

The human rights paradox of lesbian, gay, bisexual and transgender students in South African education

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OPSOMMING

Die Menseregte-paradoks van Lesbiese, Gay, Biseksuele en Transgeslagtelike Studente in die Suid-Afrikaanse Onderwys

Onlangse navorsing toon duidelik aan dat benewens geslag, seksuele oriëntasie waarskynlik die volgende sleuteleienskap is wat bepaal wie ons as mense is. Seksuele oriëntasie is een van die belangrike aspekte wat 'n persoon se identiteit, *persona*, selfbeeld, samehorigheid, gelykheid en waardigheid bepaal. Wanopvattinge en vooroordele lei dikwels tot emosionele, sielkundige en woordelike diskriminasie of viktimisasie, en kan selfs tot fisiese geweld teen lesbiese, gay, biseksuele en transgeslagtelike (LGBT) studente lei. Hierdie artikel ondersoek eerstens historiese voorbeelde van menseregteskendings teen LGBT-mense in Suid-Afrika, sowel as voorbeelde van teenswoordige menseregteskendings teen LGBT-mense, ten spyte van duidelike rondwetlike bepalings in hierdie verband. Ten einde die onderliggende faktore wat sulke skendings meebring te verstaan, word sosiale wanopvattinge aangaande LGBT-mense ondersoek, gevolg deur 'n bespreking van wat biologiese navorsing aangaande LGBT-oriëntasie aan die lig gebring het. Die Menseregtekommissie berig dat fisiese en sielkundige misbruik van LGBT-studente is menseregteskendings wat dikwels in die Suid-Afrikaanse onderwysstelsel voorkom. Die artikel voer aan dat stilsywe, wanopvattinge, miskennings sosiale vooroordele aangaande seksuele oriëntasie 'n "verskuilde kurrikulum" skep wat LGBT-studente se reg op waardigheid en gelykheid skend, en 'n paradoks meebring met die grondwetlike waardes wat Suid-Afrika se demokratiese bestel onderlê.

1 Historical Examples of Human Rights Violations Against LGBT People in South Africa

South Africa, as other countries, has a dark history of discrimination and prosecution against gay people. Since 1872, sodomy was a common law crime in South Africa, defined as anal or oral sex amongst men. This is in line with Texas legislation in the United States of America (USA), where the court upheld the law in 2003 that an act of sodomy between two adults of the same sex in their private homes would be illegal.¹ The

¹ *John Geddes Lawrence and Tyron Garner Petitioners v Texas* 125 S Ct 2472.

Sexual Offences Act² prohibited men from engaging in erotic conduct when there were more than two people present. section 20A of the Sexual Offences Act made the “unnatural sexual offence” of sodomy punishable with a penalty of up to two years of imprisonment or a fine of up to R400, or both. The fine was increased to R4000 in 1988. General Viljoen, Head of the South African National Defence Force, ordered in 1982 that all possible steps had to be taken to combat the phenomenon of homosexuality or lesbianism in the army.³ During the Apartheid years approximately 900 young Lesbian, Gay, Bisexual and Transgender (LGBT) men and women were strained by the Defence Force to undergo aversion therapy, including shock therapy, behavioural therapy, narcoanalysis, chemical castrations with massive doses of hormones, medical torture and gender reassignment surgery in Ward 22 at 1 Military Hospital, Voortrekkerhoogte, Pretoria.⁴ However, the grass was not greener for LGBT people on the other side of the fence either.

Stompie Seipei, a child activist and member of the Mandela Football Club, a front for the political mobilisation of township youths to stand against apartheid, was abducted near the Methodist Church (Manse) in Soweto on December 29, 1988, and took to Winnie Mandela’s (wife of the former President of South Africa, Nelson Mandela) home. One of the convicted, Jerry Richardson, testified that Winnie Mandela initiated the torture of Seipei, who was sjamboked, bounced on the floor and killed for sexual misconduct with a Methodist reverend Paul Verryn who was accused by some of the boys of performing homosexual acts with young boys. Mandela also accused Seipei of being a police informer, a charge that carried a death penalty in terms of township mob justice. While she denied any involvement in the death of Seipei, the judge implicated Winnie Mandela in the murder by ruling that she was present when Seipei was tortured. Later Mandela accepted before the Truth and Reconciliation Commission some responsibility for the death of Seipei.⁵ Today, Winnie Mandela’s formal house where the murder took place, is one of the conceited attractions shown to international tourists on historical Apartheid tours through Soweto. The article will now focus on provisions regarding LGTB people in Post Apartheid era.

2 24 of 1957.

3 Lewin “Personal interview” 2001 quoted from Belkin & Canaday “Assessing the integration of gays and lesbians into the South African National Defence Force” 2010 *Scientia Militaria: SA J of Military Studies* 1-20.

4 Van Zyl, de Gruchy, Lapinsky, Lewin & Reid *Human rights abuses of gays and lesbians in the South African Defence Force by health workers during the apartheid era* 1999; Van der Linde “Sometimes having to say you’re sorry” 1995 *SA Med J* 715-716.

5 *The Daily Mail* (1990-08-08) 2.

2 Constitutional Provisions Regarding LGTB People in Post-Apartheid

We (gay people) are here in Africa. We live in the mainstream, we pay taxes like everybody else in the mainstream, we relate with people in the mainstream. We are a naturally occurring phenomenon in the universe.⁶

On 9 October 1993, the South African High Court held that all convictions of consensual sodomy, dating back to the adoption of the interim Constitution in 1993, were subject to invalidation.⁷ In 1996 South Africa was the first country to adopt a Constitution⁸ that protects people from discrimination on grounds of sexual orientation. The Republic of South Africa is one, sovereign, democratic State, founded on a set of values which includes, amongst others values, human dignity, non-racialism and non-sexism.⁹ As the Supreme Constitution is underpinned by these values, no legislation or decision in South Africa should contradict these underpinned values. In terms of section 7 of the Constitution, the Bill of Rights is for all people in our country, irrelevant of their sexual orientation, and it enshrines the democratic values of human dignity, equality and freedom.

The Constitution defines the unalienable rights of all people in South Africa to be exercised in democratically responsive institutions. It guarantees tolerance towards diversity in its widest sphere, free of any coercion. Policies, like school policies, should guide people who implement human rights, to apply these rights according to these underpinning values. If values don't underpin a legal system, the law remains unenforceable and people's rights will remain violated. In terms of section 9(1) of the Constitution, everyone is equal before the law and has the right to equal protection and benefit of the law. It continues to guarantee in section 9(3) that the State may not unfairly discriminate against anyone on grounds of, amongst other things, sexual orientation; section 10 guarantees everyone the right to human dignity; section 12 states that everyone has the right to security of the person, while section 14 holds that everyone has the right to privacy. This includes, amongst other things, that the private life and sexual activities of all people should be respected. The latter, however, excludes public indecency, illegal activities like loitering, and sexual behaviour that could offend minors or other citizens. It is necessary to indicate, however, that an action that offends someone is not necessarily illegal as certain actions involuntary will offend other persons. Furthermore, in terms of section 16 of the

6 Donna Smith, representative of the Forum for the Empowerment of Women – an African lesbian organisation based in Johannesburg; *Mail & Guardian* (2006-06-24) online archive: <http://www.mg.co.za/article/2006-06-24-gay-and-lesbian-people-are-here-in-africa> (accessed 2013-29-03).

7 Leonard "South Africa's Highest Court strikes down sodomy law" 2004 Online Available: http://www.sodomylaws.org/world/south_africa/sanews006.htm (accessed 2013-29-03).

8 Constitution of the Republic of South Africa 1996.

9 S 1 Constitution.

Constitution, everyone has the right to freedom of expression, which in terms of section 16(1)(b), includes the freedom to receive information. LGBT learners' right to freedom of expression are therefore violated if school curricula deny addressing their existence and refusing to deal with supportive life orientation content. It continues in section 16(2)(c) that no one can legally express advocacy of hatred that constitutes incitement or harm. In terms of section 18 everyone has the right to freedom of association. This includes the freedom of choice to make friends, and spend time with people of the same gender and sexual orientation without being threatened, physically or emotionally.

Despite these post-Apartheid constitutional provisions, human rights violations against LGBT people recurrently surface in the South African media. Continual social intolerance against LGBT people hints towards a gap in the South African education system to educate ill-informed members of society against homophobia and unfair prejudice against sexual orientation.¹⁰ The article will therefore now turn to touch on contemporary human rights violations.

3 Examples of Contemporary Human Rights Violations Against LGBT People

Only a few examples of different human rights violations will be dealt with as example of the *status quo* in society.

3 1 Equality

While Judge Edwin Cameron, a self-recognised homosexual, was appointed as a judge in the Constitutional Court, during August 2009 in Gauteng judge Omar requested the *Legal Services Commission* to not appoint Judge Kathy Satchwell as a judge in the Constitutional Court because of her sexual orientation.¹¹ This leads as example of a systemic problem where even the adjudicators of our legal system seem to misplace the niche of the underpinning values of the application of human rights.

3 2 Freedom of Expression

On May 27, 2010, as part of the Harold Wolpe lecture presented by the Eastern Cape Socio-Economic Advisory Committee in collaboration with the Fort Hare and Rhodes Universities, Pastor Siphon Mengezeleli of the Godly Governance Network, during the audience discussion of his conference paper entitled "Is Social Conservatism on the Rise in South Africa?", stated that to be gay (the modern word for homosexual –

10 Francis & Msibi "Teaching about Heterosexism: Challenging Homophobia in South Africa" 2011 *Journal of LGBT Youth* 157-173.

11 *Beeld* (2009-08-29) online archive <http://www.beeld.com/Suid-Afrika/Nuus/Lesbier-is-nie-geskik-20090829> (accessed 2013-29-03).

ironically homosexuals often have a happy image, but inside they are scared, humiliated and discriminated against within society) is inhumane and unnatural ... those who live so make themselves non-human. Not even dogs and cats do this.¹² He further argued that homosexuality should not be enforced arrogantly on nations and that South Africa, with its 85% African people, cannot be forced to accept what the rest of the world accepts. He called for a National referendum, and if the majority of South Africans would not agree with homosexuality, it should be handled accordingly.

This statement cannot be viewed as the pastor's right to freedom of expression as this right is inherently limited in terms of section 16(2)(c) which states that the right to freedom of expression does not extend to advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm. The fact that religious leaders, the value- and pastoral carers of society, seem not to implement the values of society, is a further outcry to the systemic problem that does not enforce legislation according to the underpinning values.

3.3 Human Dignity and Life

In 1999, a gay bar in Cape Town was targeted with a bomb during which six people were injured. In a television interview, former Safety and Security Minister Steve Tshwete claimed that the vigilante group *People Against Gangsterism and Drugs (PAGAD)* was behind this act of terrorism because the post-apartheid State supports abortion and gay rights.¹³

In February 2006, 19-year-old lesbian Zoliswa Nkonyana died in a township outside Cape Town after she was chased by a mob, beaten with golf clubs and bricks, and stabbed because of her sexual orientation. No one was arrested.¹⁴

In April 2008, 31-year-old Eudy Simelane, one of the first women to live openly as a lesbian in KwaThema township playing for the South African women's soccer team, was accosted while leaving a pub and robbed of her cell phone, trainers and cash. She died from wounds to the abdomen after being gang-raped and stabbed 12 times. Her naked body was dragged towards a stream and dumped. During the sentence trial of one of her murderers, Judge Ratha Mokgoathleng stated:

Eudy Simelane suffered a brutal, undignified death ... She was stripped naked, stabbed, assaulted, raped. What more indignity can a person endure

12 *Rapport* (2010-05-29) online archive <http://www.rapport.co.za/Suid-Afrika/Nuus/Gays-is-slegter-as-honde-gn-beledigend-se-pastoor-20100529-2> (accessed 2013-29-03).

13 Cock "Engendering gay and lesbian rights: the equality clause in the South African Constitution" 2003 *Women's Studies Int Forum* 35-45.

14 *Mail & Guardian* (2006-11-06) online archive <http://www.mg.co.za/article/2006-11-06-fear-and-violence-still-rule-gay-township-life> (accessed 2013-29-03).

... The accused has shown no remorse whatsoever. He steadfastly maintains ... that is his right.¹⁵

If the South African School system instils the values that underpin our Constitution and society, there should be a tolerance amongst citizens to not abuse other's human rights because they may think or act differently. In line with this Reyneke¹⁶ refers to a value crisis in the South African society and concludes that the systemic problems in the education sector, amongst others can be the result of a failure of respect for values and more specifically to the right to human dignity.¹⁷

These incidents are but a drop in the ocean and serve as examples of people in society not living according to the values that underpin their constitution and which are still on a daily basis violating the rights of LGBT people. This phenomenon indicates an educational dysfunction as to the development of skills and attitudes in our school system where the implementation of values should be internalised. As social systems inform the law, these systems develop statutes and policies to apply or enforce the law in practice. The fact that LGBT students experience violations of their human rights at school could be laid at the feet of various social misconceptions.

4 Socially Held Misconceptions about LGBT

In order to better understand the underlying factors causing human rights violations against LGBT people, it is necessary to explore and challenge socially held misconceptions about LGBT people.

4.1 Misconception 1: Homosexuality is a Product of Western Culture or Post-modernism

Culture is a wonderful thing that is there to nurture and protect people, not abuse and humiliate – Nthombikayise Mthiya

Homosexuality has been around since prehistoric times.¹⁸ Historically, the most cited example of widespread homosexuality was among the Greeks of around 2,500 years ago (who were in fact comprised of diverse

15 Mail & Guardian (2009-09-29) online archive <http://www.mg.co.za/article/2009-09-23-gangrape-killer-of-lesbian-footballer-gets-life> (accessed 2013-29-03).

16 73.

17 Reyneke "Dignity: The missing building block in South African schools?" 2010 *J. for Juridical Science Special Issue* 71-100.

18 Jefferson "Gay caveman grave proves caveman smarter than many Americans" 2011 online archive <http://www.good.is/post/gay-caveman-grave-proves-cavemen-smarter-than-many-americans> (accessed 2013-29-03).

cultural groups).¹⁹ Social anthropologists²⁰ found proof that homosexuality existed throughout history to much the same degree as it does today. It shows to be constant in frequency within different cultural groups around the World. Discrimination against homosexuals in South Africa is partly a result of a misconception that homosexuality is an unwanted legacy of colonialism, white culture and post-modernism.²¹

Various African leaders, including the presidents of Namibia, Uganda, Zambia, Zimbabwe and Kenya openly condemned homosexuality around the notion that homosexuality is “unafrican”. In 1995 President Robert Mugabe of Zimbabwe stated:

Gays are perverts and their behaviour is worse than that of pigs ... They are lower than dogs and pigs, for these animals don't know homosexual behaviour.²² He then encouraged the population to take the law into its own hands, to arrest homosexuals, to report, and deport them ... Homosexuality is unafrican and in conflict with culture.^{23 24}

On another occasion he stated that “[l]esbianism is not part of Zimbabwean culture”.²⁵ In *The Star* of August 21, 1995, a South African reader praised Mugabe in a letter because:

[h]e espouses and cherishes our traditions and customs. Homosexuality is an aberration to all thinking Africans and indeed to most of civilised mankind. Homosexuals are regarded as an abdominal species, which must be punished and locked up ... Viva Robert Mugabe ... who defends our continent from Satanists, sodomists and faggots.²⁶

With the same negative attitude, the then Deputy President Jacob Zuma said in a September 2006 speech: “same-sex marriages are a disgrace to the nation and to God. When I was growing up a gay would not have stood in front of me. I would knock him out”.²⁷ Despite these claims that homosexuality is “unafrican”, anthropologists found clear evidence that homosexuality was widely tolerated in many parts of pre-colonial Africa amongst various African cultures.²⁸ Also, various African LGBT organisations exist,²⁹ and in 2006 activists from six African countries, South Africa, Swaziland, Kenya, Namibia, Uganda and Tanzania, co-

19 Wilson & Rahman *Born gay: the psychology of sex orientation* (2005).

20 Whitam & Zent “A cross-cultural assessment of early cross-gender behaviour and familial factors in male homosexuality” 1984 *Archives of sexual behaviour* 427-439; Whitam, Daskalos, Sobolewski & Padilla “The emergence of lesbian sexuality and identity cross-culturally: Brazil, Peru, Philippines, and the USA” 1998 *Archives of Sexual Behaviour* 187-206.

21 *Mail & Guardian* (2006-11-06).

22 Luirink *Moffies: gay life in Southern Africa* 1998 51.

23 Luirink 51.

24 Cock 2003 *Women's Studies Int Forum* 26 1 41.

25 *The Star* (1998-04-24).

26 *The Star* (1995-08-21).

27 *Ibid.*

28 Murray *Homosexuality in “Traditional” Sub-Saharan Africa and Contemporary South Africa* 1998.

29 *Ibid.*

authored a publication on how African lesbians find ways to express their sexuality, despite opposition from their communities.³⁰

4 2 Misconception 2: Homosexuality is an Emotional or Mental Disorder/disease, or Caused by the Depravity of Moral Values

Since 1973, psychology, psychiatry, and medical associations around the world (including post-Apartheid South Africa), do not consider homosexuality to be an emotional or mental disorder. To quote from the American Psychological Association's Statement on Homosexuality, which was released in July 1994:

The research on homosexuality is very clear. Homosexuality is neither mental illness nor moral depravity. It is simply the way a minority of our population expresses human love and sexuality. Study after study documents the mental health of gay men and lesbians. Studies of judgment, stability, reliability, and social and vocational adaptiveness all show that gay men and lesbians function every bit as well as heterosexuals, nor is homosexuality a matter of individual choice. Research suggests that LGBT orientation is in place very early in the life cycle of an individual, possibly even before birth. It is found in about ten percent of the population, a figure, which is surprisingly constant across cultures, irrespective of the different moral values and standards of a particular culture. Contrary to what some imply, the incidence of homosexuality in a population does not appear to change with new moral codes or social mores. Research findings suggest that efforts to 'repair' LGBTs are nothing more than social prejudice garbed in psychological accoutrements.

Research shows that in general there is no significant difference between the mental health of heterosexual people and the mental health of LGBT people. Since homosexuality is not a disease or a disorder, there is nothing to be cured. It is rather misconceptions, social stigma, and prejudice that are dangerous to the psychological well-being of young and scared LGBT people, who often turn to depression, anxiety and destructive behaviour, in fear of, or in reaction to, social exclusion and rejection.³¹ Family rejection has been found as a predictor of negative health outcomes amongst young LGBT adults.³²

Social, religious and cultural prejudice and discrimination often force LGBT people to fake heterosexual behaviour and lifestyles. Research comparing the psychological well-being of a multicultural group of homosexual men, with that of a group of heterosexual men (including members of the South African Police Service) found that 6 out of 80 heterosexual men indicated anonymously that they are not open about

³⁰ Morgan & Wieringa *Tommy Boys, Lesbian Men and Ancestral Wives: Female Same-Sex Practices in Africa* 2006.

³¹ Wilson & Rahman (2005).

³² Ryan, Huebner, Diaz & Sanchez "Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay, and Bisexual Young Adults" 2009 *Pediatrics* 346-352.

their sexual orientation.³³ Homosexuals living homosexual lifestyles are experiencing higher levels of emotional and psychological well-being than those forced to live fake heterosexual lifestyles in fear of social and religious prejudice, exclusion, and discrimination.³⁴

LGBT people are often unconstitutionally forced to confront discrimination and victimisation, opening themselves up to further public discrimination and prejudice.³⁵ Furthermore, LGBT people are still being discriminated against in work areas, regardless of the fact that the human rights of LGBT people are clearly protected by the Constitution of South Africa.³⁶

4 3 Misconception 3: Homosexuals ‘Seduce’ Heterosexuals into Becoming Gay

According to researchers at the Institute of Psychiatry in London:

[h]omosexual fantasies are quite common in heterosexual men and women as a form of ‘mental exploration’, and unless they predominate within mental life they do not usually imply repressed homosexuality... many people who are basically straight might consider an occasional homosexual adventure simply to broaden their horizons.³⁷

Some people also appear to “protest too much” against homosexuality. In a famous experiment at the University of Georgia, it was found that men who expressed hostile feelings towards homosexuals (referred to as homophobes), showed greater signs of erectile response (measured by a *penile plethysmograph*) when viewing film clips depicting homosexual activity, than heterosexual men who were more accepting towards homosexuals.³⁸ This finding suggests that homophobia might be masking homosexual urges that are unacceptable to the self via the Freudian defence mechanism called reaction formation.

There is no scientific evidence for the notion that homosexuals “seduce” others into becoming gay, or that gay parents influence the sexual orientation of their biological or adopted children.³⁹ Research into homosexual identities and personality development⁴⁰ clearly indicates

33 Dreyer “Die psigologiese- en sosiale welsyn van ’n groep homoseksuele mans” 2003. (Masters Dissertation PU for CHE Potchefstroom) 91.

34 Bozett & Sussman *Homosexuality and family relations* 1990; Dreyer 2003; Neubeck & Neubeck *Social problems – a critical approach* 1997.

35 Nel & Joubert “Coming out of the closet: A gay experience” 1997 *Psychologia* 17-31.

36 Breytenbach “Optimale belewenisse in die werkplek van homoseksuele mans teenoor die van heteroseksuele mans” 2000 (Masters Dissertation PU for CHE Potchefstroom).

37 Wilson & Rahman (2005) 5.

38 Adams, Wright & Lohr “Is homophobia associated with homosexual arousal?” 1996 *J of Abnormal Psychology* 440-445.

39 Wilson & Rahman (2005).

40 Bell & Weinberg *Homosexuality: A study of human diversity* 1978; Troiden “The formation of homosexual identities” 1989 *J of Homosexuality* 43-73.

that – like heterosexual people – LGBT people discover their sexuality as a process of maturing – they are not recruited, seduced, or taught to be homosexual. Sexual activities with minors are an offence whether committed by heterosexual or LGBT people and punishable by law. Paedophilia is generally associated with immoral values and/or mental disorder, and not with sexual orientation.

4 4 Misconception 4: All Denominations of Religion Condemn Homosexuality

Religion is interpreted in many different ways. Some Christian scholars believe the Bible condemns homosexuality, while others do not. Different Christian denominations use the Bible as a basis for their faith, yet beliefs between these religious groups can be quite diverse.⁴¹ The ordination of gay bishops in the Anglican Church is a good example of the considerable ambivalence within Christianity concerning homosexuality.⁴² Africa's leading Anglican churchman, Nigeria's Archbishop Peter Akinola, condemned the worldwide church's response to the controversy over the ordination of an openly homosexual bishop as wholly inadequate and insulting.⁴³

Throughout history, some mainstream Christian groups have used the Bible to justify slavery, racism, child abuse, domestic violence, and sexism. Martin Luther King Jr used the Scriptures to inspire those struggling to overcome racism. At the same time others used the Bible to promote racial segregation and violence. While Islam is widely considered one of the religions that condemns homosexuality most, various online social groups exist on the Internet in which LGBT people from African and Middle Eastern countries come out online, regardless of the fact that homosexual acts are illegal in most of these countries, with penalties ranging from long-term imprisonment to execution⁴⁴. For example, recently a Malaysian Muslim man confessed on Youtube, a video-sharing website, to being gay, and questions the validity of Islam's views on homosexuality.⁴⁵ While the majority of the Islamic world may view his statements as profane, nevertheless, it shows that even in Islam ambivalence exists concerning LGBT.

In terms of section 15 of the Constitution everyone has the right to freedom of religion. However, no denomination is superior to another. As all religious denominations are minority groups in the South African society, they cannot claim their dogmatic rules superior to the

41 Blumenfield & Raymond *Looking at Gay and Lesbian Life* 1988.

42 Wilson & Rahman (2005) 14.

43 *Mail & Guardian* (2004-10-21) online archive <http://www.mg.co.za/article/2004-10-21-africas-top-anglican-slams-gay-report> (accessed 2013-29-03).

44 *Mail & Guardian* (2008-02-18) online archive <http://www.mg.co.za/article/2008-02-18-gay-africans-and-arabs-come-out-online> (accessed 2013-29-03).

45 Youtube (2011-04-11) <http://www.youtube.com/watch?v=wMkGQmpNzmY> (accessed 2013-29-03).

Constitution. In many South African schools, religious traditions and sentiments undermine the human rights of LGBT students.⁴⁶

5 What does Biological Research say about LGBT Orientation?

Research on psycho-social factors in the development of sexual orientation has turned up virtually nothing.⁴⁷ Social and religious theories tend to make loose predictions and explanations about LGBT development without any scientific proof. Even most psychological theories, for example Freud's sexual development theory, is so theoretical and vague that there is no way they can be tested scientifically. Biological sciences, on the other hand, increasingly provide scientific explanations for LGBT orientation. For example, gay men shared a region of the X chromosome called Xq28,⁴⁸ but a lack of consistent material-line-effect suggests that other patterns of genetic transmission apart from Xq28 should also be considered.⁴⁹ Prenatal sex hormonal molecules in the womb (especially androgens, such as testosterone in males and estrogens in females) influence the development of certain parts of the brain responsible for the gender and the sexual orientation of the unborn foetus.⁵⁰ Clear evidence was found that prenatal sex hormones are involved in human sexual orientation: finger-length ratios (the second to fourth finger-length ratio is connected to androgen receptor genes) – indicate prenatal sex hormone levels.⁵¹ These finger-length ratios are of special interest because there is no way they could be affected by learning, social or psychological factors. Further evidence for the role of prenatal sex hormones in sexual orientation is provided by an auditory phenomenon called Oto-Acoustic Emissions (OAEs). Research shows that the cochleae of lesbian woman are masculinised. However, for gay men the picture is different – the OAEs of gay men are sex-typical, just like those of straight men, but the part of the brain that regulates auditory processing seems to be more masculinised.⁵² Also, feminisation of sexual preferences in gay men is associated with too much, not too little, androgen in some areas of the

46 Avert (2011).

47 Wilson & Rahman (2005) 30-33.

48 Hamer, Hu, Magnuson, Hu & Pattatucci "A linkage between DNA markers on the X Chromosome and male sexual orientation" 1993 *Science* 261 321.

49 Wilson & Rahman (2005) 53.

50 Ellis & Ames "Neurohormonal functioning and sexual orientation: a theory of homosexuality-heterosexuality" 1987 *Psychological Bulletin* 233-258; Wilson & Rahman (2005) 54.

51 Manning, Bundred, Newton & Flanagan "The second to fourth finger-length ratio and variation in the androgen receptor gene" 2003 *Evolution and Human Behaviour* 399-405; Manning & Robinson "2nd to 4th digit ratio and a universal mean for prenatal testosterone in homosexual men" 2003 *Medical Hypothesis* 303-306.

52 Wilson & Rahman (2005) 84.

brain.⁵³ This means that gay men might show a number of differences in various markers that are in female-typical directions, eg certain measures of growth, but others that are in the hyper-male direction. Other research studies found that homosexual men have significantly larger penises than heterosexual men.⁵⁴ Earlier pubertal onset was found within homosexual boys than heterosexual ones, indicating a hyper-male trait within homosexual men caused by high prenatal testosterone levels during development.⁵⁵

Inquiries into whether one's birth order could affect sexual orientation began as early as the 1930s. Contemporary research⁵⁶ confirms that the birth order effect in human sexual orientation is real, ie the odds of being gay increase by around 33% with each older brother. Thus, the more sons a woman has borne, the greater the likelihood that her subsequent sons will be gay. A good explanation for this could be that male foetuses trigger a reaction in their mother's immune system because they produce hormones or proteins that threaten the mother's balance of sex hormones via placental blood connections – increasing certain hormonal reaction and thus forming a homosexual foetus.

A male-specified substance that might trigger such a maternal immune attack is the minor histocompatibility antigen known as H-Y, which is produced by genes on the Y chromosome.⁵⁷ The Paternal/Fraternal Birth Order Effect is one of the most reliable correlates of male sexual orientation. Research⁵⁸ shows that one in seven gay men owe their sexual orientation to the Fraternal Birth Order Effect. Genetic and prenatal determinants of sexual orientation influence how the nerve cells grow and connect with each other in specific parts of the brain that control direction of sexual preference to make one person attracted to the opposite sex and another person attracted to the same sex. Prenatal hormones or maternal antibodies could do this through interacting with sex hormone receptors. One brain area involved with prenatal sex hormones and maternal antibodies is the hypothalamus, which appears to be a key sexual centre in mammals, influencing sexual behaviour and orientation.⁵⁹ Researchers⁶⁰ examined the interstitial nuclei of the

53 McFadden "Masculinisation effects in the auditory systems" 2002 *Archives of Sexual Behaviour* 99-111.

54 Bogaert & Herschberger "The relation between sexual orientation and penile size" 1999 *Archives of Sexual Behaviour* 28 213-221; Nedoma & Freund "Somatosexulni nalezky u homosexualnich muzu" 1961 *Ceskoslovenskja Psychiatrie* 57 100-103.

55 Bogaert & Herschberger 1999.

56 Blanchard & Bogaert "Homosexuality in men and number of older brothers" 1996 *Am J of Psychiatry* 27-31.

57 Wilson & Rahman (2005) 103.

58 Cantor, Blanchard, Paterson & Bogaert "How many gay men owe their sexual orientation to fraternal birth order" 2002 *Archives of Sexual Behaviour* 63-71.

59 Wilson & Rahman (2005) 108.

60 LeVay "A difference in hypothalamic structure between heterosexual and homosexual men" 1991 *Science* 1034-1037.

anterior hypothalamus [INAH] of gay men, straight men and straight women in autopsy brain tissue; and first confirmed the sex difference in INAH-3 between men and woman, and then found that gay men had a smaller INAH-3 than straight men. In fact it was comparable in size, to that of straight women. A study using a brain scanning technique called Positron Emission Tomography, also suggests a hypothalamic difference between heterosexual- and homosexual people.

International research on homosexuality⁶¹ indicates that one out of thirty men, and one out of seventy women of the world's population is completely homosexual in orientation. Meta-analyses indicate that regardless of culture, gay men constitute up to 5%, and lesbians 1% of the world's population.⁶² These percentages remain stable over time and social values have minimal impact on the emergence of homosexuality, either to impede or encourage it. According to an estimate by the United Nations, the World population already exceeded 7 billion by the beginning of November 2011.⁶³ This means that there are currently approximately 50 Million gay men and 10 Million lesbians worldwide. While these figures may seem low to some, however, gay men and lesbian women constitute a substantial minority group who is still been ignored and not fully recognised by many countries, mainly because of religious dogma filtering through political power.

In terms of section 7 of the Constitution, human rights are guaranteed to all people in South-Africa, whether you are forming part of a minority group or not. This is confirmed in the USA court case where it is determined that the courts do not count heads before enforcing the First Amendment.⁶⁴

From the above exposition, it becomes clear that research from various fields of study substantiates the fact that sexual orientation is not a matter of choice but largely determined by biological factors.

61 Bailey, Dunne & Martin "Genetic and environmental influences on sexual orientation and its correlates in an Australian twin sample" 2000 *J of Personality and Social Psychology* 524-536; Erens, Mcmanus, Prescott, Field, Johnson, Wellings, Fenton, Mercer, Macdowel, Copas & Nanchahal *National survey of sexual attitudes and lifestyles II: references table and summary reports* (2003); Dickson, Paul & Herbison "Same-sex attraction in a birth cohort: prevalence and persistence in early adulthood" 2003 *Social Science and Medicine* 298-304; Laumann, Michael, Gagnon & Michaels *The social organization of sexuality: sexuality practices in the United States* (1994); Johnson, Mercer, Erens, Copas, Mcmanus, Wellings, Fenton, Korovessis, Macdowall, Nanchahal, Purdon & Fields "Sexual behaviour in Britain: partnership, practice and HIV risk behaviours" 2001 *The Lancet* 1835-1842; Traeen, Stigum & Sorensen "Sexual diversity among urban Norwegians" 2002 *J of Sex Research* 249-258; Wilson & Rahman (2005).

62 Wilson & Rahman (2005) 23.

63 BBC (2011-10-26) online archive <http://www.bbc.co.uk/news/world-15459643> (accessed 2013-29-03).

64 *West Virginia Board of Education v Barnette* 319 US 624 638.

If one chooses to ignore this evidence, nevertheless, everyone has the fundamental human right not to be discriminated against due to their sexual orientation, irrelevant whether one believes the orientation is by nature or choice.

The article will now turn to focus on how these misconceptions influence behaviour to LGBT students within our school system.

6 The Human Rights Paradox of LGBT Students in South African Education: The “Hidden Curriculum”

Besides the other Constitutional rights mentioned above, children, as minors, have additional rights in terms of section 28 of the Constitution.⁶⁵ Physical and psychological abuse against LGBT students in schools would violate their right to be protected from maltreatment, neglect, abuse or degradation.

Furthermore, it is stated in section 28(2) that a child's best interests are of paramount importance, which includes the right not to be discriminated against due to sexual orientation. The National Education Policy Act⁶⁶ aims towards the facilitation of democratic transformation of the national education system that serves the fundamental rights of all people in South Africa. It enhances in section 4(a)(i) the constitutional guarantee that every person will be protected against unfair discrimination in education institutions, including discrimination against sexual orientation. In terms of the preamble of the South African Schools Act⁶⁷ the school system needs to redress past injustices in educational provision and need to combat racism, and sexism and all other forms of unfair discrimination and intolerance, ... and uphold the rights of all learners ... Furthermore, the Promotion of Equality and Prevention of Unfair Discrimination Act⁶⁸ provides a legal mechanism to confront, address and remedy past and present forms of incidental, institutionalised or structured unfair discrimination and inequality in the South African Education System.

In terms of section 9(3) of the Constitution, LGBT students might not be found guilty on any charge merely because of their sexual orientation and if any decision regarding them is made due to their sexual orientation, it boils down to discrimination.

LGBT students are often harassed and assaulted by peers and educators at school.⁶⁹ More than a fifth of sexual assaults on young

65 Constitution of the Republic of South Africa, 1996.

66 27 of 1996.

67 84 of 1996.

68 4 of 2000.

69 Espelage, Aragon & Birkett “Homophobic teasing, psychological outcomes,

people occur while they are at school. This is expanded by Prinsloo who states that more than 30 % of girls are raped at schools.⁷⁰ Similarly all the participants in a study indicated that they had all experienced discrimination, isolation, and non tolerance within their high school contexts.⁷¹ Furthermore, a longitudinal research study⁷² found that LGBT, particularly non-heterosexual girls, have a higher risk for sanctions in schools and have greater odds of being confronted by police and expulsion from school, than heterosexual girls. Consequently, LGBT youth suffer from disproportionate educational and criminal-justice punishments that are not explained by greater engagement in illegal or transgressive behaviour. The South African Human Rights Commission's *Report on School-Based Violence*⁷³ found that "corrective rape", where a male student or students sexually harass and rape a female lesbian student "to make her heterosexual", is a growing phenomenon in South African schools, as a young lesbian from Soweto explains:

I've been raped six times, five times just because I am gay. I was raped by men I know, who wanted to show me what it means to be a woman. They thought it would change me, that it would keep me from being gay... I'm HIV-positive because of one of the rapes. I'm just angry. I'm angry all the time. And it is lonely. You are so lonely when you are gay and afraid in the townships. The smell of hate never goes away. The thought of betrayal stays and remains within my thoughts, sight, senses, and deep within my soul and spirit. It has created continuous and uncontrollable anger. It has filled me with hate. It has made me think and feel I am mad and sometimes it hits me like I am worth nothing.⁷⁴

These "corrective rapes" are not only an inhuman violation of the rights to be safe and to be treated with dignity, but it also violates their right not to be discriminated against on the basis of sexual orientation.

and sexual orientation among high school students: what influence do parents and schools have?" 2008 *School Psychological Review* 202-216; Schaffner *Girls in trouble with the law* 2006; Human Rights Watch *Hatred in the hallways: violence and discrimination against lesbian, gay, bisexual and trans-gender students in US schools* 2009; Goodenow, Szalacha & Westheimer "Schools support groups, other schools facilitators, and the safety of sexual minority adolescents" 2006 *Psychology in the Schools* 573-589; Savin-Williams "Verbal and physical abuse as stressors in the lives of lesbians, gay male, and bisexual youth: associations with school problems, running away, substance abuse, prostitution, and suicide" 1994 *J of Consulting Clinical Psychology* 261-269.

70 Prinsloo "Sexual harassment and violence in South African schools" 2006 *SA J of Ed* 305-318; *Mail & Guardian* (2008-05-12).

71 Butler, Alphaola, Strümpfer & Astbury "Gay and Lesbian Youth Experiences of Homophobia in South African Secondary Education" 2003 *LGBT Youth* 3-28.

72 Himmelstein & Brückner "Criminal-justice and school sanctions against nonheterosexual youth: a National longitudinal study" 2011 *Pediatrics* 49-57.

73 South African Human Rights Commission *Report of the Public Hearing on School-based Violence* (2008) 9.

74 *Mail & Guardian* (2006-11-06).

Furthermore, while every person has a right to a safe environment,⁷⁵ there is a legal duty on teachers to ensure that students will not be harmed physically and psychologically. The report furthermore found that homosexual pupils experience high levels of prejudice in schools, resulting in exclusion, marginalisation and victimisation, and that heterosexuality and homophobia fuel discrimination against LGBT students.⁷⁶ The report also found evidence of psychological violence (bullying, harassment, victimisation, abusive treats and intimidation) in schools. Most LGBT people experienced bullying the one way or the other during their school career.⁷⁷ The human dignity of minors is violated, which in many cases lead to permanent psychological damage and/or suicide. Bullying on grounds of sexual orientation boils down not only to an infringement of the right to dignity⁷⁸ but also of the right to equality.⁷⁹ It also includes the right to be protected from maltreatment, neglect, abuse or degradation.⁸⁰ Psychological violence can have a discriminatory basis, and can occur in a number of educational settings, both between educators and learners and between learners and fellow learners. Although a single incident can suffice, psychological violence often consists of repeated, unwelcome, unreciprocated and imposed action that may have a devastating effect on the victim.⁸¹ The report further states that discrimination against LGBT students results in high drop-out rates which violates the right to education;⁸² suicide, which violates the right to life⁸³ and might lead to substance abuse. This is in line with research⁸⁴ that found that LGBT students often experience verbal and physical abuse and receive more harsh punishments than their heterosexual peers. And even if LGBT students engaged in wrongdoings, they would rather receive punishment instead of support, therapy or services.⁸⁵ Furthermore, in some cases LGBT students are forced to go to psychologists or theologians in an attempt to “heal” or change their sexual orientation. This act by itself is in contrast with scientific evidence which suggests that reparative therapy would not be effective.⁸⁶

Physical as well as psychological abuse, such as name-calling and bullying, is a violation of the right to freedom and security of the person,

75 S 24 Constitution.

76 South African Human Rights Commission (2008) 9; Avert “Homophobia, Prejudice & Attitudes to Gay Men and Lesbians” (2011) online at <http://www.avert.org/homophobia.htm> (accessed 2013-29-03).

77 Avert (2011).

78 S 10 Constitution.

79 S 9 Constitution.

80 S 28(1)(d) Constitution.

81 South African Human Rights Commission (2008) 9.

82 S 29 Constitution.

83 S 11 Constitution.

84 Himmelstein & Brückner (2011) 49-57.

85 Bloomberg *Businessweek* (2010-12-06) online archive <http://www.businessweek.com/lifestyle/content/healthday/646958.html> (accessed 2013-29-03).

86 Erica Elle *5FM* (2008-05-22) “The ex-gay movement fraud”.

which includes that people should be free from all forms of violence⁸⁷ and will not be tortured in any way.⁸⁸ Further, belittling of LGBT people is also a violation of section 10 of the Constitution which provides everyone inherent dignity and respect. Clearly if any of the above mentioned rights of LGBT students have been violated, it could be argued that it was not in the best interest of the child.⁸⁹

Although it becomes clear that LGBT students have the same rights as other students at school, and there should be no discrimination against them, the topic of homosexuality has always been ignored in educational curricula. Allport⁹⁰ posits that greater exposure to LGBT people and their issues can decrease homo-pejorative attitudes and beliefs. This is echoed by Zosky⁹¹ who states that Greater exposure to issues important to LGBT people can have a positive impact on heterosexual students by decreasing their ignorance, stereotypes, and prejudices by providing positive educational exposure to a group who is different from them. Inclusion of LGBT content into the curriculum can benefit LGBT students by sending the message that as a minority, their existence and identity does not have to be invisible, marginalised, or subjugated. The absence of the phenomenon of sexual orientation in schools' Life Orientation curricula denies students the right to be informed and taught on this topic and therefore violates LGBT students' rights to freedom of expression in terms of section 16(1)(b) which states that everyone has the right to freedom of expression which includes freedom to receive or impart information or ideas. This also violates the right to freedom of expression of heterosexual students as they are deprived of the right to be informed and to instil an attitudinal change.

Even in sex education, the topic of homosexuality is totally ignored as something that deserves to be stigmatised. In a study by Harber and Serf⁹² it was determined that none of the teacher students in England and South Africa said they had discussed homosexuality and homophobia as part of democracy education. Young LGBT students have been denied their right to receive information⁹³ to deal with aspects like safe homosexual sex, and experience an absence of support.⁹⁴ Nelson and Krieger exposed 190 psychology students to a 50-minute panel presentation by two gay male students and two lesbian students and found a significant increase in gay acceptance at post-test as compared to pre-test as measured by the Attitude Towards Homosexuality Scale.⁹⁵

87 S 12(1)(c) Constitution.

88 S 12(1)(d) Constitution.

89 S 28(2) Constitution.

90 Allport *The Nature of Prejudice* (1954) reading MA Addison-Wesley.

91 Zosky *Education's Missed Opportunity to Influence Tolerance: The Absence of LGBT Content in Curriculum* (2006).

92 Harber & Serf "Teacher education for a democratic society in England and South Africa" 2008 *Teacher and Teacher Education* 22 8 966-997.

93 S 16(1)(c) Constitution.

94 Avert (2011).

95 Nelson & Krieger "Changes in attitude towards homosexuality in college

Hood, Muller, and Seitz⁹⁶ and Probst⁹⁷ found that didactic learning content promoting diversity competency had a significant effect on more positive attitudes toward LGBT people. Zosky confirms that heterosexual students who would not initiate opportunities to learn about the LGBT minority population could experience exposure when the experience is brought to them through the curriculum. Schools should therefore not overlook the opportunity to impact on students' tolerance and acceptance to sexual orientation and gender identity diversity.

In line with this is the use of code words such as "people with a certain life style" when referring to LGBT students. This code language masks discomfort when referring to sexual orientation and also enhances the undemocratic stigma that is still rife in our society. Silence, misconceptions, disregard and social prejudice upholds a "hidden curriculum" that violates LGBT students' rights to dignity and equality, and enhances the homophobic stigma that still exists in the minds of many people.

The manner in which schools refuse to acknowledge LGBT students their right not to be discriminated against, enhances the "hidden curriculum" with a message that it is wrong to have a different sexual orientation than the "privileged" gender stereotypes. Inclusion of LGBT content into the curriculum could also be an opportunity to influence the collegiate environment for LGBT students. Inclusive content sends a clear message to LGBT students that their existence, experience, and presence are valued. Inclusion in the pedagogy makes a statement to all students, gay and straight, that the learning environment considers LGBT issues as legitimate and valid. Content on the contributions made to society by LGBT people can shed a positive light on a minority group that still experiences discrimination, oppression, and marginalisation.

This turning of a "blind eye" on LGBT students' rights and existence, installs the skewed value application in this regard. The fact that people like Zoliswa Ngonyana was killed for no other reason than her sexual orientation, is a disgrace to a country claiming to uphold human rights. The fact that her murderers have still not been arrested bears witness of an incidence of misplaced human rights culture in dire need of educational value-driven transformation.⁹⁸

students: Implementation of a gay men and lesbian peer panel" 1997 *J of Homosexuality* 63-81.

96 Hood, Miller & Seitz "Attitudes of Hispanics and Anglos surrounding a workforce diversity intervention" 2001 *Hisp J of Behavioral Sciences* 444-458.

97 Probst "Changing attitudes over time: Assessing the effectiveness of a workplace diversity course" 2003 *Teaching of Psychology* 236-239.

98 *Mail & Guardian* (2006-11-06).

7 Recommendations

South Africa has the most advanced Constitution in Africa that protects human rights⁹⁹ based, amongst others, on sexual orientation.¹⁰⁰ In addition it was the first country in Africa to legalise same-sex marriages. It is then a pity that comments from South African politicians instil discrimination against LGBT people, which is in direct contrast with the values that underpin the Constitution.¹⁰¹ It seems that South Africa, with a democratic westernised constitution, struggles to practice these entrenched human rights. Although South African schools are steered by legislation such as the Constitution which entrenched all people's rights, attitudes of people in the school and social systems are yet to be improved towards LGBT people.

The education system, whose main function is to educate young people to fulfil their place in a democratic society according to Constitutional values, fails and sends out a skewed valued system not in harmony with a human rights culture. The education system still reproduces social unjust and inequality in which heterosexual students are privileged.¹⁰²

Silence, misconceptions, disregard and social prejudice produce a "hidden curriculum" in the education system that violates LGBT students' rights to dignity and equality, and forms a paradox against the Constitutional value system that underpins our country and its democracy. External factors, such as the community and religious sentiment regularly infiltrate the education system on all levels and send out the message that it is fine to be homophobic and it is wrong to be different than the majority. This indicates that although all students have the same human rights, the way society and schools implement these rights, is a violation of the right not to be discriminated against on the basis of sexual orientation. It sends out a wrong message with a skewed value system and is destroying attempts to install a human rights culture in schools and wider society.¹⁰³

To overcome this paradox, there should be a radical change within and from society. This change needs to be initiated in our school system, which should be accounted for because schools are not isolated, but reflect and represent society.

99 *Idem*.

100 S 9(3) Constitution.

101 *Mail & Guardian* (2006-11-06); *Beeld* (2011-05-31) online archive <http://www.beeld.com/Suid-Afrika/Nuus/Gays-Qwelane-moet-skuus-se-20110531> (accessed 2013-29-03).

102 Francis & Msibi (2011) 157-173; Richardson "Researching LGB youth in post apartheid South Africa" 2006 *J of Gay and Lesbian Issues in Ed* 135-140; Wells & Polders "Anti-gay crimes in South Africa: Prevalence, reporting practices and experiences of the police" 2006 *Agenda* 12-19.

103 Harber & Serf 2008 *Teacher and Teacher Education* 966-997.

Homophobia should be tackled in the school system in order to address prejudicial attitudes and discrimination. The implementation of a management strategy to include diversity over its complete spectrum implies support from the principal as well as advocacy by the school management team and department of education. Educators should be educated and trained to implement and promote basic human rights amongst students, and should show a conscience acknowledgement of the challenges non-heterosexual youth face in schools and wider society.

Institutions of higher education can do a great deal to influence the learning environment to be more tolerant and accepting of GLBT students. This can be instrumental in preparing all students for a role in society that is diverse in many ways, including sexual orientation and gender identity. As educational leader and manager the educator should furthermore establish a classroom climate, sensitive to, amongst other diversity issues, sexual orientation. Hereby a supportive environment for GLBT students should be established.

A remedy for this systemic problem would be reinstating the place of values in the Constitution. A new focus on this controversial issue, imbedded by the underpinning value system within a human rights culture, should be included in the school curriculum to enhance a non-discriminatory democratic South Africa. Sexual orientation should be included in the school curriculum, and therefore should also be addressed during teacher training. As learning mediators educators should be trained to create a learning environment where stereotypes are challenged. The British organisation EachAction¹⁰⁴ advocates ten strategies to challenge homophobia in education systems, adapted as:

- (1) Avoid marginalising LGBT students by using inclusive language in general discussions eg “we need to discuss sexual behaviour today”, rather than “we need to discuss how those people have sex”.
- (2) Include positive statements about sexuality in all equality policies, therefore refer specifically to sec 9(3) of the Constitution.
- (3) Create a safe environment by supplying help-line numbers and approachable staff members to which students may turn. It is advisable to rather have more than one teacher as all students might not always relate to all teachers.
- (4) Ensure appropriate literature on LGBT issues in the library and remove offensive literature.
- (5) Ensure each student’s right to equal sexual health education. In sexual health education, both heterosexual and homosexual issues should be addressed in the curriculum.
- (6) Staff should adopt consistent respectful behaviour against LGBT students, and be role models in instilling the values underpinning the Constitution.
- (7) Staff should be supportive and should not automatically refer LGBT students to someone else. A mere referral of LGBT students to another

¹⁰⁴ EachAction “Ten things you can do to challenge homophobia” (2008) online at http://user33763.vs.easily.co.uk/wp-content/uploads/2011/04/EACH_10_Things.pdf (accessed 2013-29-03).

member of staff or person to assist would instil the stigma that I cant/won't deal with "these" people or that I will deal differently with them (the outcasts) as with others (the normal or privileged).

(8) Use the curriculum to incorporate LGBT education.

(9) Invite outside speakers to talk about difference, respect, understanding, prejudice, stereotypes and discrimination.

(10) Educators should be sufficiently trained regarding LGBT and homophobia. Initial teacher training curriculum should include LGBT people in order to inform teachers about the misconceptions as well as the balancing of human rights and its application according to the underpinning values of the Constitution.

8 Conclusion

South African schools have an important part to play in challenging diversity issues such as homophobia, as homophobia is fuelled by both a lack of awareness and a lack of the promotion of Constitutional values and rights. LGBT education is fundamental to overcome widely accepted prejudice, as well as the "hidden curriculum" in the South African Education System and broader society. To deny LGBT students their human rights due to their sexual orientation would be the same as to deny any other minority group the same basic rights.

Unfortunately, sexuality within society and schools is still drifting in the quicksand of religious dogma, prejudice, and political power, and is not in line with the cornerstones of our Constitution – promoting reconciliation, mutual tolerance and respect for all. Individuals should rather be seen as sexual beings that have the freedom to be with any person (regardless of the sex), he/she connects with, and feels attracted to. Social classification inherently produces social differentiation and conflict, which is the breeding ground for most human rights violations. Hopefully, this kind of sexual liberation, supported by enlightened education system, embedded in a culture of human rights, will someday reconstruct homosexuality into dignity, equality, and self-worth for all; and consequently society will reach the true *spiritus rector* of all biological and psychological events, signified by the attainment of total consciousness, ie a non-discriminating culture in the broadest sense, with self-knowledge at the heart and essence of this process.¹⁰⁵

Although South Africa has one of the most advanced constitutions that entrenches human rights, the remedy of living up to these rights lies within the implementation of applying the underpinning values.

Two gay Englishmen once came to Gandhi – this was in the 1930s – and asked him what he thought about their relationship. After questioning them a bit, Gandhi fell silent for a short time, and then said, "The greatest gift that God gives us is another person to love." Placing the

105 Jung *Memories, dreams, reflections* (1963) 357.

two men's hands in each other's, he then quietly asked, "Who are we to question God's choices?"