South Africa

by Tina Gianoulis

Nelson Mandela is one of several revered figures who have supported glbtq rights. Image courtesy South Africa The Good News / www.sagoodnews.co.za. Image appears under the Creative Commons Attribution 2.0 Generic license.

The evolution of the state of South Africa is one of the world's most complex and inspirational national histories.

Founded in bloody colonial conflict, slavery, and greed, the Republic of South Africa became one of the most heinous examples of institutionalized racism on the planet. The unrelenting courage and resistance of black South Africans and other people of color and whites who refused to accept the brutal apartheid system resulted in the overthrow of one of the most repressive regimes in history and the creation of a thriving democratic republic.

Due to the work of strong gay activists among the anti-apartheid freedom fighters, this new Republic of South Africa, comprising nearly 50 million citizens, became the first nation in the world to be founded on a constitution that includes sexual orientation as a protected freedom.

On the wave of this progressive inclusion, South Africa's queer population has developed a diverse and energetic community with many organizations that continue to try to repair the rifts of the nation's divisive past.

However, despite legislative and judicial successes, national priorities and cultural attitudes are not easily changed. Thus, South Africa's queers continue to struggle against prejudice and violent attacks, including so-called "corrective" rapes that target lesbians.

History

The southern tip of Africa had long been a stopping point for European explorers and traders when it was colonized by the Dutch, who founded Cape Town in 1652 primarily because of its strategic location on the spice route between The Netherlands and the far East.

The Dutch settlers (the Boers) retained control of the African states of Transvaal and Orange Free State after the British seized the Cape of Good Hope in 1806.

Both sets of colonizers subjugated and enslaved the natives of the area, who included several tribes of Hottentot and Bantu people, and imported slaves from elsewhere, including Malaysia. This exploitation continued even after the abolition of slavery in 1833 and became even more egregious when the discovery of diamonds in 1867 and gold in 1886 inflamed colonial greed.

The conflict between British and Dutch colonizers of southern Africa escalated into war in 1899. This Anglo-Boer War ended in 1902 with a British victory, and by 1910, the separate British and Dutch states were united in one nation, the Union of South Africa, under British control.

In 1948, as the world was still reeling from the effects of European fascism, the conservative National Party came to power in South Africa and began the process of making the separation of the races official state policy.

This policy of apartheid legally defined four racial groups, White, Coloured, Indian, and Black, and legislated extreme restrictions on all non-white citizens. Many Blacks were relegated to separate, and virtually powerless, "homelands" called Bantustans.

In 1961, ostracized by other members of the British Commonwealth, the nation became the Republic of South Africa and severed ties with the Commonwealth. (In 1994, following the end of apartheid, South Africa was readmitted to the Commonwealth.)

Throughout these changes, political and economic power continued to rest entirely in the hands of the European colonizers and their descendants, a small white minority (approximately 10%) in an African nation with a large black majority (approximately 80%) and a significant minority of people of mixed race (approximately 7%) and Asian descent (approximately 3%).

Natives of southern Africa had always fought back against their colonizers, and black South Africans, other people of color, and some progressive whites resisted the repressive policies of apartheid from the beginning.

The African National Congress (ANC), a resistance group that had been formed in 1912 to oppose the oppression of black South African workers, was banned in 1960 when it turned to militant tactics to fight back against apartheid. Many leaders of the resistance movement were killed or imprisoned. Nelson Mandela, for example, was jailed for twenty-seven years for "sabotaging" the apartheid government.

Another courageous young activist who was unjustly imprisoned was Tseko Simon Nkoli (1957-1998), an openly gay man who had worked to end apartheid for several years before his arrest in 1984. Though he faced the death penalty, he spoke out for gay rights while in prison and after his release in 1987.

Nkoli's courage and that of other gay anti-apartheid activists earned them the respect of important members of the ANC.

By the 1980s an international anti-apartheid movement had begun to call for divestment and boycotts of the racist state. Internal resistance, coupled with international pressure, finally resulted in negotiations to dismantle apartheid in 1990 and to establish a democratic government.

Nelson Mandela was elected president of the new republic in 1994, and in his victory speech, he denounced prejudice and discrimination against gay men and lesbians.

When a new constitution was written and ratified in 1996, the Republic of South Africa became the first nation in the world to include sexual orientation as a fundamental freedom.

Homosexuality Before Liberation

Homosexuality has always existed in South Africa, both before and after colonization. Many of the indigenous cultures had healing or spiritual traditions that included cross-gender roles, cross-dressing, or same-sex ritual marriages.

While traditional African homosexuality is poorly documented and often deliberately obfuscated, perhaps as a result of the Christian and Islamic animus against homosexuality that was introduced into Africa by colonizers, there is no doubt that same-sex sexual relations existed in traditional African societies in varying forms and degrees of acceptance.

As colonialization progressed, communities of miners, isolated from society in much the same way that prisoners are, developed a particular form of homosexual relationship, *mkehlo*, a male marriage that met needs for sex, intimacy, and support in all-male environments.

During European rule, sodomy was a common law crime, which was ultimately codified with a punishment of seven years imprisonment. Nevertheless, discreet homosexuals, such as leading colonist Cecil Rhodes, seem not to have been targeted for prosecution. Later, however, the sodomy law and other anti-homosexual legislation were used to outlaw social gatherings and political activities by gay men.

In 1957, a law forbidding the congregating of homosexual men for any erotic activity was passed.

In 1968, the government proposed increased anti-homosexuality legislation, inspiring one of the first organized actions for gay rights in South Africa. A group of mostly white, middle-class gay men formed the Homosexual Law Reform Fund, which successfully—yet fairly discreetly—campaigned against the harsher laws.

From the 1950s through the 1970s, South African police routinely harassed gay men with sporadic enforcement of anti-gay laws, but after the early 1970s enforcement of the sodomy law became rare. From 1972 through the abolition of the sodomy law in 1994, there were no prosecutions for private consensual sodomy in most regions of the country, though public sex was occasionally prosecuted under the sodomy law in some areas.

Although the sodomy law was only rarely enforced after 1972, it nevertheless made itself felt as a tool of insult and intimidation, wreaking psychological damage on the self-esteem of members of sexual minorities.

Similarly, although sex between women was never criminalized, anti-homosexual legislation added to the cultural stigma against lesbianism.

During the apartheid era, the South African military routinely practiced aversion therapy on gay men, who were subjected to electric shocks while they viewed images of naked men.

In 1982, the Gay Association of South Africa (GASA), a largely white male group, was formed to combat homophobic laws and attitudes. Simon Nkoli was a member of GASA before leaving it to form the Saturday Group, the country's first black gay organization.

In 1988, along with lesbian activist Beverly Palesa Ditsie, Nkoli founded the Gay and Lesbian Organization of the Witwatersrand (GLOW). GLOW represented a shift in queer organizing from segregated social groups to racially mixed groups with an anti-apartheid, pro-gay rights focus.

As happened in many gay communities, lesbians frequently felt marginalized in mixed groups and separated to form their own organizations, such as the GLOW Lesbian Forum and Lesbians in Love and Compromising Situations (LILACS). In 1990, Nkoli and Ditsie helped plan Johannesburg's first gay pride march.

Legal Reform

After the fall of apartheid, the legal status of gay and lesbian citizens quickly improved. In 1993, the interim constitution prohibited discrimination on the basis of sexual orientation. In 1994, a sweeping ruling by the Constitutional Court of South Africa struck down the sodomy law in the broadest possible terms.

In May 1996, with the adoption of the country's new constitution, South Africa became the first country to specifically protect glbtq people from discrimination. Section 9(3) of the constitution prohibits

discrimination on the basis of race, gender, and sexual orientation, among other grounds.

From this constitutional fountain flowed a series of legal reforms. All laws that had discriminated against glbtq people, including disparate ages of consent for heterosexual and homosexual acts, were formally repealed following another significant ruling by the nation's Constitutional Court in 1998.

In 1998, Parliament passed an employment act that prohibits employment discrimination, while in 2000, it passed a law that prohibits discrimination in public services and accommodations.

In yet another landmark case, the Constitutional Court ruled in December 2005 that the prohibition of same-sex marriage violated the equal rights provision of the constitution. The Court gave Parliament one year to pass a law providing for same-sex marriage.

In November 2006, Parliament voted 230-41 in favor of a bill that authorized same-sex civil marriage, as well as civil unions for unmarried opposite-sex and same-sex couples. South Africa, thus, became the fifth country to achieve marriage equality.

The lop-sided vote in favor of marriage equality may, however, be misleading. Many of the Members of Parliament from the ruling African National Congress who voted in favor of equality did so not out of a conviction that same-sex marriage was a step toward progress, but in order to prevent a constitutional crisis in the new nation.

Indeed, current South Africa President Jacob Zuma loudly opposed the new law. Moreover, the law allows civil servants, as well as clergy, to refuse to perform same-sex marriages.

Passage of the marriage equality law did not end the debate about same-sex marriage, and anti-gay groups continue to lobby to overturn the law.

South Africa Today

Although South Africa in theory, and largely in practice, extends equal legal rights to its glbtq citizens, the South African queer community must contend with persistent cultural prejudices. One of the strongest biases that glbtq groups must combat is the commonly held belief that homosexuality is not a native African identity, but one of the corrupting influences of the West.

In 1997, activist Graeme Reid helped found the Gay and Lesbian Archives (later renamed Gay and Lesbian Memory in Action, or GALA). Under the slogan, "Without queer history, there is no queer pride," members of GALA work to reclaim African queerness.

In 1994 the first Out in Africa Film Festival was organized in celebration of queer inclusion in the new constitution. With a goal of education, increasing gay visibility, and challenging negative stereotypes, the festival continues as an annual event in Cape Town and Johannesburg.

Another important issue facing the queer community of South Africa is the legacy of centuries of racial oppression and segregation. Though racism, classism, and sexism remain difficult issues in all societies, South African gay men and lesbians have made conscious efforts to organize and build unity across race, class and gender lines.

In 2008, the glbtq communities of Johannesburg and Soweto worked to heal the rifts created by apartheid by creating an interactive Remembrance Wall where glbtq people from both city and township could share their feelings and experiences. A joint Soweto and Johannesburg Pride celebration contributes to the solidarity effort.

In 2011, the Cape Town Pride parade organizers chose the theme, "Love Our Diversity," calling their community, "a culture that cannot simply be unified under the word gay." Parade planners, including Deputy Director Sharon Jackson, who is also on the board of the Out in Africa Film Festival, also made a strong effort to combine the celebration with important political issues. One of the most critical of these issues is confronting so-called "corrective rape," or rape of lesbians, supposedly with the aim of forcing them into heterosexuality.

Corrective Rape

One of the most damaging forms of homophobia, corrective rape began to come into public awareness in the first part of the twentieth century but its origins are far older. Because of the shame attached to being the victim of such a crime and the fear of reprisals, women are often afraid to report rape, particularly one that exposes them as lesbians. In spite of these fears, in 2003 thirty black lesbians in the Johannesburg area came forward to say they had been raped, and gay rights activists began to work to expose corrective rape as a hate crime.

Still the South African government was slow to respond. In 2007, after her best friend and her fiancée were raped, Ndumie Funda and other lesbians formed the organization Lukekisizwe to fight back against corrective rape. According to the group's statistics, 31 lesbians were murdered between 2001 and 2011, and at least ten a day are raped in Cape Town alone. Perpetrators are almost never prosecuted.

Members of Lukekisizwe have worked to force the government to acknowledge the widespread occurrence of corrective rape and to initiate anti-homophobia education in public schools and in law enforcement. They have also gathered more than a million signatures on a worldwide petition to have corrective rape classified as a hate crime.

Anti-lesbian violence was tragically brought into the public arena in April 2008, when Eudy Simelane, a well-known football star and one of the first open lesbians in the township of Kwa Thema, was raped and brutally murdered. Following Simelane's death, Triangle, a South African gay rights organization estimated that 86 percent of the country's lesbians live in fear of sexual assault.

As positive as was the 2006 decision to recognize same-sex marriage, some believe it has inflamed homophobia and anti-gay violence.

AIDS

South Africa's HIV and AIDS epidemic has had a major effect on the country. It is believed that more people are living with HIV in South Africa than in any other country. HIV in South Africa is transmitted predominantly through heterosexual sex, with mother-to-child transmission the other main transmission route. Still, AIDS has also affected the homosexual community as well.

One of the leading AIDS-activists is Zackie Achmat, a former anti-apartheid and gay activist who founded the National Coalition for Gay and Lesbian Equality. In 1998, Achmat, who is himself HIV-positive, co-founded the Treatment Action Campaign (TAC), which works to make certain that everyone has access to appropriate treatment.

The TAC focused initially on assuring access to medicine for those who could not afford private health care, targeting governmental indifference and large pharmaceutical companies who were more intent on protecting their copyrights than in helping poor people. Since then, it has broadened its scope to more elements of health care provision, particularly the implementation of an anti-retroviral program in the public health sector.

In 2008, Achmat jointly founded the Social Justice Coalition, which aims to promote the rights enshrined in

South Africa's Constitution, particularly for poor and unemployed people living in rural areas. He currently serves as the Director of the Centre for Law & Social Justice, a political, economic, and legal research center based in Cape Town.

Gay Life

South Africa's diverse glbtq community both thrives and struggles amid the contradictions between a conservative traditional culture and some of the most progressive gay rights legislation in the world.

Homosexuality certainly exists in rural South Africa, but visible gay life in South Africa seems to be an urban phenomenon. The major cities, Johannesburg, Pretoria, Durban, and Cape Town, all have substantial gay communities.

Even smaller cities, such as Blomfontein, Port Elizabeth, and East London, are known as gay-friendly areas, while Knyna hosts the annual Pink Loerie Mardi Gras, which attracts gay men and lesbians from across the country.

In the cities of South Africa, numerous businesses, from bars and restaurants to real estate offices, cater to glbtq customers. In addition, there are many cultural, political, sports, and religious organizations that welcome gay men and lesbians.

Both Johannesburg and Cape Town have annual Pride celebrations that attract large crowds. Cape Town is often described as the "gay capital of Africa."

As the most gay-welcoming African country, South Africa has become an important gay tourist destination, attracting visitors from Europe, Asia, the Americas, and the rest of Africa.

Despite some homophobic politicians and cultural attitudes, the South African glbtq communities have also received significant support from such revered figures in the country as Nelson Mandela, Anglican Archbishop Desmond Tutu, and Dutch Reformed Church theologian Dr. Allan Boesak.

Bibliography

Behind the Mask: The Voice of Africa's LGBTI Community website: http://www.mask.org.za/category/africa-by-country/south-africa/

"A Brief History of the African National Congress." African National Congress website: http://www.anc.org.za/show.php?include=docs/misc/2010/umzabalazo.html

Brulliard, Nicolas. "South Africa Debates Same-sex Marriage." *Global Post* (October 16, 2009): http://www.globalpost.com/dispatch/south%20africa/091008/south-africa-same-sex-marriage?page=0,0

Davis, Ken. "Hamba Kahle (Farewell) Simon Nkoli." *Green Left Weekly* (Australia) 345 (January 20, 1999): http://www.greenleft.org.au/node/20478

Frank, Liz. "Touring Queer Johannesburg." *Sister Namibia* 19.3 (July 2007): 7.

Gay and Lesbian Memory in Action (GALA) website: http://www.gala.co.za

"Gay Friendly South Africa." South Africa Discover Our Drakensberg website: http://www.drakensberg-tourism.com/gay-friendly.html

Gevisser, Mark and Edwin Cameron, eds. *Defiant Desire: Lesbian and Gay Life in South Africa*. New York:

Routledge, 1995.

Goodman, Ryan. "Beyond the Enforcement Principle: Sodomy Laws, Social Norms, and Social Panoptics." *California Law Review* 89.3 (2001): 643-740. http://www.law.harvard.edu/faculty/rgoodman/pdfs/Goodman_Beyond_the_Enforcement_Principle_Sodomy_Laws.pdf

Harrison, Philip. *South Africa's Top Sites: Gay and Lesbian*. Kenilworth, South Africa: Spearhead New Africa Books, 2005.

Kelley, Annie. "Raped and Killed for Being a Lesbian: South Africa Ignores 'Corrective' Attacks." *The Guardian* (March 12, 2009): http://www.guardian.co.uk/world/2009/mar/12/eudy-simelane-corrective-rape-south-africa

Luirink, Barry. *Moffies: Gay Life in South Africa.* Cape Town: David Philip, 2000.

Massoud, M. F. "The Evolution of Gay Rights in South Africa." *Peace Review* 15 (March 2003): 301-307.

Out in Africa website: www.oia.co.za

Ross, Robert. *A Concise History of South Africa.* 2nd ed. Cape Town: Cambridge University Press, 2008.

About the Author

Tina Gianoulis is an essayist and free-lance writer who has contributed to a number of encyclopedias and anthologies, as well as to journals such as *Sinister Wisdom.*