

Sexual rights but not the right to health? Lesbian and bisexual women in South Africa's National Strategic Plans on HIV and STIs

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Abstract: *Synergies between securing sexual rights and the right to health have been pursued where there are clear public health gains to be made, such as lowering incidence of HIV and other sexually transmitted infections (STI). South Africa's 1996 Constitution outlawed discrimination on the basis of sexual orientation and promoted the right to health. This qualitative health policy analysis sought to understand why and how interventions to improve sexual health of lesbian and bisexual women and address sexual violence were initially proposed in the HIV & AIDS and STI Strategic Plan for South Africa 2007-2011 and why and how these concerns were deprioritised in the National Strategic Plan (NSP) on HIV, STIs and TB 2012-2016. A conceptual framework considered several determinants of political priority for the inclusion in NSP development in 2007 and 2011 around sexual health concerns of women who have sex with women. This article presents findings from 25 in-depth key informant interviews and document review and highlights results of application of categories for a framework on determinants of political priority for lesbian and bisexual women's issues to be included in South Africa's NSP including: actor power, ideas, political context and issue characteristics. The article demonstrates how the epidemiological and structural drivers of lesbian and bisexual women's vulnerability to HIV and STIs, including sexual violence and other violations of their sexual rights, have been expressed in policy forums and whether this has made an impact on lesbian and bisexual women's ability to claim the right to health. © 2016 Reproductive Health Matters. Published by Elsevier BV. All rights reserved.*

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Background

In the context of widespread homophobia throughout Africa and other regions in the world, South Africa is often seen as a beacon for upholding sexual rights. After South Africa's transition to democracy, lesbian and gay people's rights became more actionable, given the 1996 Constitution's assurance of equality.¹ Over the past two decades a further set of civil rights, including same-sex marriage, were secured by South Africa's lesbian, gay, bisexual and transgender (LGBT) movement, which is remarkable when compared to the overall negative climate towards sexual minorities elsewhere in Africa.² Additionally South Africa has consciously struggled "against policies and laws that sought to exclude and marginalise people based on race, class, sex, gender, religion, age, disability and sexual orientation..." as part of the ongoing agenda of the International Conference on Population and Development.³

Nevertheless, homophobic discrimination persists in South Africa and a 2008 general population survey by South Africa's Human Sciences Research Council (HSRC) showed that 80% of adults believe that same-sex behaviour is "always wrong".⁴ LGBT people in South Africa experience discrimination and harassment, particularly in resource-poor settings, in rural areas and townships.⁵ Lesbian and bisexual women or women who have sex with women (WSW) experience marginalisation "both as women and as women who have sex with women living in a patriarchal, heterosexist society".⁶

Social marginalisation is not an uncommon experience for LGBT people, but in South Africa, where the burden of HIV is among the highest worldwide, lesbian and bisexual women experience greater vulnerability to sexual ill-health. Research conducted within South African LGBT communities over the past decade identified HIV prevalence

among black WSW at 9% and found they were at greater risk compared to white WSW.^{7–11} A multi-country study found that WSW in South Africa and other countries in Southern Africa face sexual health risks both within same-sex relationships as well as in heterosexual experiences, including transactional sex with, and forced sex by men. Of WSW living with HIV surveyed, 20% stated that they believed they were infected during an exclusively same-sex relationship.^{12,13} These findings were unexpected, given that there is little comparable data showing a similar burden of disease elsewhere, and a lack of analysis in both high-income and low- and middle-income countries about a range of lesbian and bisexual women's sexual and reproductive health concerns, including risk of acquiring HIV.

There is a common misperception that WSW are not at risk of acquiring STIs, including HIV,¹ resulting in many WSW having a sense of invincibility to HIV transmission through same-sex relationships,¹⁴ and hence a “much higher risk for contracting HIV than is generally perceived.”¹⁵ Although data on incidence and prevalence of HIV and other STIs among WSW in South Africa are limited, there are many self-identified lesbians living with HIV in South Africa who argue that the exclusion of WSW from South Africa's HIV policy, research and prevention initiatives can no longer be justified by assertions that WSW face “no risk” of HIV transmission in same-sex relationships.

It has been established that gender-based violence (GBV) is a significant driver of women's vulnerability to HIV,¹⁶ and that Southern Africa has extremely high rates of GBV, with 17.4% of women ever having experienced non-partner sexual violence.¹⁷ Holland-Muter noted that in South Africa lesbian and bisexual women are targeted for sexual violence explicitly because of their sexuality. This violence, resulting in trauma and increased risk of HIV transmission, has been referred to in the sensationalist media and by certain activists as “corrective rape”, as some perpetrators have stated they intend to “cure” women of same-sex desire.¹⁸ Nevertheless, concerns have been raised that South Africa should not regard violence against women, including lesbian and bisexual women, “primarily or solely as a cause of HIV transmission rather than as a serious violation of women's fundamental rights to bodily integrity, personal freedom and sexual agency in itself.”¹⁹

In the South African context, where the right to health is enshrined in the Constitution, health

policy development provides unique opportunities to air concerns about even the most marginalised citizens. In 2007, there was a breakthrough in civil society participation in the South African National AIDS Council (SANAC), including the opportunity for lesbians living with HIV to present testimony. The resulting policy content of the *HIV and AIDS and STI Strategic Plan for South Africa 2007-2011* included commitments relevant to WSW including: “a customised HIV prevention package for men who have sex with men, lesbians and trans persons; equitable representation of LGBT people in care, treatment and support programmes; and information materials on rights to HIV prevention, treatment and support that responds to the special needs of ... gay and lesbian people.”²⁰ This was remarkable, since lesbian or bisexual women are rarely highlighted for public health interventions or included in national STI or HIV/AIDS policies, and particularly not in sub-Saharan Africa, where heterosexual sexual HIV and STI transmission predominates, as is often the case in generalised HIV epidemics. Although public health strategies targeting LGBT communities have emerged in the region, they have been focused on preventing HIV among men who have sex with men (MSM) and transgender women, given the high HIV incidence in these populations.

In 2011, South African policy actors developed the National Strategic Plan (NSP) for 2012-2016 within a Ministry of Health mandate to emphasise “evidence-based” interventions. Normative guidance, particularly from UNAIDS, on the benefits of focusing on key populations vulnerable to HIV, including MSM, to drive down incidence, was influential in shaping policy content. Ultimately, *The National Strategic Plan on HIV, STIs and TB 2012- 2016* did not address the HIV and STI risks facing WSW, although it did acknowledge that “discrimination against members of the community with... different sexual orientations (e.g. men who have sex with men and women who have sex with women) ... may result in reluctance to attend health services for fear of discrimination.”²¹

The health policy analysis presented in this article provides some insights into how and why the 2007-2011 NSP initially proposed the implementation of services that would benefit WSW and considers how policy commitments to WSW sexual health evolved over time. It reflects a lack of policy cohesion between sexual rights and access to the right to health for sexual minority women in the context of South African HIV/AIDS and STI policy

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