

## HOMOSEXUALITY AS A GENDER ISSUE

In spite of the fact that the American Psychiatric Association's Diagnostic Manual of Mental Disorders (DSM-111-R) has discarded homosexuality as a disorder, it is still considered to be a crime in South Africa when two consenting adults of the same sex engage in a sexual relationship. The Immorality Act 23 of 1957, article 22 stipulates that it is a crime when men form a party with the aim of sexual gratification. Also, under Common Law sodomy is considered to be a crime against the community (De Wet & Swanepoel, 1985).

Many countries overseas (for example Germany, The Netherlands and Scandinavian countries) have decriminalised homosexuality on the grounds that there is no scientific data available indicating that homosexual behaviour in fact can promote deviant behaviour. Homosexual behaviour may sometimes be seen as unconventional behaviour, but this assumption still does not prove it's abnormality. Only that the majority of people do not have a homosexual orientation. Though, one out of every ten people being homosexual, forms quite a significant portion of the total population (Louw, 1989).

The criminalisation of homosexuality in South Africa has far reaching consequences. Not only does it provide wide grounds for arrest and prosecution, but it also fosters a climate of discrimination and intolerance towards individuals with a homosexual orientation. Often this discrimination manifest in anti-gay hate crimes, discrimination in the working place, the removal of children from gay parents and police brutalisation, to name but a few. Homosexuals are treated as second rate citizens in spite of the fact that they do not differ from non-homosexuals other in sexual orientation (Theron, 1984).

In order to rectify this violation of the rights of the individual with a homosexual orientation, attention will have to be given to the following in any Bill on human rights:

- Freedom of discrimination in front of the Law on the basis of inherent characteristics such as race, gender and sexual orientation  
(Up to date only the ANC has incorporated sexual orientation in their declaration on Human Rights)
- The removal of all legislation that criminalise homosexual behaviour
- Specific legislation protecting people with a homosexual orientation against any form of anti-gay victimisation

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De Wet, J.C. & Swanepoel, H.L. 1985. Strafreg. Butterworth.  
The Immorality of 1957 Art 23

Louw, D.A. (Ed). 1989. SA Handboek van Abnormale Gedrag. Southern.

Theron, A. 1984. Meningsverskil rondom die Amerikaanse besluit om homoseksualiteit as verstearing te skrap. Tydskrif vir Sielkunde 14, 106-112.