

VOICES OF RESILIENCE:

A COMPILATION OF VISUALS AND LITERATURE ON
LGBTIQ+ EXPERIENCES AND RESEARCH



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Foreword

Storytelling, essays and visual have always been a powerful form of expressions. By capturing peoples lived realities and providing a platform for expression the voices of many marginalised groups can be heard and amplified in their authenticity. This compilation of visuals and literature sought to do just that. It captures and amplifies the lived experiences LGBTIQ+ persons, thereby demonstrating the power of their own voice. The stories, essays and visuals in this compilation cover a wide range of intersectional issues that remain cause of concern in the wider struggle for equality and non-discrimination based on sexual orientation and gender identity. From queer spirituality through navigating the social tensions of queerness and one's spiritual calling, to experiencing life as a black bisexual man and being made to feel like a second class citizen in one own's country; from the power of inclusive education as a tool for LGBTIQ+ advocacy to embracing the power of identity and expression and identifying barriers for refugee status, the contributors covered a wide range of issues and provided thought provoking insights into the daily lived experiences of LGBTIQ+ persons. But, beyond just telling these story, provoking though and capturing our imagination, this compilation, as goes the title, is an expression of the voices of resistance; that no matter how things maybe, there is always hope, that with voices being raised tomorrow will be better than today, that even after the rain of discrimination based on sexual orientation and gender identity, there is and will be a RAINBALL!

Acknowledgments

This compilation is a product of the Centre for Human Rights (the Centre), Faculty of Law, University of Pretoria.

The Centre is an academic department of the Faculty of Law at the University of Pretoria, South Africa. It also doubles as a non-profit organisation (NPO) and as a think tank. It therefore functions as a teaching, training and research department as well as implementing human rights projects with external donor funding. The Centre's reach is within South Africa and beyond, particularly on the African continent. The Centre enjoys 'observer status' with the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child. The Centre has also submitted cases before the African Court on Human and Peoples' Rights. It, therefore, identifies itself as a pan-African organisation. It specialises in human rights law and human rights issues on the African continent, while linking these to global human rights knowledge streams and discourses from other regions of the world.

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Walking grimy streets in impeccably polished shoes

Carl Collison



Operation Dudula?" he asked. "Ha, no. Those things, they don't bother me. Dudula what-what. No. We have passed through many atrocities back home. We have seen things. Difficult situations, more than this. We've seen people being beaten. People being forced to go and stay in places, in mountains, when Robert Mugabe lost the elections. We've seen people being cut. So to me, Operation Dudula is just a thing of 'it will pass'."

It is an Easter Sunday morning and Reverend Alphonsus Makanga is getting ready to head to church, where he will be delivering that morning's sermon.

In the small, sparse bedroom he shares with a cousin, the young reverend and I are seated on his double bed as he shares his story with me.



A gay man and ordained priest originally from Zimbabwe, Makanga was made to leave the church in his home country when the secret of his sexuality was uncovered. Or, according to him, suspected.

“It became really a difficult situation,” he says. “I remember a member of parliament invited me to her place. We chatted and she expressed her concerns about my sexuality. It was

a tense situation. I had to quit my post in Zanu-PF and I had to leave the church house. So I had to leave Zimbabwe not knowing where I was going. Just walk to the bus station, call my friends and family...” he says, trailing off.

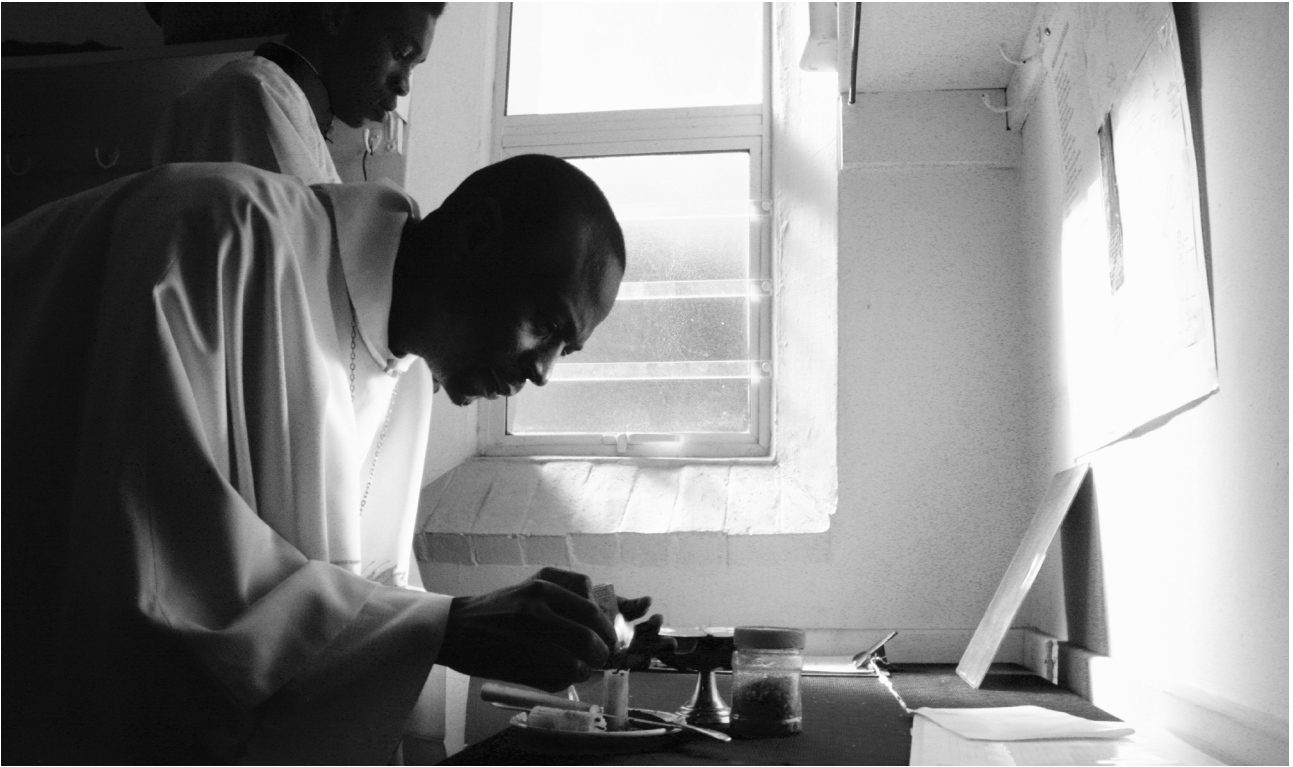
With nothing to survive on when he arrived in South Africa he took a job at a KFC.



“Then,” he adds, “one of the priests who is in Claremont heard about my story. Probably from his friends and other priests in Zimbabwe. Without me knowing, he approached the Bishop of Saldanha Bay and the Archbishop of Cape Town. So I received a

call. That was in March 2020. I was still at KFC then, so I asked the manager for the day off and I went to sit with the Bishop. I submitted all my papers; my qualifications. Then the Bishop

said, 'There are these Zimbabweans here who are gathering and they don't have a pastor, really. Can you assist?' I said, 'I'll take that offer.'"



Grateful as he was for the opportunity, the appointment, he says, "was not an easy thing".

"I was happy at first. But when I got

there, I realized we are living in a world where people communicate. Those people in Zimbabwe had already communicated with this community. So there's been a lot of tension.



"A few weeks ago, we had a terrible situation where some people in the church were protesting: 'We don't want this guy. He should leave.' They stood up inside the church to tell me, 'You are poor. We can't keep a poor priest like you.' They could not mention my sexuality,

because they know that in South Africa, we have this Constitution. So they can't discriminate directly. So they used another reason: 'He's poor'; 'He drinks alcohol.' But some

gentlemen stood up and said, 'No, this guy has been assisting us. He's a good preacher. He's a priest, after all. We should respect him.'"



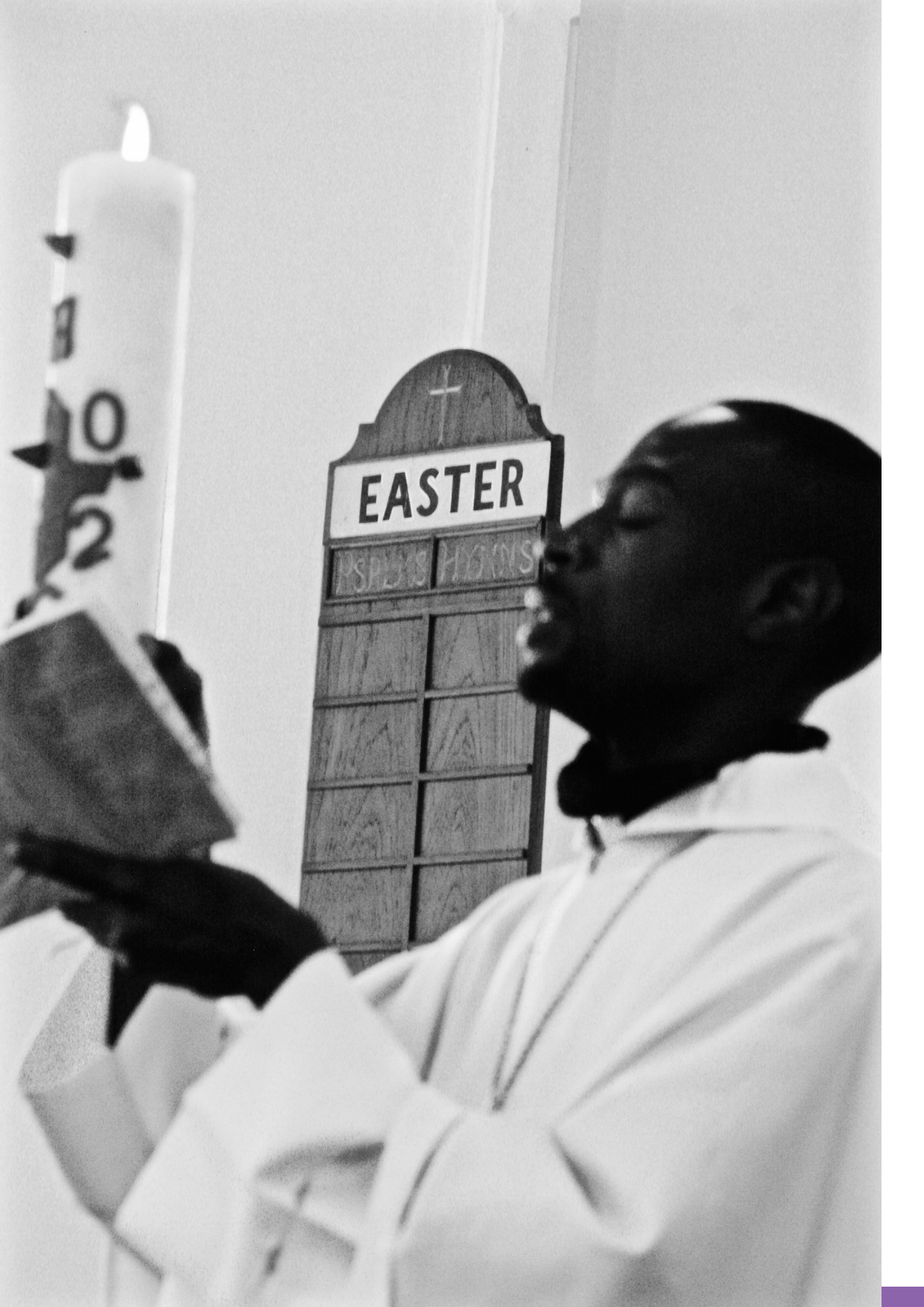
Shaking his head, he adds: "It was a bad experience. But since I've been working with Christians, I know it can be like that. I've seen priests being persecuted. Christians fighting against them. So it's part of life. It happens."

The tension, he concedes, is still there in his parish. "But," he adds, "since we are on neutral ground, they can't do much. No matter how they try to discriminate, they can't do much. They can't report me anywhere. Because I'm not a practising gay. I don't have anyone.



“So it has been a struggle. But things are getting better now. Things are getting better. I’m happy [living in South Africa]. But home will always be home. Life is a journey. It’s a struggle. But I’ve learnt to be up during the

downs of life. There are so many downs in life. I’ve lost friends who ended up committing suicide after facing all these homophobic attacks. A lot of people have committed suicide. They’ve gone to their rest.



“But we who are still here say, ‘We will continue doing the best that we can’. Our hope is to see Zimbabwe being a safe space where people can express their feelings. That’s why I don’t see myself really staying in South Africa for long. This is not a battlefield. Dududla is not our battlefield. We have a battlefield back home. Where we really need to put our feet on the ground. We are Zimbabweans. No one will come and stand up for our lives. So we have to stand on our own.”

Dressed and ready, he grabs his rucksack and heads to the bus stop, walking those grimy streets in his impeccably polished shoes.

The Visit

Bwaya Buluma

"No honey, today's not a day for orange, purple, or red on those luscious black lips."

"Go for subtle, try nude."

"Subtle?"

"Subtle, how now? I thought the theme was 'loud and bold'."

"Um, yeah. But more bold and less loud, I think."

"How's that even possible babe?"

"Not sure honey, but we have to make it subtle."

So, here I stand giving fashion pointers on shades of everything from clothes to lipstick. Yet, in defiance of all my efforts, the ever-growing mound of discarded clothing that arranges itself around my feet betrays the lie that I know what I am doing. Everything is a measure short. Too short. Too revealing. Too snug. Too skimpy. Too concealing. Too much. Too little.

The inadequacies of my wardrobe choices compete with my own feelings of inadequacy at this impending visit, itself clothed as a function. Or is it a celebration masquerading as a function and presenting as a visit? I didn't know. I don't know. I don't want to know.

Too many thoughts present too many choices, but not enough subtle options. Incensed I head to the living room to ask for a third opinion from our reliable third wheeler, Clyde.

"Well, what do you think?"

"About what?"

"About us?"

"Who is us?"

"Us!"

"Honey! Get yourself out here! It's Clyde for the tiebreaker!"

I indulge in my favourite stress reliever, shouting. Bellowing a commanding falsetto to summon my beau into the living room from the bathroom where she has taken up temporary residency.

"Hmmm. Now didn't you say she's a hardcore conservative?" The question is about my mother-in-law to be, the sole beneficiary of my myriad wardrobe changes. Today is 'parents' day for my beau and me. Or is it the first day of the rest of our lives? Ironically it is not my maiden visit, but every time seems like the first time and not like the last time. However, this time is the first time of a new time and the last time of an old time. Or is it simply time?

Instead of the hyped rainbows and butterflies, my thoughts are

blackened with dark thoughts and Purple Emperors. Purple Emperors. Butterflies still. Beautiful even. Resplendent in their indigo blue and white speckled wings underlain by a coal black layer. But they feed on rotting flesh and faeces while deliberately avoiding flowers. These are the thoughts that assail my mind as I consider the intricate relations that constitute the institution of marriage and its custodians - family, society, religion, state.

"This is it!"

Clyde's voice knifes its way through my thoughts with his verdict.

"You! keep the top and go get the brown skirt that you had on two outfits ago."

"And you! That blue woven chiffon saree with the Paige blouse will have you steal all eyes in the room, keep it."

"THAT IS IT!" He yells with conclusiveness.

The jury is out, and the verdict is in favour of the brown ensemble. Subtle.

I rush back into the bedroom to put on the almond knee length skirt to snuggle up to the beige silk blouse and taper down to the nude high heels. All complemented facially with just a trace of brown lipstick, no blush today, but maybe just a touch

of eye shadow- brown of course. For jewellery I shall stick with my rose gold wristwatch.

I meet my beau in the living room, resplendent in her saree and flats. Our choice of wardrobe is a Freudian projection of our upbringing. Therein comes the barrier, wielded by the custodians of the institution of marriage - family, society, religion, state. But we are fighting back tooth and nail. 'Love Will Conquer All', Lionel Richie's soothing voice is our battle cry. We cry our eyes dry every time we hit the lines of the fourth verse, 'Ooh and why | Why is the world so unkind | We surely can find peace of mind | If we only see the light, can't we see that |'

"Beep!!"

That's Clyde furiously tooting the car horn, a signal for us to come out. I don't blame him. We are notorious for our wardrobe changes. Then again, we are renown for our wardrobe tastes. It evens out.

"We are coming!" we yell out in practiced mischief.

"Yes, you both like coming. A lot. That's the problem!" An inside joke.

With that we dash out and hop into the love of Clyde's life. A seventh generation BMW 3 series presenting as the G20 saloon with a six-cylinder engine and semi-autonomous drive alongside adaptive voice and gesture

control. This is the wagon with which we ride into the sun-drenched horizon of another day in this never-ending love story starring my beau and me.

Why is it that we attach so much importance to other people's opinions concerning any and every aspect of our lives? Validation of a society that itself craves validation for the myriad prejudices it has constructed as its guiding morals. Morals that have been distilled into instruments of hate dispensed by adherents of otherwise all-loving deities of all shades of mankind. Adherence that has resulted in the legislation of these morals, and the persecution of those who fall outside this moral landscape.

Questions. Questions. Questions. All I have are questions, no answers. These questions are foremost in my mind as I settle myself into the back seat of the car. A prelude to the psychological preparation for today's encounter with my prospective mother-in-law.

"Why are you in such a pensive mood?" my beau asks when she notices my trance like state as her hands snake their way into mine.

Then her luscious lips part to reveal a set of perfectly cut teeth, white as pearls encased in a light brown oyster. Slowly, she breaks into that bewitching grin that I fell in love with the first time it was directed my way

to light up my whole being. When it's coupled with a stare from those lovely brown eyes, eyes so intent I continually drown in them, my heart melts and my legs turn into jelly from the thighs down. That's not all, for my breath comes in short gasps of air and I lose my faculty of speech - to say nothing about thought. To crown it all my heart beats with the ferocity of a caged lion seeking release. And when she touches me...it's all over. Release! I don't care what anybody says, thinks, or does. She is mine. And I am not losing her for anything or anybody. EVER.

My beau's smile works its magic, it calms me. Speaking without words, that's our thing. But this time I give voice to the darkening clouds in my head.

"Oh, honey if only your mother could love us for us. Not for others."

"Babe, relax. We talked, she listened, she accepted. Us for us."

"I know. But. It was just us then, now there are others."

"It does not matter. It has always been mom and me. Us against the world. Others, well, they are just others. And when it mattered most, they 'othered' mom and me - then it was just us. So, it's just us, but now three instead of two."

My beau is an eternal optimist, nothing but rainbows and butterflies

in her world view.

No Purple Emperors.

“Traaaeeefiik iz beasy but movnn ...”

A rainbow cocktail of accents. European? British? American? Everything in-between? That’s the radio presenter nasally penetrating our conversation, Clyde’s turned up the volume. His way of switching the conversation to more neutral ground.

“Eish! Why this African speak through nose?” Clyde is onto his favourite rant.

“Well, darling, you need to get that deep African baritone on air asap!” I chide him.

“Give me a mic and a studio, I do it now now.”

“Yoh! Stop. You just passed mom’s gate” my beau calls our attention back to the road. One U-turn later and we are at the French wrought iron gates that announce the opulence of the homestead beyond.

“Hello, guests already arrived. Waiting, all waiting, waiting for you.” The gate guard mouths these words by way of greeting us as he comes to open the gate. I can’t help wondering why? Why are they waiting? For us?

Dark clouds. Purple Emperors.

“What, no jokes today?” my beau asks the gate guard.

He usually stages an elaborate performance of scanning the car and its occupants before cracking a joke or two about empty stomachs and dry throats. A cue for some change to be pressed into his palm. An African tradition. Subtle extortion. But this time he just grins and mock salutes while waving us through.

Maybe he has collected enough gate tax?

Maybe he is high on traditional beer?

Maybe there is no reason?

Maybe I just let it be?

We pass through a tree colonnade that is a fastidious arrangement of greenery and wind our way down to the veranda of the main house. My beau’s mother is already opening the door.

“Hugs, Kisses!”

“Kisses, Hugs!”

Secret greetings between a mother and her child, excluding the rest of the world in their intimacy.

“Hello, my children.” That’s for the rest of us. Clyde and me.

We step into the house and make our way to the lounge where the seated

mass of strangers rises to meet us, greet us. Hugs, partially. Handshakes, mostly. Mostly handshakes and conscious stares, no kisses.

I meet the conscious stares with gazes into their eyes. I see black and brown pupils dancing in cloud white seas, with a touch of blood red for those who were early on the liquor trail. That is all I see with my naked eye. But in my mind's eye they all merge and metamorphosize into blazing coals of hellishly fierce intensity. These visions from my mind's eye have me lowering my gaze in an instant.

I raise my gaze to find my beau's mother smiling. Hold that picture. She is smiling and, oh my God, she is smiling at me!

Before you write me off as a card-carrying member of the lunatic club allow me to bring you up to speed. I've been going out with my beau for nearly four years during which I discovered a rare phenomenon, a ninth worldly wonder. My beau's mother smiling at me. The battle for her acceptance began in the third month of the first of these past four years.

Acceptance.

Acceptance of her, of me, of us.

Also, by her, by me, by us.

Acceptance of us for us.

I smile back. "Nice day for a barbecue, isn't it? Mom."

"Indeed, it is my child, indeed it is."

My hand instinctively straightens out my hair, blouse, skirt. All at once. Signs of nervousness, and the pressure to impress.

Got to have my best foot forward.

Must come out a winner now that I am out.

"Ladies, why don't we sit out on the back veranda?"

A loud motherly voice booms through the lounge. I locate its origin in a well fed and well-appointed mother figure, bedecked in pearls and wrapped in a flowery white pleated silk dress.

"Sure, why not? We really ought to spend some time away from all this testosterone."

Gender assignation through acclamation. Acclamation in the form of roaring male laughter. Not too sure where that leaves us 'visitors' though. Not too sure where to go. Very sure not to mingle with strangers though. I unconsciously move towards Clyde and my beau. My safe space.

"My child what are you standing there like an extra leg for? Or have you become too much of a westerner to help your mother serve her guests?"

My beau meekly proceeds towards the sound of mom in the kitchen, her meekness belies the fact that I shall use such scenes to chide her for leaving me at sea. I can't follow, guests don't go to people's kitchens uninvited.

"When in doubt, eat!" Clyde says and makes a beeline for the dining table, which is groaning under a bulk of delicacies. I follow in his wake.

"Here, come sit next to me." He taps a chair next to his. I oblige.

"Well, you seem ok."

"Why wouldn't I be?"

"Aren't you tense? Worried even?"

"About what?"

"About us? About here? About us being here?"

"Nope. I know what you are thinking. But three things. Money. Class. Exposure."

"What do you mean?"

"Exactly that. Money. Class. Exposure. All folks here have all three, and most live abroad. There is nothing here they haven't seen before."

"Ah, Ok. I think."

Clyde loudly offers to pray for the bounty spread out before us and

I must exert a maximum of effort to avoid laughing out loud. I can never get him to say more than an 'Amen' in terms of prayer. He, however, manages to acquit himself honourably in that task. We serve. We eat. We chat. A brief respite from dark clouds and Purple Emperors.

"Are people chanting outside?" I ask after my ears pick up on a hypnotic rhythmic reiteration of words.

"Chanting or chatting?" asks Clyde.

"Shhhh! Listen..." But my attempts to filter out other sounds to tune in to the chant are suddenly stilled as a loud scream pierces the air.

"BABE!!!"

My heart beats. My heart stops. My heart runs. My heart bleeds. I am a chaos of emotions for I know that voice, that's the voice of my heart, the voice of the one I love. My mind races to process what's going on as my feet race towards the heart rending call whose intended recipient can only be me. It must be me. It is me.

But I never make it. My entire body is paralyzed, shocked to its core in an instant and then besieged with a searing blinding pain. I am now a ball of pain, doubled over. I don't know what is happening. I can't think and my brain's attempt to process is blinded by pain before it can catch up with the swift motion of my body towards the sound. I regress into

animalistic functionality. I grunt, I howl, I scream, I sweat. But mostly I just feel pain. Pain and more pain emanating from the back of my head at first. Then it works its way down my spine and permeates the core of my being, in rapidly incremental bursts.

I am being attacked!

Through the fog in my brain the wheels slowly grind, and the penny drops.

I am being attacked!

I am being beaten!

I am being mobbed!

I am being, killed?

But it is not about me. It was never about me. It has never been about me. It has always been about us. Us for us. I must get to my beau. I must save my beau. I must save us.

"Honey, hang on! I am coming!"

The command issued from my mind to my vocal chords is to scream and shout, I croak. A primeval guttural sound.

"Cl-l-l-y-y-y-d-e?" not even a croak, now just a feeble whisper.

"Don't worry my son."

Why is someone calling me their son?
I am no one's son.

"Don't worry boys. Prayers. Nothing but Prayers."

Boys? Prayers? I don't understand. I want this nightmare to end. Yes, that's what it must be, a nightmare. In a few seconds I shall wake up safe in the hands of my beau.

But that does not happen.

More pain. Through rapidly swelling eyes I espy Clyde, on the floor, bleeding. Why?

More pain. I am now outside. How did I get here?

More pain. Why is my blouse torn? Where are my shoes?

More pain. Where is my beau?

I see her, blurred. Is it her? Can I see? Why can't I see?

"B-----aaa----bbb----ee"

More pain. It is her. I think. She screams. I hear her. It is her.

More pain. More people chanting and shouting about sons, boys, prayers. And demons.

More pain. The pain of comprehension. The pain of betrayal. The pain of anguish. The pain of death. The pain of pain.

Marginalised experiences of Black Bisexual men in South Africa

By Zamokuhle Zulu

Identity development is a crucial and often stressful time in the lives of adolescents vexed with the age-old question of “Who am I?” and “what am I doing here” (McLeod, 2013). It is at this stage in life where some individuals come to the realisation that they are in the sexual minority, finding themselves in an even greater dilemma as they are now outsiders to the very heteronormative society they were raised in. This creates common adverse lived experiences in the lives of individuals in the sexual minority, which is why a significant number seek refuge in the LGBTQ+ community. Sexual minority refers to the spectrum of varying identities of sexual orientations and sexual/romantic behaviours that differ from the heteronormative. These respective identities intersect with existing social groups in society, such as race, gender, and class, which creates experiences that are unique to specific sets of intersecting identities. For instance, being Black, cis-male gender and Bisexual. Sexuality is often perceived to be binary with homo- and hetero- sexuality on either end, however, this overlooks all the individuals within the spectrum who do not conform to the latter and their experiences. One of these

overlooked and under-documented groups or identities is Bisexual individuals. In this essay I will explore the experiences of men in the sexual minority in South Africa, specifically focusing on Black Bisexual men’s experiences in relation to their sexual and racial minority while analysing the nature of masculinity. Lastly, I will investigate psychology’s role and involvement in the construction and maintenance of their lived experiences. For the purpose of this essay the term “Bisexual” refers to identities which fall under the Bisexual umbrella, which includes a multitude of non-monosexual identities and behaviours such as Pansexuality, Sexual fluidity, Hetero- and Homo- flexibility, non-labelling, men who have sex with men and women (MSMW), and curious or questioning individuals.

Being a member of the sexual minority comes with its own set of challenges, such as self-labelling, discrimination, stigmatisation and religious conflict which affect many areas in a person’s life from the intrapersonal and interpersonal to the socio-political. However, being non-monosexual -being attracted to more than one gender- brings

about a unique set of challenges and adversities. One of these is the dual nature of the discrimination they face. As with other individuals in the LGBT+ community, they experience discrimination from the heteronormative world they live in, but they also experience discrimination from within the homocentric LGBT+ community (Boccone, 2016). Internal conflict within the sexual minority group often stems from the fact that some Homosexual people use the Bisexual identity as a bridge before coming out as Homosexual, in fear of rejection, and may also perceive Bisexuality as a stepping stone for other homosexual identities. In addition, because of its dual nature, Bisexuality comes with the perception that it is more socially accepted than homosexuality. This, however, fosters the idea that Bisexual individuals are homosexuals who haven't completed the coming out process (Boccone, 2016). The world is increasingly becoming more inclusive towards sexual diversities, institutionally pioneered by South Africa -who is celebrating over 20 years of having a progressive Constitution which prohibits discrimination on the bases of gender or sexual orientation- observable through changing laws and policies allowing same-sex marriages, representation, and growing knowledge surrounding LGBT+ issues, but its explicit focus on homosexuality aids the further marginalisation, exclusion, and

erasure of other sexual orientations (Icard et al., 2018).

Interestingly, Bisexuals make up the majority of the LGBT+ community, however they are underrepresented in academic literature and media such as television programmes. Colloquially, spaces that are inclusive of or are explicitly in support of gender and sexual diversity are often labelled as "gay" spaces, such as gay clubs and gay pride events. Institutionally, with the passing of laws permitting same-sex marriage (which are also colloquially referred to as "gay marriages"). Hence, Bisexual individuals are often misidentified as heterosexual or homosexual depending on the sex of their partner(s). This perpetuates Bisexual erasure and feelings of their identity being invalid. Bisexuals face stigmatisations and stereotypes such as talks of them being promiscuous, unstable, and indecisive by both heterosexuals and homosexuals (Todd, Oravec & Vejar, 2016). These create suspicion and a lack of trust which makes it difficult for individuals who openly identify as Bisexual to get into committed relationships or get married. Arguably, female Bisexuality is commonly more acceptable, which is also observed in day-to-day life as it is socially acceptable for females to be intimate with each other, although female Bisexuality is often fetishized by heterosexual men (Sung, Szymanski & Henrichs-Beck,

2015). However, male bisexuality is more frowned upon by both men and women because of the fragile nature of masculinity. Fragile masculinity refers to the expectation for men to adhere to the strict standards of masculinity, what it means to be a man, which policies dictate men's behaviour initially through anxiety, preventing certain behaviours and punishing those who do not adhere by questioning their manhood, and potentially losing their respect or social status. Following that, intimacy between men is highly policed by fragile masculinity to the extent that casual non-romantic acts of intimacy, such as embracing, are either shunned upon, highly policed or taboo depending on the society; how much it is invested in the traditional, fragile, ideas of masculinity and the culture's perspective of gendered norms. Which further ostracises and marginalises men in same-sex relations, although this oppression occurs in degrees relative to the society (DiMuccio & Knowles, 2020).

In South Africa it was reported that Black South Africans had the highest levels of negative attitudes held against non-heterosexual identifying individuals compared to their white and coloured counterparts (Icard et al., 2018). Interestingly, it has been widely documented that pre-colonial Africans were very accepting of variations in human sexuality and embraced diversity. However, in

contemporary Africa, homosexuality and other sexual diversities are rejected and thought to be western ideas and against their culture, although these ideas originate from colonisation and the spread of Christianity through missionaries (Makofane, 2013; Murray & Roscoe, 2001). Following, in post-apartheid South Africa, Black people are the racial majority -numerically- who still experience oppression institutionally, economically, and socially with the prevalence of implicit biases and prejudice. In the broader global setting, Black people and other minority races are perceived as sub-human and constantly have their humanity, epistemology, and spirituality questioned. Therefore, Black sexual minorities simultaneously face racial oppression and oppression based on their sexualities. This intersection aggravates the experiences of sexual oppression of Black people, as Black people are racially oppressed and perceived to be sub-human but also many black people hold discriminatory ideas from contemporary African cultures' and Christian ideologies' strong views on non-heterosexuality. Furthermore, Black Bisexual men are positioned whereby they face an intersection of racial oppression from South Africa's racialised systems, sexual oppression from the heteronormative society, which is aggravated among black societies, they also face internal

marginalisation from within the LGBT+ community (Grosfoguel, 2016; Qian, Heyman, Quinn, Fu & Lee, 2017).

Further investigating the experiences of these intersecting identities requires the scrutinization of the lives of Black Bisexual men in South Africa from childhood. It is reported that children's relationships with their family is directly correlated to their future relationship commitments (Todd, Oravecz & Vejar, 2016). Young black sexual minorities who choose to come-out to their families, despite the high probability that they were exposed to intolerant ideologies from a young age by family, either implicitly through 'jokes' and comments or explicitly through their behaviour towards set people, often face negative responses such as shock and disappointment, but the rejection may even go to the extent of being disowned. On the contrary, choosing not to disclose their sexualities subjects them to a life of fear, anxiety, and shame which leads to internalised homo- or bi- phobia, a low self-esteem or self-hatred (Watson, Allen, Pollitt & Eaton, 2018). These experiences can potentially trigger mental illness in young men. Chances of rejection are increased when caretakers are uneducated, which is the case for many black people because of South Africa's history with the apartheid government and their racist laws.

Bisexuals face the same negative responses when coming out, however, they are also accused of sexual irresponsibility because their family may take it as them saying they are Bisexual as a way of trying to get attention or a way of justifying their promiscuity. In addition, Bisexuals' coming-out process occurs in two stages whereby they come-out the second time when they introduce their partner(s) to their family, which is likely to trigger feelings of confusion, aggravated by ideas of Bisexuality being a transitional stage or experimentation, with the perception of them having made a choice by choosing to have a partner of particular sex, further invalidating their sexuality. It was also reported that bisexual individuals experience heterosexual privilege such as increased family support and decreased hostility when involved with partners of a different sex, although ultimately this adds on to bi-invisibility and the invalidation of bisexual identities (Pennasilico & Amodeo, 2019; Todd, Oravecz & Vejar, 2016).

It is interesting to note that a 2009 study found that the prevalence of childhood sexual abuse was higher in Bisexual men when compared to homosexual men and that black men had the highest reports when compared to white and Asian men. However, it was speculated that the prevalence in black men

was actually higher than recorded because some feared to disclose out of shame of being viewed as a victim or homosexual which would be detrimental to their masculinity (Benoit & Downing, 2013; DiMuccio & Knowles, 2020). Childhood sexual abuse can be defined with reference to the participant's age at the time of the encounter, the sexual partners' age, the nature of the relationship, and consent laws of the state. Although empirically, the men's experiences meet the criteria for childhood sexual abuse, men are less likely to endorse it as abuse but rather as consensual sexual experiences (Benoit & Downing, 2013). This also traces back to the stereotypically hypersexualised nature of men and masculinity, which is aggravated towards Black men and among Black societies, which leads to the fetishization and objectification of Black men. These perceptions of Black men as sexual objects may be a result of the imagined link between race, masculinity, sex, and the male genitalia, and its size, which is further internalised and perpetuated by men and by society at large (DiMuccio & Knowles, 2020; Hirsch, 2018).

Black Bisexual men reported having childhood sexual encounters with significantly older partners, both men and women, which they often chose not to label as sexual abuse. However, according to South African law, this constitutes statutory rape

because the legal age of consent is 16. Further, investigating the power dynamics within the relationships also points to the sexual encounters being abuse. Young Bisexuals are vulnerable because of their insufficient knowledge about sex, their inability to fully comprehend its complexities for it to be consensual, and their internal conflict about their sexualities which may be aggravated by peer and family rejection or intolerance and which the older partner often takes advantage of, either consciously or obliviously. These factors indicate that there may be a certain level of coercion involved. Furthermore, the experience of childhood sexual abuse was correlated with a higher chance of engagement in risky behaviour, such as substance abuse, risky sexual behaviour later in life, and mental illnesses such as depression and anxiety (Allen, Myers & Williams, 2014). This may be a reason for the disproportionately alarming number of Black Bisexual men who are HIV positive, engage in suicidal behaviour, and the rate of mortality. Being a Black Bisexual man and HIV positive does not only feed back into the stereotype of bisexual promiscuity and sexual irresponsibility but further exposes the men to stigmas associated with the virus, both internally and socially. Experiences of and or fear of stigmatization in healthcare facilities prevents them from reaching out to get the help they need, both physically and

psychologically (Benoit & Downing, 2013; Pennasilico & Amodeo, 2019).

In a clinical setting, Black Bisexual men are diagnosed with a wide range of disorders from depression to substance abuse disorder. In efforts to treat their clients, psychologists use mainstream approaches to psychological illness which include the psychodynamic approach -which focuses on the significance of the conscious and unconscious mind in understanding psychopathologies-, and the cognitive behavioural approach -which focuses on the relationship between thought patterns and behaviour in reinforcing psychopathologies-. Although these are highly effective treatments, I strongly believe therapy only seeks to treat the symptoms while ignoring the underlying social ills and psychosocial abuse which cause them, thus individualizing the problem. Psychology's individualisation of such issues further perpetuates inequalities and marginalisation of certain identities by turning a blind eye on the socio-historical, environmental, and political factors at play. This idea is also raised in John Kearns' (2019) analysis on the effects of psychopathological labelling and diagnosis. He suggests that diagnosing patients pathologizes them while ignoring their lived experiences and the positionality of their identities in relation to oppression. In this context, as I

previously mentioned, the discipline has a lack of engagement with the underlying social ills, perpetuates the normalisation of monosexuality and the erasure of Bisexual identities. Further, I found there is very little research set in rural settings on the topic which biases the existing literature.

Therefore, given that individuals in the sexual minority experience oppression from the heteronormative society we live in, it was further observed that Bisexual individuals also experience oppression and marginalisation within the sexual minority (LGBT+ community) which is centralised in homosexuality. The popular idea of sexuality being a binary of homosexuality and heterosexuality perpetuates the invalidation and invisibility of Bisexuality, as bisexuals are perceived to be either of both depending on the sex of their partner, which is reinforced by the lack of research and media representation. Bisexuals are subjected to stereotypes of being promiscuous, unstable, and closeted homosexuals, although the oppression of male bisexuality is aggravated by fragile masculinity policing male behaviour. Moreover, racial minorities (non-whites) are perceived to be less than human by the racist world system and society we live in, which intersects with pre-existing oppressions and aggravates their negative lived experiences.

Although, internal conflict and oppression within the racial minority occurs simultaneously as it was found that in South Africa black people had the highest negative attitudes towards sexual minorities. This is followed by a concerning high number of black bisexual men with depression, who contract HIV and abuse substances, although this may also be linked to the high prevalence of childhood sexual abuse experienced by bisexual black males, which too often goes unreported. In psychology's effort to alleviate the effects of the negative lived experiences endured, it overlooks the social ills they result from. The individualisation of such problems

pathologizes the individual, further maintaining and perpetuating the oppressions and marginalization; in this case the marginalisation of black bisexual men in South Africa.

My positionality as an "openly" Bisexual, Zulu man who was born and raised in the townships of South Africa may have biased my interest in studying experiences which closely relate to my own. Having gone through similar experiences was advantageous in giving me a deeper insight on the topic at hand; however, this also put me at the risk of universalising my own perspectives and experiences.

References

- Allen, V., Myers, H., & Williams, J. (2014). Depression among Black bisexual men with early and later life adversities. *Cultural Diversity And Ethnic Minority Psychology*, 20(1), 128-137. doi: 10.1037/a0034128
- Benoit, E., & Downing, M. (2013). Childhood sexual experiences among substance-using non-gay identified Black men who have sex with men and women. *Child Abuse & Neglect*, 37(9), 679-690. doi: 10.1016/j.chiabu.2013.04.007
- Boccone, P. (2016). Embracing the Whole Self: Using the Empty Chair Technique to Process Internalized Biphobia During Bisexual Identity Enactment. *Journal Of LGBT Issues In Counseling*, 10(3), 150-158. doi: 10.1080/15538605.2016.1199291
- DiMuccio, S., & Knowles, E. (2020). The political significance of fragile masculinity. *Current Opinion In Behavioral Sciences*, 34, 25-28. doi: 10.1016/j.cobeha.2019.11.010
- Hirsch, A. (2018). 'As a black woman I'm always fetishised': racism in the bedroom; In Bedfordshire nightclub, white couples queue to have sex with black men. Meanwhile, black women are routinely shubbed on dating sites. Why do racial stereotypes persist when it comes to sex?. *Guardian Newspapers*, pp. 1-4.
- Icard, L., Zhang, J., Jemmott, J., Sandfort, T., Rutledge, S., Van Greunen, D., & Martinez, O. (2018). The Effects of Three Types of Sexual Orientation Victimization on HIV Sexual Risk Behavior Among Black South African Men Who Have Sex With Men (MSM). *Journal Of Homosexuality*, 67(4), 513-527. doi: 10.1080/00918369.2018.1547561
- Kearns, J. (2019). *Critical Psychotherapy and the Psychosocial Conceptualisation of Psychopathology (Masters of Art)*. Dublin Business School.
- Makofane, K. (2013). Unspoken facts: a history of homosexualities in Africa. *Culture, Health & Sexuality*, 15(sup1), 114-116. doi: 10.1080/13691058.2012.732749
- McLeod, S. (2013). Erik Erikson's stages of psychosocial development
- Murray, S., & Roscoe, W. (2001). *Boy-wives and female husbands*. New York: Palgrave for St. Martin's Griffin. ISBN 0-312-23829-0

Pennasilico, A., & Amodeo, A., (2019). The Invisi_les: Biphobia, Bisexual Erasure and Their Impact on Mental Health. *Punto Org*, 4(1), pp.21-28.

Qian, M., Heyman, G., Quinn, P., Fu, G., & Lee, K. (2017). When the Majority Becomes the Minority: A Longitudinal Study of the Effects of Immersive Experience With Racial Out-Group Members on Implicit and Explicit Racial Biases. *Journal Of Cross-Cultural Psychology*, 48(6), 914-930. doi: 10.1177/0022022117702975

Sung, M., Szymanski, D., & Henrichs-Beck, C. (2015). Challenges, coping, and benefits of being an Asian American lesbian or bisexual woman. *Psychology Of Sexual Orientation And Gender Diversity*, 2(1), 52-64. doi: 10.1037/sgd0000085

Todd, M., Oravec, L., & Vejar, C. (2016). Biphobia in the Family Context: Experiences and Perceptions of Bisexual Individuals. *Journal Of Bisexuality*, 16(2), 144-162. doi: 10.1080/15299716.2016.1165781

Watson, R., Allen, A., Pollitt, A., & Eaton, L. (2018). Risk and Protective Factors for Sexual Health Outcomes Among Black Bisexual Men in the U.S.: Internalized Heterosexism, Sexual Orientation Disclosure, and Religiosity. *Archives Of Sexual Behavior*, 48(1), 243-253. doi: 10.1007/s10508-018-1216-5



The Second-Class Citizenship of Queerness Posted by Dumelang Newspaper, 20 February 2021

Sixth Edition

By Boipelo Masebelanga

Over the years, gender-based violence (GBV) has worsened and garnered increasing attention through activism and more conversations surrounding it in the media and social circles. If the failings of the South African Police Service and the justice system were not already apparent, they are clearer than ever now. While a conversation is not enough to protect women, it is certainly a start. It is a start that is unfortunately yet to be realised for the queer community. Violence against queer people remains a reality in South Africa. So-called 'corrective rape' and hate crimes are enacted on a regular basis, enough to warrant



media attention, yet that attention is yet to be seen. This article tackles this lacuna in conversations about violence against the community. Where does the queer community fit in when GBV is discussed? Moreover, does the law do enough to protect the community from violence?



The introduction of the Civil Union Act 17 of 2006 was a great leap for the promotion of LGBTQIAP+ rights in South Africa and, dare it be said, the world. It represented hope that the queer community was seen both socially and legally. However, this recognition proved lacking when section 6 of the Act, which allowed official marriage officers to refuse to marry same-sex couples on the basis of conflicting beliefs, required amendment and approval. This previous right they held to discriminate against same-sex couples was accommodated, proving that the socio-legal realities of the queer community are an on-going battle. This is true politically too.

In July of 2019, despite the Economic Freedom Fighters generally supporting the Civil Union Amendment Bill (later signed by President Cyril Ramaphosa on 23 October 2020), some of its members voted against it in the National Council of Provinces. The reaction

was, of course, one of outrage. In their apology to the LGBTQIAP+ community, the party affirmed that 'no-one acting on behalf of a constitutional state can deny others their freedoms with the excuse of religion.' Nevertheless, the saga showed the prevailing belief some members of society hold regarding queer people: their rights are secondary to those of people who are other to them.

The Bill details that: 'In the case of [opposite sex marriages], the Marriage Act provides that a marriage officer...is not allowed to refuse to solemnise a marriage on the grounds of conscience, religion or belief.' This means that the couples will be married regardless of possessing characteristics, including characteristics of their gender, sex or sexual orientation, of which the marriage officer disapproves. The need for that provision is evidence that there existed and still exists discrimination against same-sex

couples. Despite the legal strides, the queer community remains relegated to society's fringes. According to the Hate and Bias Crimes Monitoring Form Project for the January 2013 to September 2017 period, 35% of hate crime cases involved lesbian or gay victims and 8% involved transgender victims. This excludes unreported cases, particularly those involving sex workers, verbal assaults, and cases that are not categorised as hate crimes.

According to a brief by the Hate Crimes Working Group, former Minister of Justice and Constitutional Development, Jeff Radebe, noted that 'hate crimes legislation would not only provide necessary tools to monitor and combat such crimes but would send a clear message that these violations will not be accepted.' He went on to say: 'In other countries, hate crimes legislation has been backed by extensive training for a variety of service providers, targeted policing strategies as well as the development of prosecutorial guidelines on hate crimes. Currently police in South Africa rarely investigate evidence of specific prejudice as a motivating factor in an offence.' In addition to increasing visibility, the government can become more active in this way to safeguard the queer community. Moreover, the transformation of school curricula to include queer history and realities would go a long way in humanising

queer people to society. This would then help quash the bigotry from whence the violence stems.

The issue then becomes about the disparity between law and praxis – in other words, real social transformation. The difference between constitutional law and its praxis is the values that inform the life of the everyday citizen... Including members of government. To bridge this gap, the queer community needs visibility on all fronts. The fundamental societal attitude towards queerness – one that keeps queer individuals in the abstract and far removed from normalcy – informs the lack of rigidity in the enforcement and protection of rights. The state, with its resources, reach and duty, has a particular responsibility to make the discourse on violence and the full enjoyment of human rights intersectional.

This is particularly relevant because South African equality jurisprudence favours substantive equality – which insists on heeding a legal subject's position in society historically and how that impacts their political, economic and sociocultural realities in the present. As was said in *National Coalition for Lesbian and Gay Equality v Minister of Justice 1999 (1) SA 6 (CC)*:

'It is insufficient for the Constitution merely to ensure, through its Bill of Rights, that statutory provisions

which have caused such unfair discrimination in the past are eliminated.'

This means that law must go further and ensure the actual bettering of previous victims' lives. Similarly, *Minister of Finance v Van Heerden* 2004 (6) SA 121 (CC) expresses that:

'[t]he Constitution enjoins us to dismantle [social differentiation] and to prevent the creation of new patterns of disadvantage. It is therefore incumbent on courts to scrutinise [the complainant's] history and vulnerability; the history, nature and purpose of the discriminatory practice and whether it ameliorates or adds to group disadvantage in real life context, in order to determine its fairness or otherwise in the light of the values of our Constitution.' [para 27] (emphasis added).

Beyond the politico-legal spheres, the pragmatic protection of queer people is held back by the lack of inclusive discourse surrounding their issues. This inquiry is best made in the context of GBV. The "call out" culture related to GBV is sustained by men who aim to retain their understated masculine respectability. Cis-gendered heterosexual men only speak up to appear to be men with

values; men that care about their homes, their mothers, sisters and daughters. Individuals belonging to the LGBTQIAP+ community, as outsiders to the nuclear family and other heteronormative structures such as gender binaries, are not afforded even that untrue consideration. The judicial future of GBV may slowly be changing but this still excludes harms specific to queer individuals such as 'corrective' rape. This, again, amplifies the pressing need for intersectionality in discourse. The increasing effort made to address violence against women does not reach the queer community because while queer people might be treated as badly as women their identities are not afforded the same recognition and acceptance.

Evidently, violence against queer people requires its own discourse and a more proactive approach from the state. Not only that, but also social recognition, visibility and acceptance. Once their identities are affirmed so will their struggles be affirmed. This will be made easier by greater efforts to implement the law that protects them. Until then, they can take comfort in the existence of this law and organise- with their better-positioned allies- to have it realised.

The CRC: A tool for empowerment for inclusive education for LGBTQIA+ students?

Bianca Dyers

Introduction

The Convention on the Rights of the Child (hereinafter referred to as the CRC) aims to protect children's rights, but aside from protecting children, there are provisions within the CRC that empower children. The right to be heard, the right to identity, and freedom of expression enable children to help them realise their potential and guarantee that decisions taken are in their best interest. These rights are fundamental in a school environment, especially for LGBTQI+ children, as they afford additional school protections. Minimising bullying, abuse, and discrimination in school can be done if the above mentioned rights are utilised. The government must implement these CRC provisions into national law. However, to effect real change in schools, school governing bodies must be mandated to ensure that these provisions are integrated into school policy to guarantee that all children are protected, particularly LGBTQI+ children. Schools cannot function without educators; they are the backbone of the schooling system. Therefore, it is the opinion of the author that educators have the most crucial role in providing inclusive education. Because

educators play such an important role, schools must provide training to educators to ensure that they possess the necessary skills to address these topics tactfully, respectfully, and, most importantly, integrate these rights within the school's environment. South Africa has an obligation in terms of various human rights treaties and soft laws to provide quality and inclusive education. This obligation raises the question of how can this be translated into schools providing a more inclusive educational environment for LGBTQI+ students?

The author will look at a case study expanding on the experience of eight students, including the author's own experience within a traditional school setting. The case study illustrates the discrimination and violations that LGBTQI+ youth experience at schools. Furthermore, this paper will focus on empowering LGBTQI+ students within schools by looking at three rights in the CRC; the right to be heard, information, identity, and freedom of expression. The author will expand on how these rights can empower LGBTQI+ students in an educational environment and provide more inclusive education for LGBTQI+ students.

Case Study: Their Voices

Their Voices

'Regularly, people tell me I do not have the right to live. (Nikita, 18, Transgender man, Russia)

'My childhood was all sunk in desperation day after day. Each school day went terribly for me [sic] because I was teased by class and schoolmates. Wherever I was, I suffered finger points, bullying, stone or slippers throwing from them [sic]. They laughed at me by yelling, "hey pe-de.'" (transgender young person Vietnam)

'The hardest part was when people would use words like "gay" and "homo" to mean bad... I found this even harder to deal with than outright homophobia because, while such usage is not a personal attack, it implies that it is bad to be gay.' (Dan, 18 New Zealand)

'I tried to apply for high school... The school told me that they could not accept me after seeing my gender listed as a woman on the health insurance card because they didn't have any precedent of having a transgender student and didn't want any trouble [sic] or anything bad to happen to me. ' (Hiroto, transgender man, Japan)

'One of my former classmates happened to be in the same class, and he ceaselessly warned my girlfriend to stay away from me. He fabricated a lot of rumours... That experience was horrific torture for me and every day, my thoughts were only on how to kill myself. Once I attempted to jump off a building to commit suicide but was stopped by others. I was greatly depressed and began cutting my fingers with a knife. I felt that the whole world had turned against me, and nobody was willing to help.' (Lesbian woman, 24 China)

'I'm constantly being attacked, I'm afraid of walking around the school, I don't even go to the school shop alone because I'm afraid of meeting those who bully me. In school, a few students from another class constantly accost me with remarks; they even made a rhyme about me.' (15, Poland)

'My school days were basically me hiding, hating myself, and never really knowing why. (Mia, 22 Sweden)

My schooling career was filled with self-hatred for being attracted to the same sex. I was constantly scared of being caught out by the ones closest

to me for hiding what I viewed as my dirty secret. Close interactions with the same sex would result in people hurling the word gay at me, which scared me further into the closet. I remember vividly having someone at school find out I was gay and have them tell all my friends. My friends distanced themselves from me, and the genuine fear that being gay would ruin my life made me not want to be queer. Even though the word gay as an insult deeply hurt, the lack of representation in my school made me even more fearful; it fueled my internal homophobia. I never saw someone who looked like me and had no one to identify with, even in the curriculum. Same-sex relationships were taboo, and teachers brushed it off, saying it is not in our curriculum when asked about it.

(The author - Bianca, 28, South Africa)

These are eight different accounts from eight diverse children/youth worldwide. Yet, they all have something in common; they were all severely discriminated against, harassed, victimised, and physically assaulted during their schooling years. School can be a hard place to navigate for any child, but it becomes substantially more difficult if you are LGBTQI+. The National School Climate Survey (NSCS) conducted by the Gay, Lesbian, and Straight Education Network showed that LGBTQ students still frequently experienced homophobic remarks

and harmful comments about gender expression. These students experience feeling unsafe at school due to their sexual orientation, being verbally harassed at school, being physically harassed, and physically assaulted because of their sexual orientation or gender expression. In some instances, students experience these homophobic comments at the hands of the staff at school. Other studies have indicated a link between these kinds of discrimination and health issues, such as depression, that these adolescents encounter.

In 2016, a national report called 'Love Not Hate', a national campaign targeting hate crimes against the LGBTQI+ community, was published. LGBTQI+ individuals aged between 16 and 24 were asked whether they were subject to discrimination or prejudice during their schooling years based on their LGBTQI+ status. The results indicated that 56%, more than half, experienced discrimination due to their status or perceived status. Absenteeism is a common occurrence among LGBTQI+ students who experience harassment at schools. According to a study conducted by GLSEN, 4.1% of LGBTQI+ students who had missed school because they felt unsafe or not welcomed at their school had come in contact with the justice system due to school discipline. The results further indicated that the most common form of prejudice that they

were subject to was verbal assaults, with 55% of the sample under 25 years confirming that they suffered verbal attacks at school.

As evidenced from the above, hostilities at school directed towards LGBTQI+ students negatively impacts mental status. LGBTQI+ students who experience higher levels of depression are more likely to not plan on completing high school. LGBTQI+ students tend to lose interest in school, which leads them to drop out or even consider self-harm. While there is little information in South Africa on the topic, a JAMA research letter found that approximately 40% of gay, lesbian, bisexual, or questioning students in American high schools have reported seriously considering suicide, compared to almost 15% of heterosexual adolescents. Additionally, nearly a

quarter of LGBTIQ+ students have expressed that they have attempted suicide. The JAMA research didn't comprise of transgender students. However, additional research has revealed that amongst the 40% of transgender adults who said they attempted suicide, 92% have indicated that they had made an attempted suicide before the age of 25.

These statistics paint a dire picture for LGBTQIA+ youth and their futures. The above should raise alarm bells for the government, school governing bodies, educators, and parents. More must be done to protect the right to education for LGBTQIA+ youth. Education is the most critical developmental block in early childhood and young adolescents' lives; if we do not protect the right to education for all students, we are failing our youth.

CRC rights to empower LGBTQIA+ students

The right to be heard

Art 12 of the CRC is the right of the child to be heard provision and is classified as a paramount provision of the CRC and is well-thought-out to be one of the overarching principles. General Comment NO. 12 (2009) on the right of the child to be heard contends that Art. 12 of the CRC '... is a unique provision in a human rights treaty; it addresses the legal and social status of children, who, on the one hand, lack the full autonomy of adults but, on the other, are subjects of rights' The right to be heard empowers children to give their views regarding decisions that will affect them. The Committee argues that the right to be heard is a significant element of the CRC.

Education is vital to the development of children, and the right to be heard is an effective way to ensure that the right to education is realised. The CRC Committee held that there is an ongoing occurrence of discrimination, violence, and disrespect prevalent within schools and classrooms. In a survey conducted in South Africa in 2010 indicated that 68% of gay men and 42% of lesbians who participated specified that they experienced hate

speech during their schooling. Such environments are not conducive to the development and growth of LGBTQIA+ children. Allowing students to have their voices heard in school would allow them to express their needs and realise their right to education fully. It would give students a chance to be seen in an environment where they have felt invisible for so long. Inclusion in a decision that affects them, representation in curriculums, representation in a student organisations, and additional protection against harassment are all mechanisms that would create inclusive educational environments for LGBTQIA+ students. The Committee encourages that States parties should take adequate steps to make available opportunities for children to express their views and that those views are given due weight. The Committee further recommends that states ensure that children have an active role in a participatory learning environment in all educational settings, including an educational programme in the early years. It is encouraged that school teachers consider the living conditions and prospects of the children while creating their lesson plans. This sentiment expressed by the Committee is vital as this indicates that the Committee is promoting an

educational environment that should be inclusive and be conscious of the needs of each child. Therefore, schools ought to have measures that will allow them to prioritise the needs of LGBTQI+ children and their needs within a school environment. The only way to meet the needs of LGBTQIA+ students is to provide a platform for students to express their concerns freely. Laura Lundy, author of 'Voice, is not enough: conceptualizing Article 12 of the United Nations Convention on the Rights of the Child' developed a model that wouldn't just give children a voice but ensure their voice is heard effectively. The model consists of 4 elements: space, voice, influence, and audience. The author is a firm believer that you cannot govern or protect a group of people unless you engage with that community about how they want to be governed and protected. This model is essential to give meaning to Art 12 of the CRC and ensure that it doesn't become a token for states and schools to meet the minimalistic obligation to hear children. The author would simplify the above terms as the following: space refers to providing children with a safe space that would allow them to express their views on matters that concern them. Voice refers to children facilitated to express their views. Audience means that the school board must actively listen to students who wish to voice their thoughts. Lastly, influence refers to children having the ability to implement their views regarding

inclusivity within the school with the support of the school governing body. These four elements are vital to ensure that Art 12 is given effect within schools.

The Committee held that having a child participate is essential for developing a social climate that inspires co-operation, mutual respect, and support needed for learning. The Committee additionally held that States and schools should encourage the development of independent student organisations, which would assist children in intelligently performing their participatory roles in the education system. Many schools in the United States of America have implemented the development of student organisations and the right to participate in these student organisations for LGBTQI + students. One of the many ways schools could help realise the right to be heard by ensuring that there are student organisations for queer youth. School policy must reflect that these organisations provide queer youth with a voice, particularly allowing these organisations a seat at school governing body meetings and engaging them regarding school policy and curriculum. An example of these organisations is the Gay-Straight Alliance (hereinafter referred to as the GSA). A GSA improves the school environment by providing a space to address harassment, verbal and physical abuse, and discrimination experienced by LGBTQI+ students.

In the author's opinion, a GSA would ensure that Lundy's model for participation is given effect in schools as it encompassed all four elements of the participation model.. GSAs are student-led, school-based clubs open to all student body members regardless of sexual orientation that advocate for improved school climate by challenging homophobia. According to Griffin and Ouellette, authors of Going beyond the gay-straight alliances to make schools safe for lesbian, gay, bisexual, and transgender students, GSAs are one of the most effective approaches for addressing the needs of LGBTQI+ students. The GSA ensures that

LGBTQIA+ youth are heard and allows students who have been subjected to harassment and discrimination the opportunity to freely communicate and be heard without the fear of negative consequences.

Furthermore, GLSEN contended that GSAs are vital as they promote respect for everyone within the school community. Allowing a GSA at school governing body meetings and having a student representative on the board would guarantee that LGBTQIA+ youth are permitted to influence school policy and curriculum to represent the community adequately.

The right to information

Every individual has the right to information, this right works in tandem with the right to be heard. LGBTQI+ individuals have the right to participate in schools and the right to information about their community. These rights are given effect through the GSA organisation but more so through the curriculum at school.

The formation of GSA organisations in schools has constantly received opposition from parents and schools with solid religious backgrounds. A non-profit organization called Parents and Friends of Ex-Gays and Gays (PFOX) argued that forming a

GSA is biased as they do not provide an overarching view of all the information relating to sexualities. PFOX contended that '[i]nstead of presenting all of the facts on sexual orientation in a fair and balanced manner, GLSEN (Gay and Lesbian Student Education Network), GSA (Gay-Straight Alliance), PFLAG (Parents, Families, and Friends of Gays & Lesbians), and other anti-ex-gay groups encourage confused and impressionable youth to immediately identify as 'gay' and thus ensure a future homosexual outcome that may be unnecessary.' Additionally, opposition from

students and parents is also a barrier to the formation of GSA and thus a barrier to effective participation and adequate information. Statements from parents and students such as 'being gay is fine, but not publicised, or that they shouldn't get to push it down other students' necks' act as a deterrent to information, as LGBTQI+ youth do not feel safe to inquire about the information they seek. Parents rely on Art 29 (c) of the CRC, which states that the education of the child shall be directed to the development of respect for the child's parents.

Emily J. Brown, in the article 'When Insiders Become Outsiders: Parental Objections to Public School Sex Education Program,' argues that parents have an inherent right to choose their children's educational upbringing. This right would allow parents to excuse their children from sex education programmes in public schools. The social anxieties encountered by many parents continue to exist even though proven that having an inclusive education and sexual education is essential for young people's health and well-being. Art 29 (1) (c) affords parents the right over their child regarding education, but this right is not absolute. Court weighs up the rights of parents against other rights of a child, especially Art 5 of the CRC, which provides that the State must respect the responsibility of parents, but that it should be consistent with the child's evolving

capacities and the child's rights within the Convention. In *Mozert v. Hawkins County Board of Education*, the case involved Christian parents who brought the suit, declaring that the materials allocated for a "critical reading" course violated their right to choose their children's moral and religious upbringing. The court, however, dismissed the parents' claim, providing that the programme did not result in a violation as it did not coerce students to confirm or reject any opposing beliefs. Additionally, the court held that public schools do not need to adapt their curricula to accommodate parental preferences. The courts weighing the parent's rights against the rights of the child and their evolving capacities is an indication that the parent's right in terms of Art 29 (1) (c) is not absolute. Courts recognise that what might be in the parents' best interest might not be in the child's best interest and that schools shouldn't be forced to change their curricula because parents might be opposed to it. There will always be opposition to LGBTQI+ individuals because of a lack of knowledge and fear; the GSA aims to remedy and address the lack of knowledge. With participation from LGBTQI+ students and guest speakers from the community, it offers an opportunity for queer students to receive information and different testimonies about their community, which can empower these students. In addition, GSA

sheds light on the prejudice that LGBTQI+ youth experience daily and can be instrumental in breaking down the fear and misconceptions regarding the community.

The right to information for LGBTQI+ students is vital as it safeguards that the school curriculum adequately represents the LGBTQIA+ community. An inclusive sexual educational programme is crucial for LGBTQIA+ youth, but they too should be informed about navigating the emotions they are experiencing. This is reiterated by research conducted by L. Kris Gowen and Nichole Wings-Yanez, who concluded that LGBTQI+ students want to be informed about STI patterns in same-sex relationships, and how to best prevent the transmission of STIs, information about autonomy and diversity, and information regarding relationships in general. The above illustrates that LGBTQI+ youth are curious about the same things heterosexual students are. They are too entitled to be provided with relevant information vital to navigating their adolescent years.

According to Gabriel Flores, many teachers are interested in having a more inclusive education that includes lesbian, gay, bisexual, and transgender (LGBT) themes and gay-themed children's literature. However, studies have been concluded and have found that many

teachers do not incorporate queer theory in their curriculum because of fear of disapproval from parents and administrators, lack of professional training, and negative attitudes. Having policies that address a more inclusive educational environment is essential, but educators must take active steps to incorporate these policies within the classroom. Melissa Schieble, author of *A critical discourse analysis of teachers' views on LGBT literature*, contends that educators should not just teach LGBTQI+ theme material but engage with the text with students' to unmask heteronormativity as the norm. Teachers believe that providing a more inclusive curriculum decreases the invisibility of LGBTQI+ families and gay culture from the mainstream curriculum. Another misconception but a common concern for parents is the assumption that LGBTQI+ themes or literature in classrooms would endorse homosexuality. Some parents fear that having gay or lesbian parents or gay or lesbian teachers might influence students to become gay, but these are untrue societal misconceptions. Encouraging LGBTQI+ discussions to ensure children would be less likely to harass and isolate LGBTQI+ students, thus creating a new generation that is more accepting of LGBTQI+ people. Some parents have expressed concern that young children cannot comprehend LGBT-themed discussions; therefore, it does not have any school place.

However, FLORES argues that children are beginning to form identities and friendships during early childhood, developing their own opinions; furthermore, children develop a sense of fairness and justice. Flores further contends that children are cognitively able to 'comprehend injustice, family, and cultural diversity.' This development of children is an indication that they are more open to the possibility of learning about different sexualities and different forms of families.

LGBTQIA+ youth deserve to be represented in their school curriculum. Being invisible in a curriculum has adverse effects on queer youth's dignity, self-esteem, and view of themselves in the world. Still, it has a significant impact on

how others view the community. Not adequately representing the community ensures that the stigma around the community will continue to prevail in schools and outside of schools. Schools should avoid affording tokenistic representation and provide selected classes covering LGBTQIA+ themes. Inclusive and adequate representation of LGBTQIA+ themes should be woven into all aspects of the curriculum, from biology to art and especially history. As vital as it is for students to learn about the anti-apartheid movement, it is crucial that all students learn about the queer rights movement. Representation within the curriculum will "normalise" same-sex relationships and remove the stigma around the LGBTQIA+ community.

Self-expression and determination

Right to identity & freedom of expression

Art 8 (1) of the CRC states that 'States Parties undertake to respect the right of the child to preserve his or her identity....' The right to identity is especially important for transgender and non-binary students who identify as having a different gender identity from their gender assigned at birth or not identifying as male or female. The right to identity allows these students to identify as they prefer and be called by their preferred pronouns. Non-binary and transgender youth in school face severe marginalization, more so than their LGB peers, and have even less access to remedies. These students encounter a host of daily problems, namely being called their biological name, wearing uniforms that they do not identify with, and having persons not respect their right to identify in terms of self-determination. In addition, transgender students are forced to use the bathrooms of their biological sex, which creates even more distress. Schools that respect transgender and non-binary students' right to be called by their preferred name and identify as the gender they request is giving effect to the right to identity as stipulated in the CRC. The

right to identity is an integral part of who a person is. Trans and non-binary students must have the freedom to identify in a way that makes them comfortable. Encouraging these students to embrace their identities is one of the best ways to empower students. A South African high school in the Western Cape accommodated the needs of transgender students' needs by allowing them to wear the uniform they identified with most and allowed the use of the pronouns they requested. This is a significant first step; however, we should not be appeased by these accommodations. It should be the norm in the schooling culture and policy that there are provisions for transgender and non-binary students.

The right to identity and freedom of expression are intertwined. If afforded the right to identity, transgender and non-binary students have the right to express their gender identity in whichever manner they deem fit without unlawful interference by the State or any other party. In the Constitutional Case of *S v M* (Centre for Child Law as Amicus Curiae), the Constitutional Court said the following: 'Individually, and collectively all children have the right to express themselves as independent social beings, to have their laughter as well as sorrow, to play, imagine and explore in their way,

to themselves get to understand their bodies, minds, and emotions, and above all to learn as they grow how they should conduct themselves and make choices in the wide social and moral world of adulthood.' The court further held that school policies, like a specific dress code, may discriminate against learners by limiting their ability to express their identity freely and advocating that a school should reasonably accommodate the needs of all learners. The above sentiment must apply to transgender students at schools whose identity does not conform to gender norms or identifies differently from their assigned gender.

There has been apprehension and unwillingness to afford trans student protections at school, not only from schools but also from the greater community. A huge contention at schools is the failure to provide gender-neutral bathrooms or allow transgender students to use bathrooms they identify with. Critics contend that it would be a safety risk to allow transgender individuals to use the bathroom they want. However, evidence shows that the safety argument is not justifiable. Many cities within America and school districts have protected transgender people's right to use the restroom of their choice. There has not been a rise in occurrences of transgender individuals attacking anyone or individuals pretending to be transgender so that they could have access to restrooms. Since the

debate about whether transgender individuals should be allowed access to bathrooms of their choice, there have been little to no reports about transgender individuals attacking a person. However, a survey conducted in 2019 indicated that 36% of transgender and non-binary students faced sexual assault due to restricted bathroom access. Schools should sheer on the side of caution by creating bathrooms for just transgender students to use; this creates this impression that they are different amongst peers, which could further fuel victimization and discrimination. If the safety of students was a genuine concern for schools and parents, then they should be enraged by the fact that 36% of queer students have been sexually assaulted, yet nothing has been done to protect these students. The safety argument is designed to limit the freedom of expression and the right of transgender students to identify how they would like to. It begs the question of restricted access to bathrooms for transgender students is a safety issue, or more so to further oppress and discriminate against persons whom society view as different.

The above rights are fundamental building blocks to inclusive education. These rights should not be taken lightly but rather championed in schools. GSA organisations and integration of queer theory into the curriculum would be ideal tools to break down faux safety concerns,

prejudices, and stigma that follow the queer community. Education is the key to changing perspectives; hence we need to start by building a new educational system representing all lived experiences of children in

schools. No child should feel alienated at their place of school; it should be a place that reflects who they are.

Conclusion

The CRC provides LGBTQI+ youth with significant rights to help empower themselves within an educational setting to ensure that they receive a more inclusive education. Critics of inclusive education for LGBTQIA+ youth fail to recognise that LGBTQI+ children are entitled to the same freedoms as their heterosexual counterparts. The right to be heard in an educational setting is the most fundamental right for LGBTQI+ youth. Art 12 of the CRC allows LGBTQIA+ children to raise awareness and advocate about the prejudice they are faced with and how this prejudice negatively affects their right to education.

Policies and legislation calling for inclusive education are of extreme importance; it places an obligation on schools and states to ensure that they take active steps to ensure schools are safer and more inclusive. The educators are the most powerful tools for incorporating these themes into the classroom and overall school environment. However, the teachers are the intermediaries between the law and the students. Inclusive education cannot succeed

if educators are not equipped with the correct training to navigate a schooling system where homophobic bullying is increasing.

Therefore, schools must provide mandated training for educators, which will allow them the necessary skills to engage with students regarding LGBTQI+ material. As set out above, LGBTQIA+ themes in schools are usually subject to opposition from parents due to irrational fears about the community or that their child is too young to be exposed to such material. However, as stated, these are misconceptions that have been proven to be false and have no evidentiary value, instead of creating more fear and perpetuating ignorance regarding the community. Educators whose religious views conflict with the curriculum should still be required to provide a lesson to students. Being required to teach regardless of their religion would ensure that educators do not indicate to students that being LGBTQI+ is not 'normal' and that it is a 'sin.' These views perpetuate discrimination and intolerance, which is not conducive to an inclusive learning environment.

Limiting data access is limiting progress: Home Affairs blocks access to refugee status decision-makers. Here is how we studied barriers to asylum LGBTI+ refugees

B Camminga, John Marnell, Amy-Leigh Payne, Mandivavarira Mudarikwa and Miriam Gleckman-Krut

Abstract

The South African Refugees Act 1998 affords protection to individuals persecuted based on sexual orientation or gender identity (SOGI). How and to what extent this legal provision has been implemented, however, remains unclear. The South African Department of Home Affairs (DHA), the state body responsible for asylum processing and adjudication, have stymied academic, lawyer and activist efforts to examine the Act's implementation. Instead there have been periodic reports and research papers by organisations, individuals and groups. These reports have largely been based on research with individual SOGI applicants, and have repeatedly noted that refugee reception in South Africa falls short of its mandate. Government officials and the public too often dismiss this

evidence as anecdotal or biased. We argue that data limitations with regard to SOGI asylum have severely limited advocacy, policy and transformation efforts. To overcome this evidentiary challenge, we reviewed 67 SOGI refugee status denial letters issued between 2010 and 2020. The full findings of that analysis are presented in *LGBTI+ Asylum Seekers in South Africa: A Review of Refugee Status Denials Involving Sexual Orientation and Gender Identity* (2021). This short paper puts our findings into the larger political context of data (in) access. We contend that in light of DHA's efforts to shut out researchers, our report offers novel insight into state perceptions and processes related to SOGI claimants in South Africa. We argue that our findings clarify the import of DHA working with researchers and activists on the issue of SOGI asylum.

Introduction

South Africa's Refugees Act (1998) provides explicit protection to people seeking refuge from persecution on the basis of sexual orientation and/or gender identity (SOGI). Section 3 of the Act states that a person qualifies for refugee status if they have a well-founded fear of persecution by reason of their particular social group. Section 1(xxi) defines that 'social group' to include, among others, a group of persons of particular gender, sexual orientation, disability, class or caste (emphasis added).

Explicit protection is unique among major asylum recipient countries globally. In the United States and Canada, for instance, applicants must first prove that SOGI can be grounds for persecution before submitting their claim. Section 3 of the Refugees Act emphasizes South Africa's commitment to protecting gender and sexual minorities, and in principle streamlines administrative processes for state officials and lawyers who adjudicate asylum cases in this area (Andrade 2020). This explicit refugee protection for SOGI minority refugees is of particular global import today due to the rising state-sanctioned violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI+) people across the world – from rising incarceration in Cameroon, to threats from Polish and Turkish authorities, and the

range of techniques of medical torture in India, Lebanon, the United States, Russia, Kenya, Ecuador, Peru, the Dominican Republic (Akinwotu 2021; Etutu 2022; Antonie et al. 2015; Gevisser 2020; Mendos 2020; Mendos et al. 2020).

Despite its remarkable laws, South Africa denies refugee protection to most who apply due to SOGI-related persecution, including people who may well qualify under the law. Given how the Department of Home Affairs (DHA) gathers data on asylum applications, it is not possible to estimate the number of applicants who are denied status on the basis of persecution related to SOGI. It is undoubtedly low. The country denies refugee status to an estimated 96% of all people who apply (Amnesty International 2019). In a non-random sample of 100 clients at their clinic, the local LGBTI refugee-run paralegal clinic, People Against Suffering, Oppression & Poverty (PASSOP) (2012) reported that 96 clients who applied for asylum on the basis of SOGI were denied.

The challenges and risks faced by LGBTI+ asylum seekers and refugees living in South Africa are complex and multiple. As PASSOP (2013) notes, some of these challenges are similar to those faced by the South African LGBTI+ community more broadly – verbal abuse, harassment, violence, stigma and discrimination. LGBTI+ asylum seekers' experiences

are exacerbated by their tenuous legal status. Research shows that documentation is one of the most significant hurdles for individuals seeking asylum based on SOGI. Researchers and organisations have regularly published reports and articles to this end, indicating how refugee reception in South Africa has fallen short of its mandate (Access Chapter 2, 2019; Chikalogwe et al., 2019; HIAS 2015; Koko et al., 2018; Mudarikwa 2017; Moodley, 2012; ORAM 2013; PASSOP 2013; VanOverloop unpublished). These reports, however, have largely been based on research with individual SOGI applicants, given that the (DHA), the state body responsible for asylum processing and adjudication, has largely remained impervious to research efforts.

This article brings together research on the causes and effects of fractures between legal promises and practices for LGBTI+ asylum seekers in South Africa. We include data from a research study we recently co-authored, LGBTI+ Asylum Seekers in South Africa: A Review of Refugee Status Denials Involving Sexual Orientation and Gender Identity (2021). Our intention is to identify shortcomings in asylum adjudication as well as methodological obstacles facing activists, scholars and refugees in this area. We clarify the importance of DHA continuing its efforts to collaborate with researchers.

A note on terminology before we begin: we use the term 'LGBTI+ asylum seekers' or 'LGBTI+ refugees' to refer to people who have applied for, or were eligible to apply for, refugee status in South Africa on the basis of persecution related to sexual orientation or gender identity (SOGI). We use these terms for two reasons. Firstly, this is how many respondents in our study referred to themselves. Second, we use the term because other identity categories – lesbian, gay, bisexual, transgender and intersex – are in theory encompassed by this acronym. The individuals referenced here self-identified as lesbian, gay, bisexual, transgender or LGBTI when accessing legal support. To our knowledge, no applicants identified as intersex. We add a plus symbol (+) to the acronym in recognition that there may be more identities represented in this sample than we are aware of – identities that do not have English equivalents, that are yet to be named, or that people experience more saliently in certain locales or at certain periods of time. Furthermore, many people we met referred to themselves as refugees, even if we met them in legal clinics precisely because the state had denied them such a status. Like our research participants, we use the terms 'LGBTI+ refugee' and 'LGBTI+ asylum seeker' interchangeably. In doing so, we allude to the failure of legal categories to reflect individuals' self-identifications and lived experiences.

Literature

South Africa is a global leader in policies protecting SOGI refugees. Yet almost all people who apply to the South African government for refugee protections based on SOGI are denied. How does this happen? We contend that some of the answer stems from limited data access. As of late, DHA does not allow researchers to interview or observe asylum decision-makers. The government also often fails to release legal records to refugees and their legal representatives. Those of us working to understand and improve South Africa's shortcomings regarding SOGI refuge remain reliant instead on interviews with asylum seekers and refugees. This subjects research on LGBTI+ asylum seekers in South Africa to accusations of bias. The DHA is stymying productive advocacy and institutional transformation by limiting the data that advocates can gather on the asylum system.

Studies draw attention to the difficulties LGBTI+ persons face when lodging asylum claims through the DHA, particularly regarding claims' perceived legitimacy (Chapter 2, 2019). Available research reiterates that LGBTI+ asylum seekers frequently experience prejudicial encounters at the DHA (Beetar, 2016). This is often attributed to a lack of training on the part of DHA officials (Amit 2011) or to bureaucratic backlog (Amnesty International 2019). Other

experiences include disorganisation, receiving hefty fines without adequate grounding, using religious injunctions against claimants, instances of being mocked, being taunted with religious verse, being asked to 'prove' sexual orientation and the persistence of both xenophobia and homophobia (Bhagat, 2018; Brown, 2015; VanOverloop 2016). To this day, the DHA website does not mention or provide advice regarding SOGI claims.

A decade of academic and activist research elucidates that bureaucrats' stereotypes, misconceptions and administrative shortcomings – in tandem with structural constraints within the DHA – contextualise the fractures between what the law says and how it is put into practice. As much of this research rests on interviews with people seeking assistance from the DHA, the government and the public have dismissed research on SOGI asylum in South Africa as anecdotal or hyperbolic.

Inadequate data reiterates the challenge for researchers working in this area. For example, in 2018 and 2019, respectively, Camminga and Gleckman-Krut submitted access to information requests to the DHA asking about trends in asylum applications submitted to based on persecution related to sexual orientation persecution. To Gleckman-Krut's application, the Director of Legal Claims at Department, replied on 5 March 2019: "The applications

for asylum are not classified as per your request and therefore we are unable to further process your request.” In 2018, Camminga requested data on the number of people applying for asylum on the grounds of persecution related to sexual orientation or gender identity, and numbers of refugee statuses awarded. They received almost an identical reply (Camminga 2019, p. 274).

To our knowledge, only four projects have been granted access to interview RSDOs regarding SOGI asylum. In three of those four projects, officials asked to remain anonymous and did not allow interviews to be recorded (Hakizimana, 2018; Okisai, 2015; ORAM, 2013). This means that researchers were not able to document quotations nor to attribute information that officials shared – which, again, threatens the DHA’s likelihood of taking research findings seriously. In the fourth study, perhaps explaining this recalcitrance on the part of RSDOs to talk about SOGI decision making, an interviewed DHA official expressed “defensive[ness] in response to concerns regarding possible criticism” (Palmary, 2016:

110).

Limited state access has meant limited available data and research on state processes of SOGI claims. This has created obstacles for refugees, lawyers and researchers devoted to advocacy and transformation efforts, who struggle to find ways to make their findings heard by decision-makers.

In an effort to work around the DHA’s data limitations, we reviewed 67 denial letters on behalf of 65 SOGI applicants between 2010 and 2020. *LGBTI+ Asylum Seekers in South Africa: A Review of Refugee Status Denials Involving Sexual Orientation and Gender Identity* (2021) provides crucial data, for the first time, on state processes related to SOGI claimants. We provide a brief overview of some of the more concerning findings regarding the enactment of the law and the violation of SOGI-asylum seekers’ rights in South Africa. These findings motivate our conviction that the DHA should work with researchers to better identify the shortcomings in the implementation of Section 3 of the Refugees Act.

Methods and sample

Researchers cannot gain access to decision-makers. This guided how

we gathered data on barriers to SOGI asylum. When an applicant’s asylum claim is denied in South Africa, they are provided with a decision letter. Guided by previous efforts to gather decision letters issued to

asylum seekers in South Africa (see Amit 2011), we designed a study that collected denial letters issued to applicants who applied on the grounds of persecution related to SOGI.

A full description of our methods are available elsewhere (Mudarikwa et al., 2021). In brief: The countries of origin represented in the sample, in descending order to number of applications analysed, are as follows: Uganda, Zimbabwe, Cameroon, the Democratic Republic of the Congo (DRC), Malawi, Kenya, Tanzania, Jordan, Nigeria, Sudan and Zambia. These applicants lodged claims at

the following refugee reception offices (RROs): Cape Town, Pretoria, Musina, Tshwane and Port Elizabeth. We estimate that the data represent the work of 32 South African refugee status determination officers (RSDOs) across these RROs. RSDOs identified 45 applicants in this sample as male and 20 as female.

In light of DHA's limitations on researchers, collecting and analysing decision-letters is the closest we can get to studying the decision-making process. Our data thus offers novel insight into state processes related to SOGI claimants in South Africa.

Findings

We identified systemic legal flaws in the application of the Refugees Act's provisions for SOGI applicants. These included flaws in evidence and reasoning.

The state identified applicants in this sample as only male or female, despite the fact we know from legal clinic work that transgender applicants are represented in the sample. Pervasive misconceptions regarding transgender identities mean that while transgender applicants are in the dataset, this is not identified or acknowledged in their letter. This suggests that RSDOs may be confusing sexual minorities with gender minorities and drawing

on evidence that may be less relevant and possibly even harmful to gender-based claims (Camminga, 2019). This is certainly the case with lesbian and bisexual claimants where the sample indicates that the experiences of cisgender gay men are being used as baseline evidence in all claims, obscuring the specific experiences of sexism and gender-based violence that these groups face. Research suggests that this phenomenon is not isolated to South Africa (Berg & Millbank 2009). We contend that RSDOs' obfuscation of evidence of persecution faced by transgender, lesbian and bisexual applicants constitutes a form of systemic gender discrimination within its SOGI asylum adjudication processes.

Next, we find that many SOGI applicants were denied based on inadequate evidence. We estimate that in 32 of the 67 letters analysed, RSDOs failed to conduct country-of-origin research in accordance with domestic and international law (see *Tantoush v. Refugee Appeals Board*). RSDOs relied instead on applicants' testimonies. In almost half of the cases we analysed, the RSDO simply refuted the applicants' testimonies outright without providing evidence as to why. Not only does this place an unfair burden of proof on the applicant, but it also heightens the risk of RSDO's relying on stereotypes to adjudicate the validity of an applicant's claim. In perhaps one of the most egregious examples, an applicant revealed a painful incident of sexual violence as part of his claim. This was flagged as suspicious in his denial letter. The letter states that if the applicant had really felt pain, he would not have chosen to be gay. Contravening both international and domestic legal norms, the same applicant was also told that he had

fled a Christian country with Christian values, and as such, if he were a Christian, he would not have become gay. As a further indication of reliance on stereotypes, several claims were denied because the applicant had children. Applicants were also denied refugee status because they had not been involved in any LGBTI+ political organising.

Third, we find that SOGI applicants are denied based on inappropriate evidence. In three cases, for instance, RSDOs cited country-of-origin evidence from the open-source software, Wikipedia, and used that evidence to inform decision making. When Wikipedia is used, the text is generally directly lifted, provided without context or scrutiny and is largely vague and inconclusive. The use of Wikipedia is inappropriate when considering applicants' fear of persecution from most of the countries in this sample, especially in light of readily available information regarding criminalisation (see Chiam et al. 2017; Mendos et al. 2020).

Conclusion

The potential issues and risks for LGBTI+ people who might claim asylum in South Africa were already beginning to be outlined as early as 2003 by those considering the development of South Africa's refugee regime (Sheldon, 2003). Since then, a host of research

reports and academic literature have pointed to key concerns and ongoing difficulties. The findings suggest that assuming bona fide claims are false places LGBTI+ refugees at further risk (Marnell, Oliveira & Khan, 2020). Indeed, literature based on the experiences of LGBTI+ refugees notes without question that LGBTI+ asylum seekers in South Africa are targets for violence and

discrimination and that this is only perpetuated when claiming asylum. In the absence of access to decision-makers, the written documentation provided in this dataset provides the clearest indication, possibly for the first time, of the workings of SOGI asylum decision-making by the South African state thus far. They largely corroborate findings in the available literature, which have largely been dismissed because they are voiced by those claiming asylum and offer specific insight into the current training, administrative and decision-making shortfalls within

asylum adjudication in South Africa. Not only do the letters indicate RSDO's disregard for the physical and psychological impacts of violence and trauma. They suggest that the South African state, rather than upholding its obligations under domestic and international law, is leaving SOGI claimants exposed to further exploitation and harm. We call upon the DHA to work with researchers to understand in more detail how asylum is adjudicated and subsequently how the process may be improved.

Bibliography

ACCESS CHAPTER 2 (2019) The Voice Research Report - Life experiences of LGBTI Refugees and Asylum seekers in South Africa. Pretoria: Access Chapter 2.

AMIT, R. (2011) 'No refuge: flawed status determination and the failures of South Africa's refugee system to provide protection', *International Journal of Refugee Law* 23(3):458-88.

AMNESTY INTERNATIONAL (2019) *Living in Limbo: Rights of Asylum Seekers Denied*. Johannesburg (AFR 53/0983/2019).

BEETAR, M. (2016) 'Intersectional (un)belongings: Lived experiences of xenophobia and homophobia', *Agenda* 30 (1): 96–103.

BERG, L. & MILLBANK J. (2009) 'Constructing the personal narratives of lesbian, gay and bisexual asylum claimants', *Journal of Refugee Studies* 22(2):195-223.

BHAGAT, A. (2018) 'Forced (Queer) migration and everyday violence: The geographies of life, death, and access in Cape Town', *Geoforum* 89: 155–163.

BROWN, A. (2015) 'Refuge in Performance: Restaging LGBTI Refugees in South Africa'. DPhil, School of Performance of Performance Studies, Northwestern University.

CAMMINGA, B. (2019) *Transgender Refugees and the Imagined South Africa: Bodies over Borders and Borders over Bodies*, New York, Palgrave Macmillan.

CHAIM, Z., DUFFY S., GONZÁLEZ GIL, M. (2017) *Trans legal mapping report: Recognition before the law* (2nd edition) Geneva, Switzerland. International Lesbian and Gay Association

CHIKALOGWE V., CHIGWADA E., MABIKA V., TSONYENI, P., CHIMBALANGA T. (2019) 'My home, my body, and my dreams: Reflections by LGBTQI Refugees in South Africa.' *People Against Suffering, Oppression and Poverty*. Cape Town

ETUTU, J. (2022) 'Parents of murdered queer Kenyan plead for help'. *BBC News*, 28 April.

GEVISSER, M. (2020) *The Pink Line*, New York, Palgrave Macmillan

HAKIZIMANA, N. (2018) 'LGBT Asylum Claims: The Case of South Africa'. Thesis for MA in International Relations, African Centre for Migration & Society, University of Witwatersrand.

HIAS. (2015) 'Triple jeopardy: Protecting at-risk refugee survivors of sexual and gender-based violence.'

HIGH COURT OF SOUTH AFRICA (2008) 'Tantoush v. Refugee Appeals Board and Others SA 232' 13182/06

MAGARDIE, S. (2003) 'Is the Applicant Really Gay?' Legal Responses to Asylum Claims Based on Persecution Because of Sexual Orientation', *Agenda*, (55): 81–87.

MARNELL, J., OLIVIERA, E. & KHAN, G.H. (2020) "It's about being safe and free to be who you are': Exploring the lived experiences of queer migrants, refugees and asylum seekers in South Africa.', *Sexualities*.

MENDOS, L., BOTHA, K., LELIS, R., LÓPEZ DE LA PEÑA, E., SAVELEV I., TAN, D. (2020) State-sponsored homophobia: Global legislation overview update' Geneva, Switzerland. International Lesbian and Gay Association

MOODLEY, Y. (2012) 'Receiving LGBT refugees in South Africa: Towards a culture of non-discrimination and human rights', Cape Town, UCT Refugee Rights Unit

MUDARIKWA, M., GLECKMAN-KRUT, M., PAYNE, A.-L., CAMMINGA, B., MARNELL, J. (2021) 'Barriers to protection: A review of refugee status denials involving sexual orientation and gender identity for LGBTI+ asylum seekers in South Africa', Cape Town, Legal Resources Centre

MUDARIKWA, M. (2017) 'Homosexuality as a grounds for asylum: the deplorable experiences of lesbian, gay and transgender refugees seeking asylum in South Africa' In *In Pursuit of Equality in South Africa*. Cape Town, South Africa: Legal Resources Centre

OKISAI, K.C. (2015) 'Sexual orientation and gender identity asylum claims and refugee protection under South African law', LLM Mini-dissertation, Faculty of Law, University of Pretoria.

ORAM (2013) 'Blind Alleys: The Unseen Struggles of Lesbian, Gay, Bisexual, Transgender and Intersex Urban Refugees in Mexico, Uganda and South Africa - Part II: Country Findings: South Africa', Germany, Sigried Rausing Trust.

PALMARY, I. (2016) *Gender, Sexuality and Migration in South Africa: Governing Morality. Migration, Diasporas and Citizenship*. London: Palgrave Macmillan.

PEOPLE AGAINST SUFFERING OPPRESSION AND POVERTY (PASSOP) (2013) 'Economic Injustice: Employment and Housing Discrimination Against LGBTI Refugees and Asylum Seekers in South Africa', New York, Open Society Foundation.

VANOVERLOOP, K. (unpublished) 'Comparison of refugee law relating to LGBTI asylum seekers in South Africa and the United States', Cape Town, University of Cape Town Refugee Clinic.

Abstract

This paper is based on a research conducted on how gay men conceptualise and experience the Black middle class. Studies on the Black middle class mainly focus on heterosexual married-couples with children. This erroneously suggests that the Black middle class is comprised of only a heterosexual nuclear family type. However, with the legalisation of homosexual unions in South Africa, it is important to not ignore the lived experiences of gay men regarding their middle class status. There is a lack of studies on the Black middle class as experienced by gay men and how it

influences their experiences of their livelihood. Thus, this study aimed to explore how Black middle class gay men define and experience the middle class position. Through the qualitative approach, data was collected using life history interviews with five Black middle class gay men living in Johannesburg. Participants revealed three key indicators in how the middle class position is defined and experienced. These indicators are; income, affordability and geographical location. These indicators are important as they offer options and opportunities since Black people do not have generational wealth.

1. Introduction

When people are categorised, they are ranked according to how they live, and this can sometimes be seen in the purchase power of individuals as based on capital. The middle class is classified as the social group between the upper and working classes. Conceptualising the middle class has become fluid and based on subjective experiences. When we study the Black middle class, we aim to make a distinction between classes on the basis of race. In this way, Blackness is associated with a lifestyle that enables such individuals to live beyond simply satisfying basic needs. South African studies on the Black middle class

have been growing since 1994 (Krige, 2015; Alexander, Ceruti, Motseke, Phadi and Wale , 2013; Southall 2004). These studies illustrate the complexities in conceptualising the Black middle class position. Contemporary studies on the Black middle class emphasise economic and political possibilities, as well as issues around the growth of this class (Krige, 2015; Khunou, 2015). The growing interest in understanding the Black middle class in post-apartheid South Africa is a result of the socio-economic and political changes that resulted from the end of apartheid and the enactment of legislations to address past inequalities such as, like affirmative action and the Black Economic Empowerment (BEE).

Critics assert that affirmative action downplays merit, is reverse racism and keeps South African society racialised (Leon, 2008).

The Black middle class must be understood within the context of Black class mobility. While the Black middle class is expanding, it does so against the rapidly increasing level of unemployment. Relative affordability in a context of none or low affordability reinforces members' self-placement in the middle class. Affordability is closely linked to debt. Consumption ranges from the need to afford better education, homes or expensive cars. The Black middle class is full of credit cards and personal loans used to differentiate themselves from the broader Black population showing how debt is being instrumentalised

for middle class location. Black middle class and the notion of conspicuous consumption erroneously suggest that Black people as members of this class consume for the sake of consumption.

This article provides a detailed discussion of how the Black middle class defines and experiences the middle-class position. The next section provides extensive academic research on the concepts of middle class and the Black middle class. Following this section, a brief explanation of the methodology and theoretical framework is addressed. A discussion of the findings from five Black middle class gay men is then given. Finally, the article will conclude by providing a summary of the arguments made.

2. Literature review

Karl Marx regularly used the term class in his written work and was generally taken to have implied a gathering of individuals in related situations concerning their control of the means of production (Bertell, 1968). Class for Marx was constantly characterised as far as its potential for conflict. According to Marxism, there are two great classes of society: the bourgeoisie and the proletariat (Larsen, Nilgen, Robinson, and Brown, 2014). A class is defined by the ownership of property and lack of such ownership (Dahrendorf;

1959). Burger, Steenkamp, Van der Berg and Zoch (2015) observe that the idea of class has advanced since the era in which Marx theorised, yet education, societal position, earnings, riches and shared life points have stayed fundamental to the meaning of class. One of the primary pressures is whether education or wage is at the heart of defining of class (Atkinson and Brandolini, 2013; Birdsmall, 2010; Pressman, 2007). In addition, because education enables class mobility, it was a strong value and everything important for the black middle-class participants in the study. The concept of class speaks

of any group of people found in the same socio-economic situation.

The underlying assumption is that people who fall in the middle-class position can buy items beyond basic food. Visagie (2013) writes that in South Africa, the middle class position is described as a household of four individuals with a monthly income of between R4 500 and R40 000 after tax deductions. Furthermore, Visagie (2013) states that thinking about the middle class is complicated by the differences in income. Ndletyana (2014) on the other hand describes the middle class position as individuals who do not own the means of production if we were to compare them to the elite class. The middle class is no longer only described in terms of occupation and income, as it includes other markers such as consumption habits, ambition, and place of residence. Therefore, Lopez and Heinstejn (2012) state that the operationalisation of this concept is a work in progress.

Literature on the Black middle class has predominantly focused on issues of mobility, the effects of government policy and questions of distribution and redistribution (Visagie, 2011). In analysing the Black middle class position, it is noteworthy to recognise the advancement of this class since 1994 (Alexandra et al., 2013; Krige, 2013; Southall, 2004). Ndletyana (2014) states that the middle class

in South Africa makes up 17% of the population. Of this 17%, Black people make up 66% whilst the White population makes up 34%. In 1994, the Black population made up 30% of the middle class. Regardless of this growth, there are still a lot of Black people who are unemployed and unable to meet their basic needs in South Africa.

Moreover, in South Africa and the United States of America, the Black middle class often have dependants in the lower class. (Canham and Williams, 2016). This makes it difficult to dissociate oneself from a working-class identity. Divisions based on race among the working class do not disappear when one moves up the socio-economic register. Blacks have to grapple with how their identities are being shaped by particular mobilisations of White members and Blackness in a society where racialisation remains a feature. Ndletyana (2014) asserts that the Black middle class carries the working class's cultural values and practices. Therefore, it is less so the case that the black middle class struggles to reconcile its class and racial identity as suggested by Schlemmer (2005). Instead, it seems more plausible that segments of the new Black middle class have an identity that is historically defined and that might be reinforced by the continued dominance of White capital. Because most of the Black middle class is first

generation, it maintains close contact with working class relatives. It is common for middle class families to visit their working class family in the townships and rural villages. The Black middle class and working class share common values and practices (Modisha, 2007).

Krige's (2012) reading of Soweto suggests that something else is at play here. He illustrates that a closer look at the longer histories of social mobility, social distinction and consumption provides us with a more complex and nuanced reading of the possible meanings of class (Krige, 2012). Khunou and Krige (2013) suggest that racial economic differences, White middle class exclusionary practices, resistances to marketing labels as well as relationships with credit and debt all influence whether the Black middle class is identified with or not. One of the factors that has been used to signify middle class for Blacks is language; for example, Phadi and Ceruti (2011) looks at the language of class, arguing that language is used to signify individual social class position. Khunou (2015) writes that participants in her study were reluctant to identify as middle class. Schlemmer (2005) argued that the Black middle class lacked internal coherence and identity cohesion. Modisha (2007) suggested that the struggle to reconcile class positions was based on the social meanings. The middle class was about possession.

Middle classes are often acutely vulnerable to economic downturns and their ability to consume is increasingly cited as integral to their class identity (Brandi and Buge, 2014). However, because the advance of globalisation is so uneven, the middle classes of the global South are ranked at different levels of development. This unevenness is caused by the ability of discrete national middle classes to consume being different. The emergence and evolution of culture have been shaped directly and indirectly by the timing and manner of their incorporation into the global capitalist system (Lopez and Weinstein, 2012). The new Black middle class continues to look to the state to counter perceived racial barriers to their further upward progress. This reflects the insecurity which continues to define the Black middle class, especially those at the lower end of the scale in white collar jobs. These individuals are severely overstretched financially, their consumer patterns are outpaced by constantly rising prices and commitments such as school fees. With the economic slowdown, many now face the danger of retrenchment and the loss of their lifestyles.

Khunou (2015) illustrates that being middle class and Black African is heterogeneously experienced. In her life history study of the Black middle class, she found that, given the racism

of apartheid, the Black middle class position was experienced differently in different contexts. Moreover, Khunou (2015) also argues that given these experiences of the past, the Black middle class position in South Africa is precarious since Black people do not have access to historical wealth. Krige (2015) illustrates that Black middle class individuals are eager to experiment past the limits of their indigenous communities and certain cultural practices are renewed.

Affordability is a crucial factor in determining the parameters of the middle class and belonging (Phadi and Ceruti, 2011). Affordability means the ability to meet basic needs. An important distinction in Phadi and Ceruti's (2011) findings is between the extent of affordability and presence of disposable income after the basic needs had been met. Therefore, the ability to consume luxury items such as holidays and privately provided services such as education and healthcare as well as the type of residential area are the key distinguishing factors in Black middle class life.

Even though studies into the Black middle class have grown since 1994, the assumption is that this is because the Black middle class position is a post-1994 phenomenon. However, Mabandla (2013) illustrates that Black people occupied this position before

1994. Mabandla (2013) indicates that the Black middle class originated from the colonial era. This position was assumed by individuals who were educated and owned small-scale land.

In essence, it can be noted that there has been an influx of Black people into the unstable middle class position since 1994. However, this growth still leaves a lot of Black people unemployed and unable to meet their basic needs (Ndanga, Louw and Van Rooyen, 2010; Khunou, 2015). The middle class position does not have a clear definition. Whilst some scholars define it along the lines of wage, some note its lifestyle privileges. In South Africa, most individuals in the Black middle class hold a self-contradictory position of being part of the majority population but holding a minority status in occupational levels of organisations (Ndletyana, 2014). Black people have to grapple with how their identities are being shaped by particular mobilisations of White members.

For Black people, this middle class position is linked to familial ties with the working class relatives and communities (Canham and Williams, 2016), making it difficult to disassociate themselves from the working class identity. This is illustrated in the continuing financial support to these extended family members (Ndinga-Kangaanga, 2019).

As noted by Krige (2015), the Black people who are in the middle class are willing to have much more financial power as compared to their relatives. This section shows that the Black middle class in South Africa has grown significantly since the end of apartheid but remains precarious.

The Black middle class has no single definition since there are self-narratives and general assumptions thereof (Khunou and Krige, 2013; Visagie 2013). One identifies middle classes relative to their specific countries and societies; another defines the middle class by income in each country; another defines middle class by reference to socio-economic data such as poverty, income and expenditure levels. This study conceptualises the middle class as a way of life. Middle class values and lifestyle distinguishes them from the working class, and this can be seen by geographical location, how they dress and their consumption. Chulong (2005) writes that due to their location of the class structure, the middle class exercises a moderating influence on society and advocates for democracy (Chulong, 2005). Education makes the middle class less vulnerable to extreme ideologies, tolerant of other ideas, and questioning of the government (Chulong, 2005). Therefore, the definition of middle class in this study is that of individuals or households earning between

R10000 and R25000 with a tertiary education, employment in a white collar job and owning their homes or spending more than R4000 a month on rent. Based on this definition, Black Africans make up 51%, Whites 34%, Coloureds 9% and Indians 6% (Ndletyana, 2014).

Burger et al. (2015) writes that understanding consumption patterns of the Black middle class leads to conspicuous consumption, especially for this particular group. Conspicuous consumption negatively relates to asset ownership. The need to signal status declines consummately socially. Black middle class is not homogenous. Furthermore, the Black middle class is vulnerable because these individuals are uncertain of continued class membership. The Black middle class's conspicuous consumption as a share of total expenditure- spending pattern reflects that they are still catching on household set stock.

Bourdieu (1977) contends that one's practices are patterned in a system of outlooks that generate standards and portrayals. The habitus operates as a premise of habituated forms of action, illuminating the inclination for either fitting or not fitting practices in regular day to day life. In this way, we acknowledge how gay men represent themselves based on how they make sense of their habitus. Bourdieu (1987) writes that

the social world, as much as it can be perceived as multidimensional, is differentiated by the power of capital. Usually, people in the same social class develop practices that are similar. These practices include taste, perceptions and sensibilities which locate them in the same habitus. Research has revealed the importance of class difference (Barrett and Pollack, 2005; Valocchi, 1999) and class-based limitations on gay communities. For example, the community involvement of middle class gay men is organised according to economic and psychosocial resources and gender norms, which in turn excludes the working class (Barrett and Pollack, 2005). In this way, habitus refers to the systems by which individuals perceive and react to the social world around them. This habitus consists of interests, thoughts, beliefs, understanding of everything around and taste. Habitus is created in how we are socialised through education, family and culture.

For gay men, their habitus guides them in how they present themselves, either by increasing or limiting their access to economic, cultural, symbolic and social capital but also by shaping what they appreciate, their taste and how they make sense of the world. In other words, gender and sexual normativity rests on gay men's perceptions and their relations to other outlooks in life. Coles

(2009) adds physical capital to these dynamics among the others.

In line with Bourdieu's emphasis on the different types of capital, the focus is on educational, family background, and neighbourhood as types of capital that influence gay men's outlook and the processes of how they are different. McDermott (2011) illustrates class-based inequalities among gay individuals. She proposes that working class gay men cannot afford the gay lifestyle as presented by the middle class folks, due to limited access to capital. To anchor this thought, Ozyegin (2012) and Bereket and Adam (2006) add that the construction of gay men's identity is embedded in class and gender positions.

Following this class theory, queer theory traces its lineage from sexuality in its private and public forms. This theory mainly revolves around being non-conforming in terms of sexuality and gender, thus adding an ambiguous notion to being queer. Queer theory poses some important questions about the status of gender or sexuality categories and, in particular, puts into focus the relational structure of identities. Indeed, queer theory focuses particularly on the notions of sex and sexuality by considering all those marginalised sexual identities that do not fit into the hegemonic standards of being, therefore,

legitimizing the sexual minorities as alternative sexual orientations that can be defined by the term queer. It is precisely through the notion of fluidity that queer theory formulates a new understanding of gender identity by rejecting the binarism between

men and women. Habitus and queer theoretical frameworks were appropriate for this study because they provided an understanding of the different experiences of Black middle class gay men.

3. Methodology

This study was part of a bigger study on the Black middle class and intimacy. The study focused on the experiences of gay men to understand their conception and experiences of intimacy. To make sense of how Black middle class gay men define and experience intimacy, this study employed the qualitative approach. The nature of the qualitative approach involves interviewing people on their observations in their natural environment. This environment is uncontrolled, similar to the interpretations that they attach to symbols and meanings thereof (Sarantakos, 2013). The qualitative research approach focuses on how knowledge is interpreted and therefore generates meanings and understanding through in-depth data. Moreover, the qualitative research approach has its rich roots in how reality is constructed and then interpreted.

Data was collected using life history interviews with five Black middle class gay men to capture life accounts of

homosexuality, class and sexuality. The life history data collection method is a qualitative method where people or individuals are asked to document their life stories pertaining to a specific phenomenon or to account for every experience (Dhunpath, 2000). Moreover, life history data collection is a type of social science interview (Delamont, 1992). Furthermore, Butler and Bentley (1992) state that it is an informative approach drawing on life experiences. Life stories allow individuals to share their experiences with the researcher. The resulting life story is a narrative essence of what has happened to the person. It includes the important events, experiences and feelings of a lifetime (Polkinghome, 1993). The life history method of data collection was most appropriate for this study as it traced the shifting conceptions and experiences of Black middle class homosexual men. Life history interviews allowed the researcher to explore rich data on how sexuality, race and the middle class position had an impact on the experiences and conceptions of intimacy. This approach allowed for

an understanding of the experiences of Black middle class gay men between the ages of 30 and 50 at the time of the interview. Purposive and snowball sampling were adopted to select the five participants. Through purposive sampling, the researcher was able to design criterion that specify the participants well-suited for the study (Sarantakos, 2013). In addition, the snowball technique was employed because this study aimed to do life history interviews with individuals who have always been marginalised and thus hard to reach (Rumens, 2011).

The study site was Johannesburg due to the diverse and large population. Johannesburg is referred to as the city of gold for most participants as all except one came from outside Johannesburg. All participants were based in Johannesburg for employment purposes. Although there are many people residing

in Johannesburg, one should not assume that Johannesburg is a homogenous city. Johannesburg is characterised by diversity as there are individuals of different cultures, who speak various languages, with varying income levels and education (StaSA, 2011). It is the largest city in South Africa, the provincial capital of Gauteng and is the wealthiest city in South Africa. The majority of the 4.4 million people in Johannesburg are Black people (Stats SA, 2011).

Ethical clearance was approved by the University of Johannesburg's Faculty of Humanities Research Ethics Committee. In the study, participants were given an information sheet, which informed them about the study. Participants were also furnished with the consent form before participating to ensure their consent for participating.

4. Findings

The concept middle class is still not an easy one to define because it is subjective and value laden. Again, researchers on the concept agree that it is hard to pin it down (Pressman, 2015; Ndletyana, 2014). However, there is agreement that characteristics such as income, education, occupation, affordability and geographical location are some of the markers used to signal this class position (Burger et al.,

2015). In recent times however, researchers on the Black middle class have agreed that it is important to consider self-identification as an important attribute when studying class in South Africa (Khunou, 2015; Alexander et al., 2013; Phadi and Ceruti, 2011). Even though studies on the Black middle class have been on the increase since 1994, less is written on the experiences of gay Black middle class men. To unpack the argument of this article three key indicators are used to illustrate the

Black middle class gay men lifestyle. The argument below outlines income level, affordability and geographical location in detail.

4.1 Conceptions of Black middle-class

4.1.1 *Income level*

There are a variety of economic approaches to defining and measuring the middle class. This is because any definition of the middle class is subjective and value laden (Pressman, 2007). For example, Phadi et al. (2011) look at the language of class. This is self-identification and belonging to a certain class position. The argument put forth by Phadi et al. (2011) is that language is used to signify individual social class position. Defining the middle class position is slippery because there are many factors that can be used to measure inclusion. Income, education and position within the society are all used as guidance to define the middle class position. The underlying assumption in these conceptions is that the people who fall under this class position can afford beyond basic needs. Below are examples of the characteristics that the participants associated with the middle class position. Siphso shared that:

“Middle class, I think it is a term that is used to define people’s income level or differentiate between people’s income, and their wealth asset.”

(Siphso, 13 November 2017).

Siphso indicated that the use of the concept of class is not only to understand how individuals in the same position experience it, but also how it is used to differentiate between people and groups. This definition is interesting as it aligns with the findings in Alexander et al. (2013) and in Phadi and Ceruti’s (2011) research on being in the middle. Similar to Siphso, Sello saw middle class as being linked to economic boundaries. He said:

“The middle class is defined purely on the basis of an economic boundary, parameters.” (Sello, 22 November 2017).

Again, the conception above by Sello makes a link to boundaries, which could be read as differentiating between the middle class position and between different class groupings (low, middle and elite class). For Ron, middle class means one is well-off. He said that;

“...my definition of middle class is people who are well-off,” (Ron, 18 November 2017).

Public discourse on being in the middle as stated by Phadi and Ceruti (2011) is important as it defines it as one who can afford and is not in poverty (Phadi and Ceruti, 2011). So being well off as a conception of what it means to be middle class as stated by Ron suggests one who is not poor. However, being well off might mean

different things for different people as illustrated in Phadi and Ceruti's (2011) research.

Again, what is worth noting from the three conceptions presented above is that income is one of the attributes most commonly used to determine class status. From the three participants above, middle class is based on economic parameters. Salary is used to differentiate between social classes. In South Africa, thinking about what it means to be middle class is complicated by the low and the median levels of income and the wide income distribution (Visagie, 2013). Since income is used as a characteristic of the middle class, Kharas (2010) as well as Phadi and Ceruti (2011) argue that consumer behaviour gives the functional meaning of the middle class. In other words, the spending power of an individual locates them in the different social classes. It is for this reason that affordability is used as a significant marker for class position. Due to the pressure of apartheid, belonging to this class position is also a measure of racial transformation, opportunities and access to resources for Blacks (Southall, 2016).

4.1.2 Affordability and the Middle-Class Position

Echoing Southall (2016), the participants also viewed affordability as an important characteristic of

belonging to the middle class position. In Alexander (2013), affordability is linked to economic affordability, while Wale (2013) further links it to economic and cultural difference. One who affords is therefore not poor or working class. For example, for Liso being middle class meant the following:

"Middle class is someone who can afford to buy a house, someone who can afford to buy himself a car and live where he wants to live" (Liso, 06 January 2018).

What is worth noting in Liso's response is the freedom suggested when he says, "live where he wants to live". In South Africa, with its apartheid history and racialized residential areas, living where one wants to live is an indicator of freedom but also an illustration of a shift from Black poverty where choice is historically limited to living in historically Black residential areas. Similarly for Sello, affordability was linked to the freedom to live where you want to live, and this made is possible by belonging to the middle class position. He said:

"...It's about where you live, what you can afford." (Sello, 22 November 2017).

Where one lives is an important marker of class position as it shows one's affordability. It might also be a marker of one's occupation and income as without a job and an income, affordability is limited or

non-existent. Liso further argued that:

“Okay, the thing that makes me think that I am middle class is that I have a house, but not here in Johannesburg, back at home, it is in the suburb. And at the same time, I rent a flat here in Joburg which is expensive, I can afford my school fees, I buy whatever I need.” (Liso, 06 January 2018)

For Liso, owning a house in the suburbs and being able to afford to rent a flat in Johannesburg is an important marker of his middle-class position. The idea of affordability was also central in the research by Phadi and Ceruti (2011) who argue that affordability is the key concept in most Sowetans’ class patterns. This word is used to summarize the ability to consume. One’s class depends on what you can afford. Class was frequently described as a list of things that one possessed or lacked. Alexander et al. (2013: 29) defines affordability as a concept that ‘provides a link from subjective experiences (including classed culture and verbalised class identities) through income to occupation (or lack of occupation). Thus, it connects consumption and production’. Liso uses the purchase of a house and a car as one of the ways to show that he belongs in the middle class position. Liso further states that middle class people have a choice with their purchases. Moreover, Liso demonstrates how he relates to the middle class by referring to his

accomplishments and resources. He contends that he has a place within the middle-class positioning as he can manage the cost of it and keep up with the middle class lifestyle.

Although affordability was important for Sipho, his conception had a more social response attached to it as he argued that middle class individuals do not afford. He said that:

“...Like for example, think of the black middle class, they think they have arrived, it is ridiculous. For example, a guy goes to varsity, their only goal is to rent a flat in Sandton, drive a Mercedes or a BMW, they want to be seen, be at the right party, wearing Gucci. That’s bullshit, not when half of the family is in poverty. Yes, to you, Yay! but what about the people who made you? But there you are buying things you cannot afford, that’s another thing, middle class people can’t afford...” (Sipho, 13 November 2017)

What is interesting in Sipho’s conception is how he spins the notion of affordability. Is it just being able to show-off or is it about doing the basics of taking care of one’s family and getting them out of poverty? Unlike the other participants, Sipho questions the idea that what we see, such as where someone lives and what they drive is a real marker of affordability. Furthermore, Sipho contends that emphasising the ‘middle class lifestyle’ has a negative effect on kinship values since, in Africa, material support includes taking care

of one's kin. Black individuals who are considered to be in the middle class remain within the middle class category without enjoying the same access to assets and income (Alber, 2016). Ndinga-Kangaanga (2019) notes that it is important for the Black middle class people to send money back home because of the poverty that has overwhelmed Black communities. Ndinga-Kangaanga (2019) further states that historical origins of apartheid in South Africa engineered Black poverty and that South Africa's capitalist system has created structures that perpetuate poverty.

To understand Sipho's conception of affordability, it is important to also show that there is an assumption that the Black middle class are conspicuous spenders, and that they are highly indebted (Khunou, 2015). Affordability, seen in the visible things that mark one as middle class, might be a marker of indebtedness, not only resulting from spending for its own sake but spending to address the asset deficit resulting from apartheid's racial engineering (Krige, 2012). Sipho's contention of affordability might also be an indicator of the precarious nature of the Black middle class position where affordability is shaky and not lasting or far-reaching. Such an understanding echoes Khunou's (2015) contention that the middle class position is precarious as those in the position might drop out of the position if they lose their jobs,

since they are just recently entering that class position (Southall, 2016; Khunou, 2015). Ngoma (2015) adds that the Black middle class are indebted because they do not have historical wealth. Following these descriptions of what middle class entails, another indicator of this class position is geographical location.

4.1.3 Residential Location and the Middle-Class Position

Geographical location is a significant indicator in conceptions of the Black middle class. Under apartheid, urban housing provision for Black African households was characterised by exclusion and forced removals to marginal locations in urban areas. 25 years into the democratic state, a wide range of housing options are available to the Black middle class community. Blacks can now own or rent and move in or out of former Black or White suburbs as they see fit, but mostly as determined by affordability. Ndletyana (2014) writes that middle class Blacks have followed the typical pattern of suburban life. Exclusively White residential areas have now made way for relatively racially diverse suburbs. Moreover, residential mobility may also have economic causes, such as the need or desire for a better job elsewhere, or the expectation of financial gain in buying a house at the right time and place. In the United States, Black middle class people have more

favourable residential outcomes than poor Blacks have, but still live in poorer neighbourhoods as compared to the majority of Whites on all measures (Pattillo, 2005).

Below are examples that illustrate the geographical locations perceived or regarded as suitable for a middle class 'lifestyle'. In their articulation of residential mobility, Ron and Sello shared this:

"Uhm, the neighbourhoods I think the middle-class people would go for are your northern suburbs of Joburg, like your Sandton, Fourways, Dainfern, Midrand. The houses that side are over a million." (Ron, 18 November 2017).

"...It's about where you live, what you can afford." (Sello, 22 November 2017).

As illustrated earlier in discussions of affordability, neighbourhood choices are significant markers for middle class. The above quotes show us how this position is also associated with historically White suburbs. The new African middle class regularly live in spatially isolated urban housing (Hyman and Price, 2016). As indicated by Krige (2012), the middle class houses have high fences, paving, carports and big yards when you compare them to working class residential areas. Echoing Ron's sentiments, Ndletyana (2014) states

that in post-apartheid South Africa, numerous individuals from the Black middle class have moved into residential locations which were historically White.

On the contrary, Liso shows how residential choice shows that the Black middle class are not a homogenous group as some choose to live in townships even when they have acquired middle class status. Liso shared that:

"Nowadays it is difficult to categorise people because things have changed, even back home, we don't have homesteads, we find good houses even in those areas. The difference could be the person lives in remote areas, but the person lives in a house which is of a standard of the people who live in your Sandton, or Southgate and the person drives a BMW, but he chooses not to stay in town." (Liso, 06 January 2018).

There are different rewards that keep Black middle class people in the townships that might be absent in the previously 'White' areas. Their role in the townships exceeds economics into some being seen as role models (Donaldson, Mehlomakhulu, Darkey, Dyssel and Siyongwana, 2013). Other reasons for the reluctance to move to typical 'middle class neighbourhoods' are social and cultural factors (Donaldson et al., 2013).

5. Conclusion

In summary, class was discussed outlining how the middle class and the term Black middle class has been used and understood. As illustrated above, it is clear that the middle class position is an unstable position that is subjectively defined. Its definition is also context related. In South Africa, the middle class had positive results with more Black people entering this class position, but however, as mentioned above, this class is unstable. One of the reasons why Black people cannot live up to the expectations of the middle class position is that Black people do not have historical wealth (Krige, 2015; Burger et al., 2015). It was then important to understand how this precarious position impacts the experience of middle class for gay men.

This article has highlighted the conceptions and experiences of middle class as being based on income, affordability and geographical location. The three aforementioned indicators are interrelated as one's pay-grade determines their level of affordability and this buying power extends to where one chooses to live. As stated above, the middle class seems unstable. Black middle class gay men revealed that due to the instability of the middle class, affordability was an important indicator since being middle class

meant that you have buying power that is regarded as beyond affording basic needs. Most of the people found within this class seemed to be indebted hence the emphasis on affordability.

Accordingly, affordability for a 'middle class lifestyle' which might be depicted by living in a suburb may be the cornerstone for belonging in this social class. Blacks who are in the middle class position are perceived as people who have achieved beyond the past complexities for Blacks. Achieving beyond past complexities for Blacks includes bypassing some of the traditional gender relations, which might suppress gay men. In this study, the middle class position rewards these gay men (in particular) with better treatment in spaces that are usually considered heterosexual. The middle class position affords gays a voice to deconstruct appropriate ways of being according to traditional ways of man and woman.

Reference List

Alexander, P., Ceruti, C., Motseke, K., Phadi, M. and Wale, K. 2013. Class in Soweto. South Africa: University of KwaZulu-Natal Press.

Anacker, K. B. 2019. Introduction: Housing affordability and affordable housing. *International Journal of Housing Policy*, 19(1):1-16.

Atkinson, B. and Brandolini, A. 2013. On the identification of the middle class. *Income inequality: Economic disparities and the middle class in affluent countries*, 77-100.

Birdsall, N, 2010. The (indispensable) middle class in developing countries; Or, the rich and the rest, not the poor and the rest. Working Paper 207, Center for Global Development, Washington, DC, USA.

Bourdieu, P. 1977. *Outline of a Theory of Action* translated by Richard Nice. Cambridge: Cambridge University Press.

Burger, R., Louw, M., Pegado, B. B. and van der Berg. 2015. Understanding consumption patterns of the established and emerging South African black middle class. *Development Southern Africa*, 32(1): 41-56.

Brandi, C. and Büge, M. 2014. A cartography of the new middle classes in developing and emerging countries (No. 35/2014). Discussion Paper.

Canham, H. and Williams, R. Being black, middle class and the object of two gazes. *Ethnicities*, 17 (1): 23-46.

Dahrendorf, R. 1959. *Class and class conflict in industrial society*. (Vol. 15). Stanford, CA: Stanford University Press.

Khunou, G. 2015. What Middle Class? The Shifting and Dynamic Nature of Class Position. *Development Southern Africa*, 31(1): 90-103.

Khunou, G. and Krige, D. 2013. 'Why is it Difficult to be Black and Middle Class?' *Mail & Guardian*, 8 November.

Krige, D. 2015. Growing up and moving up: Metaphors that legitimise upward social mobility in Soweto. *Development of Southern Africa*, 32(1):104-117.

Krige, D. 2012. 'The Changing Dynamics of Social Class, Mobility and Housing in Black Johannesburg'. *Alternation*, 19(1): 19-45.

Krige, D. 2011. 'Power, Identity and Agency at Work in the Popular Economies of Soweto.

Lopez R. and Weinstein B. 2012. *The Making of the Middle Class: Toward a Transnational History*, Durham, NC: Duke University Press.

Mabandla, N. 2013. *Lahla Nguba: The Continuities and Discontinuities of South African Black Middle Class*. South Africa: Afrika- Studiecentrum.

Modisha G. 2007. A contradictory class location? The African corporate middle class and the burden of race in South Africa. *Transformation* 65: 120-145.

Ndanga, L. Z., Louw, A. and Van Rooyen, J. 2010. 'Increasing Domestic Consumption of South African Wines: Exploring the Market Potential of the Black Diamonds'. *Agrekon: Agricultural Economics Research, Policy and Practice in Southern Africa*, 49(3): 293-315.

Ndinga-Kangaanga, M. 2019. Towards an understanding of 'Black tax' and the Black middle class. *Business Maverick*, May 7, 2019.

Ndletyana, M. 2014. 'Middle Class in South Africa: Significance, Role and Impact'. Unpublished paper presented at the BRICS 6th Academic Forum, Brazil.

Phadi, M. and Ceruti, C. 2011. 'Multiple Meanings of the Middle Class in Soweto, South Africa'. *African Sociological Review*, 15(1): 88-108.

Pressman, S. 2007. *The Decline of the Middle Class: An International Perspective*. *Journal of Economic Issues*, 41(1).

Sarantakos, S. 2013. *Social research*. New York: Palgrave Macmillan.

Schlemmer, L. 2005. *Lost in transformation? South Africa's emerging middle class*. CDE Focus Occasional Paper No 8, Centre for Development and Enterprise, Johannesburg, South Africa.

Visagie, J. 2013. 'Race, Gender and Growth of the Affluent Middle Class in Post-Apartheid South Africa'. Biennial Conference of the Economic Society of South

Africa. Conducted by the University of The Free State, Bloemfontein, South Africa.
Visagie, J. 2011. 'The Development of the Middle Class in Post-Apartheid South Africa'. Accessed 5 March 2016.

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