



Discussions about sexual orientation and gender identity remain controversial and divisive in Southern Africa. Only four SADC countries have legalised homosexuality. Photo: Thinkstock

## LGBTIAQ ISSUES

### Introduction

This policy brief is part of a Gender Links series on controversial issues that intersect with its work. LGBTIAQ equality is connected to many other rights including gender equality.

The fight to advance the rights of Gay, Lesbian, Bisexual, Transgender Intersex, Asexual and Queer (LGBTIAQ) people has seen some progress in recent years, including in Southern Africa. However, LGBTIAQ people face great hostility toward their on-going fight for equality.

While some countries, like South Africa, have seen great advances in LGBTIAQ rights, others have backtracked in recent years, with lawmakers in countries like Uganda and Russia effecting legislation to criminalise homosexuality. On 11 December 2013, India's Supreme Court struck down a 2009 ruling, which legalised homosexuality. Two days later, the DRC's National Assembly proposed a draft bill criminalising same-sex activity in the country.

This policy brief examines the situation in Southern Africa, where attitudes towards LGBT people remain mixed and legislation varies between countries. It delves into the history of homophobia and anti-gay legislation, and looks at some of the factors driving prejudiced attitudes in the region. Although intersex (I) and asexual (A) people are subject to discrimination and violence, legislation does not criminalise intersexuality and asexuality. However, it is important to acknowledge that they too struggle against a heterosexist and homophobic society that perceives them as 'abnormal'.

### QUICK FACTS

- In 2013, United Nations (UN) High Commissioner for Human Rights Navi Pillay and Desmond Tutu launched a new UN campaign for LGBTI rights in Cape Town.
- Thirty-eight African countries criminalise homosexuality.
- Same-sex activity is legal in the Democratic Republic of Congo (DRC), Madagascar, Mozambique and South Africa.
- South Africa has some of the most progressive legislation on LGBTI protection and rights in the world, yet homophobia and transphobia remains rife.
- South Africa is home to Africa's first organisation devoted to transgender issues.
- Zimbabwean lawmakers created a clause criminalising same-sex marriage in the country's new constitution, which came into effect in 2013.
- Malawi's President Joyce Banda announced in 2012 that laws criminalising homosexuality would be repealed. However, she has since distanced herself from that statement.

## Key terms and definitions<sup>1</sup>

**Gender identity** is a person's perception of their gender and how they choose to identify themselves. I.e. man, woman or gender neutral.

**Gender expression** is the outer manifestation of a person's gender identity, often expressed via clothing, haircut, voice, behaviour or body characteristics.

**Sexual orientation** relates to a person's physical attraction to another person. Gender identity and sexual orientation are not the same. Transgender people can be straight, gay or bisexual.

**Homophobia** is a general term for negative attitudes toward members of LGBT community. These attitudes often translate into discrimination, different forms of violence and hate crimes. The term extends to bisexual and transgender people, but terms like biphobia and transphobia are used to emphasise specific prejudices against bisexual and transgender people.

**Lesbian** is a term used to describe a woman attracted to the same sex and women who do not identify as heterosexual.

**Gay** is a term used to describe individuals attracted to the same sex, though more commonly refers to men who do not identify as heterosexual.

**Bisexual** is a person attracted to both men and women. This attraction may not be split equally between

genders, and there may be a preference for one gender over others.

**Transgender** is an umbrella term for people whose gender identity and/or gender expression is dissimilar from the sex they were born with. Transgender people may identify as transwomen (male-to-female/MTF), transmen (female-to-male/FTM), transsexual or gender-variant.

**Intersex** is a term used to describe people whose biological sex is unclear. Thus, internal sex organs and genitals differ from the two expected patterns of male or female.

**Asexual** is a sexual orientation whereby a person has a lack or low level of sexual attraction to others and do not desire sex or to have sexual partners. An asexual person may be straight, gay, bisexual, transgender. Asexual people may be emotionally attracted to others and desire partnership, but may not wish to express that attraction sexually. Discrimination and prejudice directed at people based on their asexuality, is called aphobia.

**Queer** is a general term used to describe people who do not identify as straight or who have a gender-variant identity. It is often used interchangeably with LGBTIA, but due to its historical derogatory use, not all LGBTIA people use or embrace the term.

## Global context

The last decade has seen a massive increase in international activism linked to the fight for LGBT equality. In many ways the gay rights movement has taken a leaf from the civil rights movement in the United States, anti-apartheid struggle in South Africa and the international woman's rights movement. All three struggles have similar characteristics and all three, arguably, continue.

Countries in the West including many European nations, Canada, the United States, New Zealand, and Australia, have seen advancements in LGBT rights. Most of these countries now have legislation protecting LGBT people from discrimination even allowing adoption and marriage. A 2013 Pew Research poll of 39 countries found that gay rights are firmly entrenched in many of these nations, with more than 80% of people in Canada, Spain, Germany and the Czech Republic in favour of accepting homosexuality.



Same-sex marriage is now legal in 15 countries, including South Africa.

Photo: Thinkstock

<sup>1</sup> <http://www.glaad.org/reference/transgender> and <http://www.guidetogender.com>

However, there is a stark contrast between these countries and other parts of the world. From Africa, Asia, the Middle East, Europe, the Americas and countries in Oceania, negative attitudes towards LGBT people remain common. The poll also found that large majorities of people in these countries, including in Africa, believe homosexuality is unacceptable.<sup>2</sup>

Under the leadership of Vladimir Putin and the Orthodox Church, Russia recently passed the "anti-homosexual propaganda law", formally known as the "anti-non-traditional-sexual-relations law." This criminalises homosexuality, LGBT activism and fuels hate crimes against LGBT people. This kind of state sponsored homophobia is common in many parts of the world.

Nevertheless, many other countries are moving in the right direction. Fifteen countries have now legalised same-sex marriage, including South Africa. In 2011, the UN Human Rights Council passed its first resolution on LGBT rights. South Africa presented the resolution, which called on the High Commissioner for Human Rights to study the effect of violence and discrimination linked to sexual orientation and gender identity and to convene a panel to discuss the findings.<sup>3</sup>

The report released in December 2011, found that 76 countries have laws that criminalise people on the basis of their sexual orientation or gender identity. It also found widespread violence against LGBT people.<sup>4</sup> On 26 July 2013, the UN High Commissioner for Human Rights Navi Pillay and Desmond Tutu launched a new UN campaign for LGBT rights in Cape Town. In widely publicised remarks Tutu said, "I would not worship a God who is homophobic and that is how deeply I feel about this," noting the "Free and Equal" campaign will promote legal reforms and public education about LGBT people.

### LGBT rights in Africa

Currently 38 countries in Africa criminalise homosexuality. LGBT people are not protected by any regional or Africa-wide legislation, including the 2008 SADC Protocol on Gender and Development, which does not make mention of the rights of LGBT people.

With the increased international push for gay rights and more organised activism among African LGBT, many countries have become increasingly hostile towards LGBT people. Four countries currently have laws against homosexuality that include imprisonment and the death penalty. Lawmakers in Liberia and Uganda have in the past few years proposed new legislation that would introduce the death penalty for gay people.

Ironically, these anti-homosexual laws or 'anti-sodomy laws'- that date back to the colonial era penal codes, have long been abandoned by those countries that created them. The 2008 Human Rights Watch report *Alien Legacy: The Origins of "Sodomy" Laws in British Colonialism*, states that African leaders have in recent years defended these colonial era laws as "citadels of nationhood and cultural authenticity," claiming that homosexuality comes from the West and forgetting that Western colonizers first brought in legislation to repress it.<sup>5</sup> In fact, colonial and anthropological writings include many reports of homosexuality among Africans in every region of the continent.<sup>6</sup>

In 2012, UN Secretary-General Ban Ki-moon called on African nations to stop treating the LGBT community as "second class citizens, or even criminals," urging leaders to end discrimination based on sexual orientation. United States President Barack Obama followed this with a similar call in 2013 during a visit to Senegal, which outlaws homosexuality. "My basic view is that regardless of race, regardless of religion, regardless of gender, regardless of sexual orientation, when it comes to how the law treats you... people should be treated equally."

### Regional context

Same-sex activity is legal in the DRC, Madagascar, Mozambique and South Africa, while South Africa is the only country with a constitution that explicitly outlaws all discrimination based on sexual orientation and gender identity. Homosexuality is illegal in most other SADC countries. Homophobic legislation is enforced and few of these countries ban homophobic discrimination. Some leaders actively encourage violence and discrimination against the LGBT community. In most countries, laws are either unclear or contradictory since same-sex activity may be 'legal' between women but not men, or activity is legal but marriage is illegal.

In Madagascar, same-sex relationships are only legal for people over the age of 21. While Mozambique has implemented labour laws protecting workers from discrimination based on their sexual orientation, the country's penal code contradicts them. In Namibia, gays and lesbians have found legal loopholes in the country's policies toward LGBT citizens and their issues have been openly debated as part of the country's review of its report on the Convention to Eliminate All Forms of Discrimination Against Women (CEDAW).

Meanwhile, the DRC and Zimbabwe have gone backwards. The DRC's National Assembly recently proposed a bill to criminalise homosexuality. Denis Bouwen, Editor of the *CongoForum* and an LGBT activist

<sup>2</sup> <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/>

<sup>3</sup> <http://www.ighrc.org/content/historic-decision-united-nations>

<sup>4</sup> [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/a.hrc.19.41\\_english.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/a.hrc.19.41_english.pdf)

<sup>5</sup> [http://www.hrw.org/sites/default/files/reports/lgbt1208\\_webwcover.pdf](http://www.hrw.org/sites/default/files/reports/lgbt1208_webwcover.pdf)

<sup>6</sup> [http://www.glbtc.com/social-sciences/africa\\_pre.html](http://www.glbtc.com/social-sciences/africa_pre.html)

said, "What offends me most is the fact that the Congolese population has other priorities: poverty, social conditions, unemployment, health care, education, attacking gays is so out of touch with reality."

Lawmakers in Zimbabwe created a clause criminalising same-sex marriage in the new constitution, which came into effect in 2013.<sup>7</sup> Homosexuality is punishable by prison terms ranging from one month to ten years. LGBT people experience various challenges to their human rights, which include regular humiliation, harassment and violence. These people also have very limited access to medical care and treatment.<sup>8</sup>

In Zambia, the official body tasked with driving a constitutional reform process has included a clause that forbids marriage between people of the same sex in its draft Constitution. In 2013, police charged Lusaka gay rights activist Paul Kasonkomona, who spoke out in favour of gay rights on Zambian television, with "inciting the public to take part in indecent activities."<sup>9</sup>

However, progressive statements from leaders in countries like Mauritius and Malawi suggest that prejudiced stances in the region may be changing. Prime Minister Navin Ramgoolam signed the UN Resolution on Human Rights, Sexual Orientation and Gender Equality. This has brought LGBT rights into the spotlight in Mauritius.

While Malawi outlaws same-sex marriage, President Joyce Banda pledged to protect the rights of gays and lesbians in her first State of the Nation address on 18 May 2012. The address echoed the sentiments of two

former SADC presidents: Botswana's former president Festus Mogae and former Zambian president Kenneth Kaunda. Both men urged SADC leaders to decriminalise homosexuality in order to reduce transmission of HIV. "We can preach about behavioural change, but as long as we confine gays and lesbians into dark corners because of our inflexibility to accommodate them, the battle on HIV and AIDS can never be won," Mogae said.<sup>10</sup>



Some world leaders have called on African countries to recognise the rights of LGBT people.

Photo: Luiz DeBarros

<sup>7</sup> <http://www.gaystarnews.com/article/zimbabwe%E2%80%99s-new-constitution-makes-gay-marriage-crime310113>

<sup>8</sup> [www.osisa.org/Special-LGBTI-initiative](http://www.osisa.org/Special-LGBTI-initiative)

<sup>9</sup> <http://dailyxtra.com/world/news/around-the-web/zambia-high-court-rules-activists-free-speech-rights-werent-violated?market=208>

<sup>10</sup> <http://www.globalpost.com/dispatches/globalpost-blogs/chatter/malawi-president-joyce-banda-to-repeal-anti-gay-law>

## Case study: Malawi's homophobic challenges

Gregory Gondwe

Only when transwoman Tiwonge Chimbalanga and man Steven Monjeza, decided to come out in the open and get engaged in December 2009, did a blanket of silence lift from Malawi society around LGBT rights. Malawi authorities arrested them and found both guilty of having committed "unnatural offenses" and "indecent practices between males." The magistrate imposed the maximum penalty of 14 years imprisonment with hard labour. Magistrate Nyakwawa Usiwausiwa said, "I will give you a scaring sentence so that the public be protected from people like you so that we are not tempted to emulate this horrendous example." This caused an international outcry and many human rights organisations condemned the action taken by the Malawian government.

Due to international pressure, the late President Bingu wa Mutharika's government pardoned the couple, but upheld Malawi's anti-gay law. His successor, Joyce Banda, now plans to repeal that law, which has created a sea of controversy and divided the country.

Homophobia is widespread in Malawi and the country's media has taken a central role in ensuring homophobic opinions remain publicised. The media not only had a

field day denouncing and humiliating Chimbalanga and Monjeza, but also the majority of commentators published in *The Nation*, a Malawian daily newspaper, opposed Banda's suggestion to repeal the law. They all based their arguments on biblical teachings, with one saying, "Legalising same-sex marriage is pricking into Jehovah's eyes."

Banda has observed that since revealing her government's intention to repeal anti-gay laws, the public chorus of disapproval has been deafening. At a Blantyre press briefing on 25 May 2012, she attempted to placate opponents saying, "I will not force MPs to pass it. If the people of Malawi do not want same-sex marriages, MPs will not pass the law."

It is clear that Banda is between a rock and a hard place. On the one hand, she has a population that has been mostly behind her since she came to power, yet many are turning against her attempt to repeal the country's anti-gay legislation. On the other, she has donors who are ready to turn off the aid taps if she keeps the country's anti-gay law in place. UK Prime Minister David Cameron recently threatened to cut aid to countries that continue to criminalise homosexuality.



Malawian authorities arrested Steven Monjeza (left) and Tiwonge Chimbalanga because they attempted to get married.

Photo: Google Images

## LGBTI laws by country

Rights in:	Same-sex sexual activity	Recognition of same-sex relationships	Same-sex marriage	Same-sex adoption	Allows gays to serve openly in military?	Anti-discrimination (Sexual orientation)	Laws concerning gender identity/ expression
<b>Angola</b>	✗ Not specifically outlawed, other laws may apply (Penalty: Labour camps for habitual offenders)	✗	✗	✗	Unknown	✗	Unknown
<b>Botswana</b>	✗ Illegal (Penalty: Fine - 7 years)	✗	✗	✗	Unknown	✓ Bans some anti-gay discrimination	Unknown
<b>Democratic Republic of the Congo</b> <small>(formerly Zaire)</small>	✓ Legal	✗	✗ Constitutional ban since 2005	✗	Unknown	✗	Unknown
<b>Lesotho</b>	✗ Male illegal ✓ Female legal	✗	✗	✗	Unknown	✗	Unknown
<b>Madagascar</b>	✓ Legal	✗	✗	✗	Unknown	✗	Unknown
<b>Malawi</b>	✗ Male illegal ✓ Female legal	✗	✗	✗	Unknown	✗	Unknown
<b>Mauritius</b>	✗ Male illegal ✓ Female legal (national debate over repeal of the law). + UN decl. sign.	✗	✗	✗	Unknown	✓ Bans some anti-gay discrimination	Unknown
<b>Mozambique</b>	✓ Legal	✗	✗	✗	Unknown	✓ Bans some anti-gay discrimination	Unknown
<b>Namibia</b>	✗ Illegal (not enforced)	✗	✗	✗	Unknown	✗	Unknown
<b>Seychelles</b>	✗ Male illegal ✓ Female legal	✗	✗	✗	Unknown	✗	Unknown
<b>South Africa</b>	✓ Legal since 1994	✓ Unregistered partnerships recognised for various specific purposes by laws and judgments since 1994; same-sex marriage legal since 2006	✓ Legal since 2006	✓ Legal since 2002	✓	✓ Bans all anti-gay discrimination, by Constitution and statute; specific laws also ban discrimination in employment and housing	✓ Since 2003, legal sex can be changed after surgical or medical treatment; "sex" and "gender" are distinct protected classes
<b>Swaziland</b>	✗ Male illegal ✓ Female legal. Pending law includes outlawing lesbian sex conduct	✗	✗	✗	Unknown	✗	Unknown
<b>Tanzania</b>	✗ Illegal (Penalty: up to life imprisonment)	✗	✗	✗	Unknown	✗	Unknown
<b>Zambia</b>	✗ Male illegal (Penalty: up to 14 years) ✓ Female legal	✗	✗	✗	Unknown	✗	Unknown
<b>Zimbabwe</b>	✗ Male illegal ✓ Female legal	✗ Constitutional ban implemented in 2013	✗	✗	Unknown	✗	Unknown

Source: LGBTI Rights in Africa: [http://en.wikipedia.org/wiki/LGBT\\_rights\\_by\\_country\\_or\\_territory#cite\\_note-ILGA\\_2010-10](http://en.wikipedia.org/wiki/LGBT_rights_by_country_or_territory#cite_note-ILGA_2010-10). Accessed 27 July 2013.

## Key drivers of homophobia in SADC

### State-sponsored hate

Using homophobia to deflect from larger national issues is a strong tradition in SADC and across the world. From Namibia's former president Sam Nujoma, who once said that the gays and lesbians should be arrested and imprisoned, to Zimbabwe's President Mugabe, who has referred to gays as worse than dogs and pigs also saying same-sex marriages might lead to human extinction.



State-sponsored hate, religious fundamentalism and a homophobic media, forces LGBT people to remain closeted and invisible in Southern Africa. Photo: Thinkstock

In 2008 after a number of lesbians were murdered, Jon Qwelane, South Africa's ambassador to Uganda, published an article called, "*Call me names, but gay is NOT okay.*" The Equality Court, found Qwelane guilty of hate speech, but he recently challenged South Africa's Equality Act, saying it hinders free speech. He also refused to apologise and called for LGBT rights to be revoked from the Constitution.

Such hate speech, especially articulated by leaders fuels homophobia and hate crimes perpetrated against LGBT people.

### Religious fundamentalism

Religious figures preach hatred and homophobia from pulpits throughout Africa. A 2009 Human Rights Watch report says fundamentalist evangelical religions are on the rise in Africa, many of which have strong links to homophobic religious leaders in the United States.<sup>11</sup> The most widely reported connection involves US anti-gay pastor Scott Lively, who is currently before a US court on charges of "crimes against humanity." The US Center for Constitutional Rights (CCR) has brought the case to trial on behalf of Sexual Minorities Uganda, after a gay rights group accused the American preacher of waging a "decade-long campaign... to persecute persons on the basis of their gender identity and/or sexual orientation."

### Media

SADC media tends to sensationalise any stories related to LGBT issues. Research conducted by the Gay and Lesbian Memory in Action (GALA) and Community Media for Development (CMFD) found that media presents an unfair reflection of the LGBT community.<sup>12</sup> It noted that media highlights sexuality in stories where it is not relevant, creating a sense of "otherness." This also perpetuates stereotypes that construct the LGBT as hyper-sexed. In extreme situations, such as the case study about Uganda and Malawi, media reports have crossed serious ethical lines, calling for the arrest and murder of LGBT people.

Many are familiar with the *Rolling Stone* article calling for Uganda's "top" homosexuals to be hanged. The story, like many articles published in Uganda, claimed there was a gay campaign to recruit schoolchildren. The article published the names of suspected 'homosexuals' and gay rights activists. Shortly after the story appeared, police found Ugandan gay rights activist David Kato bludgeoned to death in his home. These 'journalists' tarnish the profession with their discrimination. Even worse, they encourage hatred and contribute to the increase of violent attacks on LGBT people throughout the region.

### Transphobia: Everyday discrimination and hate crimes

Transphobia and hate murders persist across the Southern African region and the globe, often subsumed under homophobic attitudes and anti-homosexuality laws. Hate crimes are not only rooted in sexual orientation but also in gender identity. Transgender people also face numerous challenges in accessing social services, health care, education and employment.

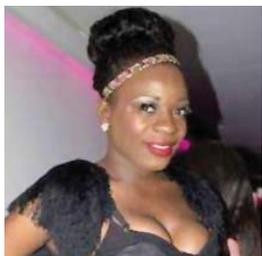
However, some countries across the world are showing commitment to Transgender and Intersex rights. For example, a 'third gender' recently attained state

<sup>11</sup> <http://www.hrw.org/sites/default/files/reports/lgbt0509web.pdf>

<sup>12</sup> [http://www.mdda.org.za/OutInTheMediaFinalReport%20\(2\).pdf](http://www.mdda.org.za/OutInTheMediaFinalReport%20(2).pdf)

recognition in Bangladesh. With this move the government aims to secure the rights of transgender people, enable them to identify as *hijra* in all government documents and to combat discrimination in education, health and housing.

Sweden has recently introduced a gender-neutral pronoun into the Swedish National Encyclopaedia for people who do not identify as male or female. In October 2013, UNAIDS made Angolan transgender music star, Titica, a goodwill ambassador.



Titica, Angolan music and dance star is now a UNAIDS goodwill ambassador.

Photo: Transitioning Africa Blog

She has challenged prejudices and gender normativity in a country that punishes 'homosexuality' with imprisonment and hard labour. Although she has been subject to discrimination and different forms of abuse, many Angolans respect who she is and admire her talent.

These progressive moves can be attributed to the good work being done by many organisations across the globe. Gender DynamiX - the first African organisation devoted to transgender rights, is an organisation that provides resources, information and support to trans people, their partners, family, employers and the public. Their aim is to assist transgender people in accessing their rights and to increase the visibility and acceptance of gender diversity. Among many projects, Gender DynamiX continues to campaign to have *Act 49 of 2003* properly implemented throughout South Africa's Home Affairs offices.

For years, transgender and intersex activists protested against laws that made it almost impossible to legally change one's gender and have that change reflected in official documentation. In 2003, the South African government finally recognised that these laws fostered discrimination and deprivation of basic rights and services. With the help and input of transgender and intersex activists, Parliament passed Act 49 of 2003, which specified the conditions under which South Africans might legally change their sex.

However, ten years later transgender and intersex applicants say that the provisions of the Act are regularly ignored or violated in practice. According to Liesl Theron, the director of Gender DynamiX, home affairs personnel have told applicants that they need to have genital surgery,

undergo sterilisation, or divorce their spouse to alter their sex description.

Applicants have waited periods of one, two, or more years just for news about their application. Individuals often find out that their applications have been rejected without the written explanation required by law or any notification that there is a right to appeal. In the meantime, they have continued to face significant obstacles to doing any of the basic tasks that require having accurate, gender-affirming identification.

### South Africa: LGBT rights in theory and practice

Unique in the region and the world, South Africa has some of the most progressive laws concerning LGBTI people. The Constitution and various other pieces of legislation and policy, enshrine the rights of all people, irrespective of their sexual orientation and gender identity. Media and television shows also represent LGBT people and activists operate openly in a variety of organisations devoted to furthering their rights.

However, the country has also been criticised for not implementing its 'gay-friendly' legislation and policies where they are desperately needed.<sup>13</sup> Furthermore, access to these rights, to protection, justice and healthcare are divided along class and race lines.

According to Amnesty International, the range of abuses faced by LGBT people in the country is "limitless" including: murder, rape, violence from police, bullying at school, denial of employment, housing or health services and regular subjection to verbal abuse.

South Africa is infamous internationally for having one of the highest rates of sexual assault and rape in the world. Since 1998, more than 30 lesbian women have been brutally raped and murdered on the basis of their sexual orientation.<sup>14</sup>



People march for justice and freedom at Joburg People's Pride on 5 October 2013.

Photo: Laurie Adams

<sup>13</sup> <http://www.hrw.org/sites/default/files/reports/lgbt0509web.pdf>

<sup>14</sup> <http://www.theglobeandmail.com/news/world/african-gay-rights-activists-stand-strong-as-brutality-rises/article4250615/#dashboard/follows/>

<sup>15</sup> Article adapted from one published by GL Opinion and Commentary Service.

## Case Study: History of hate crimes repeating itself<sup>15</sup>

Lerato Dumse

In 2008, police drove Mally Simelane to a nearby field in Kwa-Thema, Ekurhuleni to identify her daughter Eudy Simelane, a well-known footballer and activist, who had been gang-raped and stabbed 25 times. Police arrested three men; the court convicted only one and failed to recognise the murder as a hate crime.

In 2011, Lesbian activist Noxolo Nogwaza was also raped and brutally murdered in Kwa-Thema. The police have made no arrests and the case remains unresolved. Just four weeks before that, Nokuthula Radebe suffered the same fate. Police have not been able to find the killers and Radebe's family still wait for justice.

In June 2013, Duduzile Zozo, a 26-year-old woman from Thokoza in Ekurhuleni, was raped and murdered just a few metres from her home. Duduzile's older sister Zokisane Zozo recounts how a neighbour shouted for her to come outside, "Hearing the panic in her voice I ran out to investigate. To my horror when we got to that house, I saw her lifeless body with the toilet brush lodged inside her vagina. It was too much to bear so I ran out crying", explained Zokisane, before confirming that Duduzile was the breadwinner for their family of nine.

These cases are only a tiny fraction of the hate crimes and violence perpetrated against people because of their sexual orientation and gender. The history of hate crimes and injustice faced by Lesbian women is seemingly repeating itself.

On 4 July, many black lesbians - lesbians most vulnerable to hate crimes - took to the streets of Thokoza to protest against the ongoing killings in their community. They demanded justice and affirmed that they would not be intimidated.

A few days before Zozo was laid to rest on 13 July, more than 300 people attended her memorial service where family, friends and activists sang songs and gave speeches expressing pain over her death, celebrating her life and calling for an end to homophobia. The pain, fear and hopelessness felt by the community remains. Fikile Mazibuko explains how she befriended Zozo after Radebe's death, "I am traumatised and angry, this is my second friend to be murdered, whatever is happening in my community pains me."

The Department of Women, Children and People with Disabilities established the National Council Against Gender-Based Violence more than six months ago and have seemingly done little to deliver on its promises.

However, the police have shown greater commitment by setting up a specialised task team with the Thokoza Community Policing Forum and other organisations to investigate Zozo's case. But following a recent meeting held on 26 July, almost a month since Zozo's death, police confirmed that there are no leads, nor any concrete evidence linking anyone to the murder. The police are continuing with the investigation.

## Progress

South Africa's National Task Team (NTT) is showing commitment and making steady progress toward addressing violence against LGBTI people. The NTT is made up of government departments, chapter nine institutions and civil society organisations. The team met in September 2013 to establish roles and responsibilities as well as to adopt different components of an intervention strategy to address this violence.

A further key development emerging from the meeting was forging a partnership with the National House of Traditional Leaders in the promotion and protection of LGBTI rights. Deputy Minister of the Department of Cooperative Governance and Traditional Affairs, Andries Nel, welcomed the request from the NTT to include representation from traditional leaders saying, "Through capacitating traditional leaders on LGBTI and other critical issues, you are also capacitating millions of people who reside in areas under the jurisdiction of traditional leaders."<sup>16</sup>

In August 2013, South Africa's Deputy Police Minister Maggie Sotyu said that the police had embarked on a programme to train officers about the rights of LGBTI people and sex workers. Police have repeatedly been accused of not only dragging their feet in investigating anti-LGBTI crimes, but also secondary victimisation of LGBTI people. Gender DynamiX and partners have also been working with the South African Police Services in Cape Town to develop Standard Operating Procedures to deal with transgender people.

UNESCO and GALA recently announced the continuation of a colloquium called *Transforming Classrooms, Transforming Lives: Combating Homophobia and Transphobia in Education in Southern Africa*. UNESCO and GALA held the colloquium in partnership with the Centre for Education Rights and Transformation (CERT) at the University of Johannesburg at the end of November 2013.

<sup>15</sup> Article adapted from one published by GL Opinion and Commentary Service.

<sup>16</sup> <http://allafrica.com/stories/201309231039.html>

## Next steps

- The region will not achieve gender equality if states deny so many people their equal rights. LGBTIAQ rights must be included in the post-2015 agenda.
- Lobby governments to repeal laws criminalising homosexuality and gender variant identity. Countries must commit to human rights and emulate good practice demonstrated by various countries for the protection and inclusion of LGBTIAQ people.
- Advocate that LGBTIAQ rights legislation is practically enforced and instilled in all sectors of society and social services: from institutions of education, law enforcement, the justice system, healthcare, government departments and in all work places.
- Advocate for the regional leader of LGBTIAQ rights legislation in South Africa, to enforce its laws and integrate these rights into its foreign policy.
- Create partnerships between media and civil society in order to foster a better understanding of LGBTIAQ issues and improve media coverage of them.
- Develop regional and national strategies to tackle homophobia, transphobia, biphobia and aphobia, ensuring that states equally implement them to make certain people are not excluded on the basis of their race, class and economic standing.
- Align the struggle for LGBTIAQ equality with other struggles such as gender, racial and economic equality.

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