abel and Fitzgerald (2006, page 107) that increasing youth's knowledge about sexual interactions and HIV and AIDS does not necessarily lead to the prevention of 'negative health outcomes'. They found that when developing a programme due attention must be paid to the creation of a 'richer conceptualization and methodology to understand and evaluate how messages are received, resisted and reworked in youth experience' (Abel and Fitzgerald 2006, page 107). In essence, curricula must be constructed in a way that engages youth and takes into consideration their specific needs and concerns. The studies show that HIV and AIDS awareness and information is important. However, the studies also make it clear that without the necessary skills to establish healthy behaviour – such as informed decision-making, communication skills and positive attitudes – the information is unlikely to be effective as it could be.

### **Training of Teachers**

The socioeconomic inequalities within the education sector have had a negative impact on educators' ability to implement the life skills programme in South African schools. In other words, schools and institutions located in poorer communities often lack the resources to provide adequate training for their teachers. In addition, these communities often have a more conservative method of educating, which is not compatible with the content and goals of the life skills programmes discussed above. In order to resolve these issues, the government introduced a new policy called Curriculum 2005. The aim of this policy was to enforce a new method of education that would focus on student participation and critical thinking (Ahmed 2006, page 622). By training teachers to focus more on class discussion and problem solving, the policy promotes a more enriching and engaging teaching style rather than a conservative method, which emphasises the transmission of information rather than the development of skills. However, the legacy of apartheid means that a number of obstacles, such as inadequate training, insufficient material and staff shortages, have made it difficult for the government to enforce the new curriculum (Chrisolm 2005). As a result, the educational sector still struggles to achieve the objectives of new policies, which is reflected in the challenges educators face when trying to implement the life skills programme.

Although there have been some undertakings by the Department of Education to implement the life skills programme in South African schools, inadequate training and experience among educators continue to be a key issue. During the implementation process in 1998, the life skills programme was put into practice through a training process with various educators from South African schools. The method used in the training process consisted of two teachers from every school, who then subsequently became responsible for implementing the life skills programme in each of their own schools (Visser 2005, pages 206-207). However, critical evaluation of the government's implementation process demonstrates substantial shortcomings. For instance, studies show that most educators suffer from 'insufficient time in the curriculum dedicated to life orientation, and...limited experience in implementing the lessons' (Ahmed 2006, page 629). Moreover, educators often feel isolated and singled out as being the sole coordinators of sexual education, while also encountering a lack of support from colleagues (Ahmed 2006, page 629). Studies further indicate that teachers find it challenging to adapt the curriculum in an appropriate manner where the classroom environment often consists of large student groups from various diverse backgrounds, age groups and religious affiliations (Ahmed 2009, page 51). The result is that, due to inadequate training and lack of resources, educators often lack the competence to communicate sexual health education in a successful manner.

The effective implementation of the life skills programme is to a large extent dependent on the quantity and quality of teacher training. Earlier studies support the idea that educators' implementation of HIV and AIDS programmes is strongly influenced by their personal attitudes and beliefs towards the impact of sex education have on youths (Mathews 2006, pages 392-396). It is still a common belief that sex education encourages sexual activity instead of promoting safe sex behaviour (Jewkes 2009, pages 147-158). However, studies suggest that educators who receive on-going training have significantly deeper knowledge of the subject and also show a more tolerate attitude towards sexual education (Doherty-Poirier 1994, pages 227-235). Therefore, teacher training is essential for achieving a positive outcome as it improves educators' self-efficacy, commitment and capacity to educate learners about HIV and AIDS (Mathews 2006, page 392).

### **Community Involvement**

Teachers find it challenging to implement the life skills curriculum while facing strong opposition among parents, religious groups and the community at large. In South Africa, it is still a common belief that sexual education belongs in the private sphere and should not be a part of public education. Section 10.3 of the national policy states that the 'ultimate responsibility' for overseeing behavioural changes and development rests with parents (Department of Education 1999, page 23). In addition, section 12.3 states that 'major role-players in

the wider school or institution community (for example religious and traditional leaders, representatives of the medical or health care professions or traditional leaders) should be involved in developing an implementation plan on HIV and AIDS for the school or institution' (Department of Education 1999, page 25).

Studies show that some educators feel uncomfortable when teaching safe sexual behaviour, as the concept can conflict with their beliefs or the beliefs of the community. Therefore, these educators experience a constant dilemma between providing safe sex education and adhering to their own personal or community values (Ahmed 2006, page 50). Moreover, there is still some confusion as to parents' role in promoting sexual health with their children. Some educators consider values, morals and sexual education to lie within the parent's realm of responsibilities rather than the schools' (Ahmed 2006, page 50). But some parents feel that it is the school's duty so that the implementation of the life skills programme has sometimes resulted in sexual education being promoted in school, but not enforced by the parents at home.

Since HIV and AIDS programmes were introduced and implemented by government in a top-down fashion, they often failed to involve the community and to develop community support. While sex education does have a positive impact on youths' sexual behaviour, the extent of that impact is dependent on how sex education is implemented in a community context (Visser 2004, pages 272-277). The ineffectiveness of the life skills programme in some areas is therefore partly due to the lack of involvement of community members from the start.

High-risk sexual behaviour is strongly influenced by peer-group norms, which are observed within the community. Due to the diminishing roles of parents in controlling their children, peers play a central role in influencing the sexual behaviour of others (Zambuko 2005, page 580). For instance, studies show that peer-groups tend to perceive sexual experience as a status symbol, especially among males (Visser 2004, page 273). Moreover, issues such as gender inequality, traditional values and cultural norms are all major factors affecting high-risk social behaviour among youths (Visser 2004, pages 273-274). Hence, it is important to emphasise the educators' role in providing students with the opportunity to critically evaluate social norms regarding sexuality among both peers as well as the community.

## Recommendations

A number of recommendations are proposed here to improve the current situation. Firstly, the content of the curriculum must be adapted to emphasise on the development of life skills. The curriculum should include an overview of what constitutes healthy behaviour and healthy lifestyles. The curriculum should also focus on teaching students how to develop healthy relationships with one another, respect their bodies,

positive self-worth, and informed decision-making and communication skills. Sexual and HIV and AIDS education must not entirely focus on factual information; it must be an active learning environment where students can engage with the material, think about what they are learning and develop skills that will help them to make healthy life choices with regards to their sexual behaviour.

Secondly, in conjunction with the government, which must provide the necessary support, schools and institutions must provide quality training for their educators. It must be understood that the more training and resources are given to educators, the more effective they will be in implementing the life skills curricula. It is crucial that educators are given the necessary preparation and guidance to implement the life skills programme in order for the schools to successfully achieve the objectives of the curricula. In addition, each institution must adapt the training to meet the needs of each individual community. Some communities are going to need more support and guidance. Furthermore, the training programme should be mandatory for all teachers and should include aspects such as critical thinking and directing free and open discussions among students. With informed, unbiased and motivated educators, the life skills curricula can be more effective in addressing the needs of secondary students.

In addition, community members must be involved in the implementation of the life skills programme. Youth are influenced not only by their educators, but also by their parents, spiritual leaders and peers. It is necessary that these community members play an active role in promoting healthy sexual behaviour in youth. In order for the life skills programme to successfully reduce HIV and AIDS among youths, the government needs to encourage communities to support sexual behavioural change. As high-risk sexual behaviour among youths continues to be one of the main factors drivers of the HIV and AIDS epidemic, interventions must be developed in a community context in order to become more effective. Thus, the life skills programme must be modified to fit the specific needs of each community. Parents must also take the lead in teaching their children about sex and sexuality as part of their socialisation processes.

## Conclusion

The National Policy on HIV and AIDS Education shows the great concern the South African government has with regards to reducing the transmission of HIV and AIDS and promoting positive sexual behaviour in youth. However, it is apparent from the research that implementation has been problematic.

Firstly, the content of the life skills curricula emphasise HIV and AIDS prevention information and awareness without providing the necessary life skills envisioned by the national policy, such as decision-

making skills, the ability to develop healthy relationships and positive attitudes (Visser 2005; Govender and Edwards 2009). Secondly, teachers and educators are not being provided with the training, guidance, support and resources that are essential for effective educational practices (Chrisholm 2005; Visser 2005). Finally, the lack of community involvement is a barrier that limits the information flow to youths (Visser 2004; Zambuko 2005). Community members and parents often have conflicting views on sexual interactions and relationships and can act as a barrier – preventing educators and schools from providing accurate and quality information to students (Zambuko 2005).

In order for these problems to be addressed the government must re-evaluate its national policy and take into account the problems with regards to content, training, socioeconomic differences and community involvement. South African schools need to focus on developing healthy life skills in youth by providing the training and resources necessary, reaching out to community leaders and parents, and promoting sexual education in communities by taking into account their diverse needs and beliefs. While current sexual and HIV and AIDS education in South African secondary schools is problematic, it does have the potential to be one of the most important and effective mechanism for combating the HIV and AIDS epidemic.

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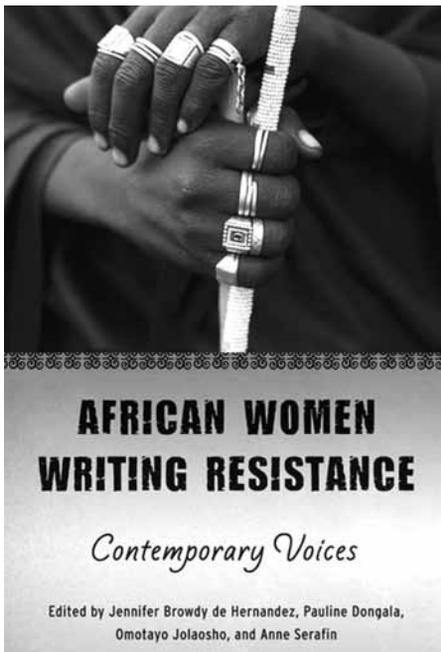


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## Bibliography

- Abel, G. and Fitzgerald, L., 2006. When you come to it you feel like a dork asking a guy to put a condom on: is sex education addressing youth's understanding of risk? *Sex Education* 6(2), pp.105–119.
- Ahmed, N. et al., 2006. Process of evaluation of the teachers training for an AIDS prevention programme. *Oxford Journal of Health Education Research*, 21(5), pp.621–622.
- Ahmed, N. et al., 2009. HIV education in South African schools: The dilemma and conflicts of educators. *Scandinavian Journal of Public Health*, 37(suppl 2), pp.48–54.
- Chisholm, L. et al., 2000. South African curriculum for the twenty first century: Report on the review committee on curriculum 2005. Pretoria: Review Committee on Curriculum 2005.
- Department of Education, 1999. National policy on HIV/AIDS, for learners and educators in public schools, and students and educators in further education and training institutions. Pretoria: Republic of South Africa Government Gazette.
- Doherty-Poirier, M., Munro, B. and Salmon, T., 1994. HIV/AIDS in-service training for teachers makes a difference in student HIV/AIDS-related knowledge and attitudes. *Canadian Journal of Human Sexuality*, 3(3), pp.227–235.
- Govender, S. and Edwards, S., 2009. Appreciative inquiry into life skills-based HIV/AIDS education in South African schools. *African Journal of AIDS Research*, 8(1), pp.115–121.
- Jewkes, R., 2009. Growing up sexual in the age of HIV & AIDS. In: C. Mitchell and K. Pithouse, eds. *Teaching and HIV & AIDS in the South African Classroom*. Johannesburg: Macmillan South Africa, pp.147–158.
- Mathews, C., Boon, H., Flisher, A. J. and Schaalma, H. P., 2006. Factors associated with teachers' implementation of HIV/AIDS education in secondary schools in Cape Town, South Africa. *AIDS Care*, 18(4), pp.388–397.
- UNAIDS, 2008. Report on the global AIDS epidemic. Geneva: Joint United Nations Programme on HIV/AIDS (UNAIDS).
- Visser, M. J., Schoeman, J. B. and Perold, J. J., 2004. Evaluation of HIV/AIDS Prevention in South African Schools. *Journal of Health Psychology*, 9(2), pp.263–280.
- Visser, M.J., 2005. Life skills training as HIV/AIDS preventive strategy in secondary schools: evaluation of a large scale implementation process. *Journal of Social Aspects of HIV/AIDS*, 2(1), pp.203–216.
- Zambuko, O. and Mturi, A. J., 2005. Sexual risk behaviour among the youth in the era of HIV/AIDS in South Africa. *Journal of Biosocial Science*, 37, pp.569–584.



## A REVIEW OF AFRICAN WOMEN WRITING RESISTANCE: CONTEMPORARY VOICES

Hleziphi Naomie Nyanungo

*My attention was immediately captured upon seeing the title of the book, African Women Writing Resistance. As an African woman and a feminist, I am always interested to learn about African women's experiences in struggling against, and resisting, different forms of oppression. I was especially excited because it is not often that I come across writings of and by African women that specifically talk about strategies for resistance. I was also captured by the front cover of the book, which displays a photographic image of a dark-skinned woman's pair of hands adorned with rings on each finger and holding what seems to be a beaded stick of some kind. It is a powerful image that reflects a certain strength, beauty and calmness that I associate with the notion of resistance in every-day life. I hope to accomplish three goals in this book review – to provide a summary of the book, highlight key aspects of it (without giving too much away); and share my analysis of it.*

### Overview of the Book

**A**frican Women Writing Resistance is an anthology consisting of contributions from 31 African women with roots in 13 countries across the continent. The collection comprises different forms of writings such as personal narratives, testimonies, interviews, short stories, plays and lyrics. With very few exceptions, the contributions are original pieces written specifically for the anthology. The few exceptions are pieces excerpted from longer works, which had been published elsewhere and which the editors thought were important enough to include in the anthology.

The book is edited by four women: Jennifer Browdy de Hernandez, Pauline Dongala, Omotayo Jolaosho and Anne Serafin. Dongala and Jolaosho were born in Africa and are currently based in the United States. Dongala is originally from Congo-Brazzaville, while Jolaosho is from Nigeria. Browdy de Hernandez describes herself in the book as a 'white feminist teacher' and Serafin is a specialist in African literature. I expect that

the diverse backgrounds of the editors added much to the production of the book. As stated in the introductory section of the book, the idea for the book came from Browdy de Hernandez as a sequel to another book she edited entitled *Women Writing Resistance: Essays on Latin America and the Caribbean*. While I have not yet had the opportunity to read the first book, it appears to be a similar collection of writings by women from Latin America and the Caribbean. It would be interesting to see if there are any connections between resistances as expressed by the two groups of writers.

The principal aim of *African Women Writing Resistance* was to bring the voices of emerging African women writers to a wider audience. A key question would then be: who is an African woman? The politics of identity are far from clear cut and therefore there could be any number of ways to define an African woman. 'African-ness', as an identity, is a complex notion. For instance, sometimes

the term 'African woman' is used to refer to any woman of African descent. In that regard, any woman with ancestors who are believed to have been of the African race (read black) would be an African woman. Such a definition would include black women from across the globe – the Caribbean, the Americas and Europe. On the other hand, African women may also be used to refer to women who are citizens of Africa – regardless of race. The editors of the book specifically defined African women as those who were born in Africa and the anthology mainly consists of contributions from women who meet this criterion – they were born in Africa. However, although the selection criterion was limited by place of birth, it was not limited by place of residence. In other words, contributors to the book were women born in Africa but who did not necessarily live in Africa. In fact, the majority of the contributors are presently living outside the continent. In addition, a few exceptions were also made for contributors who were born in another country but have lived in Africa for much of their lives.

The impressive list of contributors is mostly made up of highly educated women, many of whom are university professors. I noted that a significant portion of the contributors are scholars presently based in the USA. In addition to academics, there are also lawyers and activists in the list. Many of the contributors are seasoned writers with a significant number having published articles and books, which in some cases have been award-winning writings. There are a few contributors whose stories are told with the help of others. One example of this is Kaya Mbaya, whose profile describes her simply as a mother and grandmother who lives in the forests of Congo-Brazzaville. Mbaya belongs to a minority ethnic group known as the Babongo, who were unfortunately called pygmies by European colonisers. Her story was presented in the form of an interview transcript. The interview was done by Pierre Piya-Bounga, a male professor in Congo-Brazzaville and his mother. I appreciated the effort made to include the voices of those who might not be able to write for themselves.

### Key highlights

The anthology locates itself within the discourses of women's collective struggles to articulate their needs and concerns to each other and the world at large. In recognising that women's collective struggles take place across cultures, nationalities and generations, the book contributes to the global feminism movement. The book frames writing as an act of resistance. Writing is constructed as a specific form of resistance to the multiple challenges faced by African women. Through writing, the book argues, women resist their silencing by telling their stories and exposing the challenges and manifestations of oppression. In the words of Ann Kithaka, a Kenya poet and contributor to the anthology,

*Writing resistance is a process of discovery, emancipation, and reclaiming. It is about reclaiming my dignity, privacy and freedom*

*as an African woman and human being. It is about emancipating myself from historical, structural, and systematic abuse, oppression, and discrimination...It is about discovering my inner strength, my uniqueness, and interdependence on other people.*

Therefore, writing is seen as a space for women to resist all form of oppression and abuse to which they are victims and survivors, a space that may not be available in women's day-to-day lives.

The 31 contributions in the anthology are organised thematically by spheres of women's resistance. The editors selected writings that exposed particular challenges or oppressions faced by women in Africa today. Some of the pieces are reflective works of fiction, while others are more biographical in nature. The thematic areas covered in the book are as follows:

1. Engaging with tradition: The focus of the writings grouped under this theme is women's negotiation with traditional practices that are oppressive in one way or the other in order to create new realities in the present.
2. Young women on sexuality: This section contains writings that explore how women navigate issues of their sexuality and the challenges and vulnerabilities associated with this navigation. The eight pieces in this section explore issues such as coming of age, coming out the closet, and claiming one's sexuality.
3. Challenging the institution of marriage: Questioning and examining power and oppression in the institution of marriage is the focus of the pieces in this section. Here you will find pieces that highlight and explore different manifestations of oppression in the institution of marriage.
4. Focusing on survival: Physical and emotional health in the context of war, disease and harmful cultural practices are the issues examined in the writings contained in this section. These issues include the effects of HIV and AIDS, gender-based violence and female genital cutting/mutilation.
5. Women as activists: Writings in this section look at the role that women play in advocating against war and conflict, as well as environmental degradation.
6. Perspectives on exile and the diaspora: This section explores women negotiating their identities in foreign lands.

The book concludes with a transcript of a roundtable discussion held at Rutgers University in America, which involved a group of African scholars discussing their visions for the future of Africa. The transcription reveals the struggles around place, identity and belonging that face African women, particularly those in the Diaspora. The final piece in the book is a poem by Abena Busia aptly entitled 'Liberation'.

## Personal Reflections on the Book

I found the book to be an easy and accessible read that is suitable for a wide range of readers. It is not a book with any complex theories with which readers have to contend. The editors succeeded in their aim of introducing emerging African women writers to the world as they shared their stories in this single collection. I appreciated the diversity of experiences covered in the book, which reveals that the experiences of African women are not homogeneous. It was good to see the inclusion of minority groups in the collection, such as ethnic minorities and lesbians. Unfortunately, the voices of women with disabilities are missing from the anthology.

One of the issues that the book raises for me is the question of whose voices are in the book and whose experiences are represented in the stories. As revealed in the final section of the book, the question of identity, belonging and representation are indeed complex. The contributors are heavily skewed on the side of the highly educated and, judging by their professions, well positioned African women. Without wanting to open the contentious issue of the politics of representation, I wonder what the anthology would have looked like had it included more pieces from women who are not as privileged with respect to education and social position. If the editors had asked a broader range of women – such as market-vendors, primary school teachers, housekeepers, policewomen etc. – to write stories of resistance in their everyday lives, what would they have written about? And what would we have learnt? I think those additional types of stories would have contributed immensely to a better understanding and appreciation of African women's resistance to oppression. In thinking through this point, I come to the subtle and yet significant realisation that the book is about women's writing as resistance, and not women writing about resistance.

I felt a little let down by the book in that respect. I had expected it to be a book about African women writing about the strategies they use to resist oppressive situations in their lives as promised in the back page summary, which stated that the book "...is the first transnational anthology to focus on women's strategies of resistance to the challenges they face in Africa." After reading through the book, I felt misled by this promise. Although there were a few pieces that focused on strategies for resistance, this was not the focus of the book. I learned more about the challenges African women face than I did about the strategies they use to resist these challenges. The book took writing as a form of resistance, and did not focus on, or highlight, writings on different forms of resistance used by African women. One of the lingering questions left in my mind is whether the act of writing is in and of itself an act of resistance, or if it is that there are forms of writings that are acts of resistance and others that are strategies for coping and/or adapting to oppressive situations. If that is the case, then when is an act of writing an instance of resistance, and when is it not?

One of the strengths of the book is that it brings to the fore particular experiences of African women. I found myself really moved as I read about these experiences. Take for instance the poem by Anna Kithaka simply entitled 'Child'. This is a painful poem of a woman abused by her husband. Or the story written by Sefi Atta about the experience of a woman accused of adultery in the context of Sharia law. I could name many more such pieces in the book that moved me. The stories described, in vivid detail, the experience of living through such circumstances. I felt all sorts of emotions as I read these pieces – pain, anger, sympathy, helplessness and even joy and pride. In some ways, it was comforting to know that some of the challenges that I face in my own life are shared by other women. I felt emotionally connected to the stories. However, I was left wondering what to do with all these emotions. I struggled to see how the pieces would motivate African women in general and feminists in particular to move from feeling pain and sorrow for themselves and their sisters to taking action to resist and transform their situations of oppression.

I think the book is a valuable resource for writings by African women and may be suitable for courses in African literature. Given the simplicity of the writing style in many of the contributions, women (and men) of all ages and literacy levels should be able to understand and relate to the writings. Another advantage of the simplicity is that it would make it less of a challenge to translate the materials into other languages. The book is certainly a good read but it is not, in my view, a call to women to take action to resist and transform oppression. However, it will certainly inspire more women (and men possibly) to share their stories.

African Women Writing Resistance:  
Contemporary Voices – edited by Jennifer  
Browdy de Hernandez, Pauline Dongala,  
Omotayo Jolaosho and Anne Serafin;  
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# NOTES



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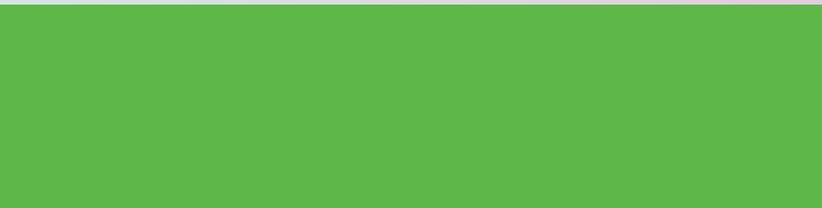
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