

# Re-righting the sexual body

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## Introduction<sup>1</sup>

"There is a need for action and [lesbians] need everybody's help. Wherever you are, speak out for them and give them your words of encouragement."  
 – Ugandan researcher on the African Women's Life Histories Project (Nagadya, 2005: 75).

"On a daily basis we struggle with contradictions that make us strangers to our bodies. Those from whom we should be able to expect support, too often end up betraying us." – Nigerian activist Dorothy Aken'ova in a speech before the UN Commission for Human Rights (Aken'ova, 2004a).

In January 2006, the Nigerian federal government announced plans to introduce punitive and homophobic legislation, on President Olusegun Obasanjo's proudly announced premise that such unions are "un-Biblical, unnatural and definitely un-African". The bill proposes to criminalise same-sex marriages, charge any officials who attempt to solemnise them, and to make activism for gay rights a criminal offence. Such a move seeks to close down political space for discussion and debate while violating the fundamental rights of all Nigerians to freedom of expression, association and democratic participation. The bill rides on the back of existing legislation in civil and Shari'a courts,<sup>2</sup> and aims, one protest statement asserts, to unite a "splintered and critical electorate" around an "easy scapegoat in distressing times" (Uhuru-Wazobia, 2006).

The Nigerian bill follows a ban on same-sex marriages in Uganda, the criminalisation of lesbianism and same-sex marriages in Zanzibar, and a slew of hate speech against gays and lesbians by Robert Mugabe, Sam Nujoma and other African leaders. With the exception of South Africa and its egalitarian (and much admired) Constitution, many African countries have in the past decade marked the continent as a place of legally-mandated homophobic intolerance.<sup>3</sup> The tremendous furore and debate surrounding same-sex relations and identities stem, in most part, from a reaction to the blossoming movements for

lesbian and gay equality, and broader claims for respecting sexual rights within Africa's borders. These movements have contested hegemonic definitions of cultural propriety and appropriate sexuality, thus questioning discourses at the heart of the patriarchal body politic.

This article explores the concept of "sexual rights" and what this means in the context of state-sponsored and publicly supported homophobia across the African continent. It explores the growth of the movement for sexual rights in Africa and internationally, and looks at recent interventions by activist women. I contend that the use of a discourse of "culture" to defend and legislate homophobia constitutes a form of cultural violence, and urge the engagement of broader progressive social movements in the defence of sexual rights.



The definition of sexual rights, agreed internationally in the Beijing Platform for Action, states that "the human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination, and violence" (United Nations, 1995). Activist coalitions such as Health, Empowerment, Rights and Accountability (HERA) have critiqued the absence of "positive" rights to pleasure and enjoyment in the UN statement, and the implicit framing of sexual rights in purely heterosexual terms. Their Action Sheet provides an alternative definition, defining sexual rights as:

a fundamental element of human rights. They encompass the right to experience a pleasurable sexuality, which is essential in and of itself and, at the same time, is a fundamental vehicle of communication and love between people. Sexual rights include the right to liberty and autonomy in the responsible exercise of sexuality...[and]...the right to choose one's sexual partners without discrimination" (1999).

The notion of sexual rights includes the right *not* to be sexually active. Sexual rights are not "new" sets of rights, but are rather based on the application of existing internationally recognised rights within the domain of the sexual body.

Of course, the debate is not just about "sex". Our bodies are our primary means of participating socially, economically, politically, spiritually and creatively in society. They are the beginning point of the practical application of rights; the place in which rights are exercised, and for women in particular, the place where rights are most often violated. Without knowledge of and control over our bodies, including our sexuality, women's rights can be neither fully exercised nor enjoyed. The value of a human rights lens in the debate on sexuality is that it scrutinises state accountability (particularly in terms of state duty

to protect citizens and their rights), and distributes the onus of responsibility for change as a collective rather than an individual project. My use of “rights” here rests not simply on the application of normative legal frameworks, but on the conceptualisation of rights as the outcome of people’s struggles for recognition, respect and the equitable redistribution of resources (Nyamu-Musembi, 2000; McFadden, 2000a).

## Embodying rights

There are historical periods in which sexuality is more sharply contested and more overtly politicised. During such periods, the domain of erotic life is renegotiated (Rubin, 1984).

Despite the diversity of Africa’s social and cultural histories, the European colonial project succeeded in enforcing new cultural hegemonies based on prudish and heteronormative discourses of morality. Burton argues that “it was often through reference to sexuality and with an eye to maintaining a certain heterosexual cultural order that the experiments of colonial modernity were attempted” (1999: 1). Discourses of domesticity, predicated on a reproductive, monogamous sexuality were central to this gendering of colonial African geographies (Hansen, 1992; Barnes, 1999), reinforced by the ordering of the colonial state along the public/private divide. Mama (1997) maps the colonial containment of women in the private sphere as a process of systematised violence, one that restricted women to increasingly limited spheres through legislation and the policing of public space.

As many African feminists have argued, womanhood in Africa continues to be framed by narratives of domesticity (see, for example, Mama, 1997; McFadden, 2000; Tamale, 2002). A litany of proverbs, contemporary cultural norms and laws reinforce the idea that the “proper” or “real” African woman is a woman who is heterosexual, married, bears children, and more often than not, pleases her husband sexually.<sup>4</sup> This construct of the “woman-mother” has also coloured policy and programming concerning women’s health in Africa, where reproductive health and family planning services for married women have been prioritised over services for sexual well-being and health, or the sexual and reproductive health needs of non-heterosexual or unmarried women. The trope of domesticity is also perpetuated in legal frameworks that deal with women’s rights, including the African Charter for Human and People’s Rights. The charter sanctions the [heterosexual] family as the primary unit of society, thereby extending rights to women according to the degree to which they participate in it (Horn, 2005; Onoria, 2002).



What is problematic about this discourse of domesticity is not so much that it supports and reifies motherhood, a status and identity which is desired and enjoyed by many women. Rather, what is problematic is the *limitation* of recognition of women's bodily and other rights to those concerns that support the patriarchal family alone. As McFadden argues, "[d]omesticity has become a controlling ideology that interfaces male/female relationships in the private [domain]. Without sexual health and sexual rights, African women remain within a status quo – mainly in the heterosexual family institution – as the means through which men reproduce themselves socially, culturally and sexually" (2000b).

In this context, African feminists have sought to emphasise sexual rights in order to allow dialogue and activism to grow around identities, desires and needs that fall outside of the limited framings of motherhood and marriage. Feminist interventions on the issue of sexual rights begin by charting an alternative moral geography of the body, mapped by the ethics of autonomous decision-making and the right to self-fulfilment. Some consider sexual rights in the context of the present epidemic of sexual violence and the gendered spread of HIV/AIDS, emphasising rights to freedom from violation (Klugman, 2000). Others focus on "positive" rights to sexual pleasure, fulfilment and choices regarding sexual partners (Bennett, 2000; McFadden, 2000a; Aken'ova, 2004b).

For instance, Dorothy Aken'ova's extensive research and practical experience of sexual health and rights work in northern Nigeria reveals the resonance of these agendas in the communities she works in. While conservative leaders seek to control women's sexual agency as a source of community "disorder", Aken'ova's work reveals that the reverse is true. Lack of pleasure and choice are central concerns for both heterosexual women and sexual minorities, and contribute to destabilising relationships, increased violence and the spread of life-threatening disease (Aken'ova, 2004c, Pressley, 2005).

Elsewhere in Africa, organisations such as Sister Namibia have actively campaigned for lesbian rights as part of a broad and inter-related agenda of women's rights to political participation, an end to violence against women, economic rights and access to safe abortion. Their work is rooted in a mixed constituency of rural and urban women, and puts into practice the concept of the indivisibility of rights (see Rothschild, 2005: 161–174).

The momentum of local activism and African women's claims to ownership and control of their own bodies led to the founding of AMANITARE, the first pan-African network on sexual and reproductive health and rights in 2000.



Although not without controversy, the founding partners agreed to a conceptual framework that included non-discrimination on the basis of sexual orientation, and articulated a commitment to challenge normative concepts of culture and tradition where they impinge on the rights of women and girls (Horn, 2003). The Coalition of African Lesbians, founded in 2004, tackles homophobia head-on, framing the struggle for recognition and full citizenship for lesbians in a comprehensive rights framework (Ngubane and Frank, 2005). With members from 14 countries,<sup>5</sup> the Coalition presents a serious challenge to claims that non-heterosexual practice or identity is “un-African.”

Advocacy at the regional level has succeeded in extending some of these boundaries around normative definitions of womanhood and women’s rights, although full realisation of such rights has not been achieved in the domain of sexual choice. The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, which entered into force in 2005, is a victory for African women’s activism (African Union, 2003). Unsurprisingly perhaps, the Protocol remains heteronormative, and contains no explicit reference to sexual rights or choice. However, the Protocol does include elements of the sexual rights agenda, including the right to freedom from violence and protection against sexually transmitted infections. It also emphasises the indivisibility of rights, the importance of economic rights and the responsibility of states to eliminate discrimination against women. In an important development, the Protocol acknowledges the validity of women’s claims to rights, regardless of marital status (Article 1[f]). It also embraces a dynamic view of culture, acknowledging the need to transform traditions and customs that justify violation of women’s rights, and supporting women’s roles as authors of new cultural frameworks (Article 17).

In articulating feminist agendas concerning the body, the movement for sexual rights has become implicated in a re-conceptualisation of cultural and political identities in Africa, including the gendered meanings attached to community, citizenship, and other narratives and structures of belonging. The sexual rights discourse also exposes points of tension between the demands of African feminists, who find their political roots within local histories of African women’s resistance, and conservative commentators, who see the feminist agenda in Africa as an index of misguided Westernisation, and make “restorationist appeals to implicitly masculine constructions of African culture” (Mama, 2002).



## International bodies

The contested history of sexual rights in international declarations and human rights instruments has been exhaustively covered elsewhere (see, for example, Tambiah, 1995; Petchesky, 2000; Correa, 2000). What is interesting for purposes of this debate is not so much the definitions that resulted in the international instruments, as the processes involved. As Ali Miller (2000: 76–78) points out, rulings on sexual rights at the United Nations predate the world conferences of the 1990s. As early as 1904, international agreements sought to safeguard women’s sexuality by protecting women from violations of their “honour” through rape or forced prostitution.<sup>6</sup> As with colonial legislation, state protection was offered to “good women”, preserving chastity and thus community integrity. The revived discussion on sexual rights at the 1994 International Conference on Population and Development and 1995 Fourth World Conference on Women were marked by very different demands. The call – coming from a diverse cross-section of women around the globe – was for recognition of women’s rights to make their *own* choices regarding their sexuality, and an acknowledgment that states were responsible for respecting and enabling, not limiting these choices.



The conservative establishment has been less than warm in its reception of this call to reframe sexual rights. Cynthia Rothschild’s analysis of activist experiences in UN negotiations reveals a systematic attack on the agenda of sexual autonomy and on supporters of women’s rights by representatives of Christian churches, the Organisation of the Islamic Conference, conservative governments and associated NGOs. She describes how they have “forged a rhetoric that unites nationalism, traditionalism and religious fundamentalism” (2005: 84), and employ it in sustained attacks on individual activists and the women’s rights agenda as a whole. Her research demonstrates how sexuality, including the naming of women’s rights activists as sexual “deviants” or “unmotherly”, is used to attempt to discredit valid activism and exclude certain people from debate and dialogue. Other tactics have included physical harassment and still more dramatic acts of intolerance – for instance, priests performing exorcisms in a room where a lesbian caucus had met.

African governments have largely sided with conservative “moralists” in discussing and voting on sexual rights. At Beijing, African governments were willing to consider a limited articulation of sexual health and rights in light of the related epidemics of violence against women and HIV/AIDS on the African continent (Klugman, 2000). However, with the exception of South Africa, African

governments voted *en masse* to eliminate any mention of sexual orientation from the final document (Jimenez and Careaga, 2003: 21–22), and have held this position in subsequent negotiations. As Aken’ova comments, these experiences “have confirmed that the context in which [activists] work... promotes the heterosexual male as the uniquely empowered sexual agent” (2004c: 4).

Despite a barrage of criticism and insults, African feminist and lesbian activists<sup>7</sup> have been vocal in these forums. They have continued to put the full gamut of sexual rights on the agenda, lobbying African states for support, and holding the line against systematic attacks by their governments working in concert with conservative and fundamentalist forces. Thus while international legal instruments and declarations are often portrayed as “foreign” agendas, or as “impositions” on Africa’s indigenous cultural and social sovereignty, they are felt by feminist activists to be incomplete responses to *local* demands for justice.



### “But it is against our culture!”

“[W]hen you hear about attacks on minorities, whether sexual or whatever, it is not a good sign, because who is to define who is African? Such behaviour usually leads to the closing down of the cosmopolitan nature of what is African” (Salo, 2003: 26).

Resisting moral corruption from the West is a common motif in the homophobic rhetoric of African leaders. What is bemusing is that moral condemnation and persecution of non-heteronormative behaviour is often supported by allusion to two texts: laws criminalizing “unnatural” sex and the Bible. Both were introduced via the European colonisation of Africa, and in the case of the latter, carried in again by a new wave of US-driven Pentecostal evangelism. Pentecostalism has been quickly absorbed into communities facing the crisis of HIV/AIDS, severe poverty and armed conflict, providing space for communal catharsis while re-entrenching conservative Christian mores. Furthermore, as discussed above, in international negotiations, African states often seek solidarity with conservative Western governments, including the United States and the Vatican, to assert their claims against sexual rights and, in particular, homosexuality. This selective, trans-cultural solidarity suggests that homophobia is less an “African” tradition than a patriarchal tradition that has been hijacked into local cultural discourses.<sup>8</sup>

The assertion that homosexuality is sinful and against the will of God has also been contested by a small but important number of progressive African religious leaders. Drawing on the spiritual principles of respect and love for

others, Archbishop Desmond Tutu, South African Imam Mushin Hendricks, Ugandan Bishop Ssenjonyo (recently excommunicated for his stance), Nigerian Reverend Jide Macaulay and others have called for an end to the persecution of lesbian and gay people. The Metropolitan Community Church, with branches in South Africa and Nigeria, has opened its doors to lesbian and gay worshippers and pastors. Clearly, faith in God does not exclude tolerance of diversity.

In a direct challenge to the “othering” of homosexuality in Africa, there is a growing body of research, documentation and artistic expression by and about same-sex desiring African women. The recently released edited collection *Tommy Boys, Lesbian Men and Ancestral Wives* (Morgan and Wieringa, eds. 2005), reviewed in this volume, captures some of these stories from women in East and Southern Africa. Contributions from South Africa and Kenya document the presence of customary marriages between women, despite attempts by colonial rulers and missionary churches to suppress them. This adds to research by Chacha (2003) and others into “traditional” forms of same-sex marriages between women, which are socially recognised and often entail the formal exchange of bride price. Individual narratives also reveal the discovery and creation of new names and new sub-cultures that transgress gendered and sexual norms, affirming women’s roles as authors of culture. It must be borne in mind that in all the contexts under review, women do this amidst the constant policing of their sexuality by friends, family and the public. Appraising the situation in Tanzania, for instance, Sophie Musa Mohammed (2005: 54) points out that contemporary heteronormative culture results not only in social ostracism for lesbians, but that lesbian women’s rights to health, work, education, and meaningful participation in society can be disregarded with impunity. Many women interviewed in her collection assert the need for a right to privacy concerning the intrusion of the state into their personal decisions. This includes the right to choose whether and how to express their sexual identity, and with whom. But such sexual agency is often exercised at a heavy personal cost. There is also little institutional or social support for individuals facing discrimination or simply navigating their own emotions and possible choices.

Needless to say, the extent of the negative attention the issue of sexual choice has received at a legislative level and in popular discussion across Africa suggests the degree of threat it is believed to pose to the functioning of hegemonic societies. Such hegemony endows otherwise subaltern men with a sense of being entitled to police women’s sexuality and commit hate crimes against same-sex desiring women in the name of a so-called collective good.





This hegemony also makes it possible to accuse anyone who unveils the history and presence of other sexualities in our midst of cultural treason. And as hate crimes against lesbians and threats against vocal activists persist, we know that death is often set as the sentence.<sup>9</sup> It seems clear, then, that the use of “culture” to sanction the erasure of dialogue about alternative sexualities, and to condone homophobia, constitutes a form of cultural *violence*.

## Towards the democratisation of belonging

Realising sexual rights, including the right to choice of partner, presents one of the more complicated – yet exciting – challenges for the fulfilment of justice. It is an issue that brings into question the basic application of equality and non-discrimination, the nature of identity and citizenship, and (in the light of Nigeria’s recent legal moves), the right to freedom of thought, expression and association. Yet the issue is conspicuous in its absence from progressive social movement agendas. Within the women’s movement there is still notable antipathy to the inclusion of sexual rights, in particular sexual orientation, as a serious advocacy issue (see, for instance, Tamale, 2003).



The growing visibility of “homophobia from the left”, including on the part of actors in the women’s movement, suggests that there is still a need for education, as well as dialogue, about the links between sexuality, heteronormativity and the broader agenda of women’s equality. Whether we are heterosexual or not, homophobic persecution affects us all. As Phumi Mtetwa argues “the possibility that a woman who transgresses social and cultural norms can be accused of being a lesbian has the effect of paralysing the expression of all women’s sexuality, including that of heterosexual women” (2003: 24). These forms of public baiting seek to reassert the boundaries of “permissible” sexuality, and like traditions of witch-pointing, threaten social death for any woman whose acts or speech threaten the sexual status quo.<sup>10</sup> The task of asserting sexual rights is a difficult one, particularly as the growth of the popular and political influence of conservative religion has re-constricted the moral space in which sexuality is defined and engaged. These monologues of intolerance have also contributed to further misunderstanding and misinformation about same-sex practice and identities.

As stated at the beginning of this article, the agenda of sexual rights is not about creating “new” rights, but rather acknowledging that people have the *same* rights, including the right to make decisions regarding their sexuality and relationships, and to participate and be recognised in the economic, social

and political life of their community with *and beyond* their sexual identities and preferences. By giving voice to the presence and legitimacy of histories of sexual diversity in Africa, we begin to enlarge the boundaries of permissible dialogue, and to lend solidarity to the struggle for the right of all people to live fulfilling lives, free from fear and persecution. I share the activist contention that change, even in the most deep-rooted systems of intolerance, is possible.

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## Footnotes

- 1 The author would like to thank an anonymous reviewer for helpful comments and suggestions on this piece.
- 2 In Nigeria, a conviction for a homosexual act carries a maximum penalty of 14 years imprisonment in civil courts, and death by stoning in Shari'a courts. The new bill proposes a sentence of up to five years for engaging in or presiding over a same-sex marriage ceremony, adopting children as a same-sex couple, forming and registering organisations, or gathering publicly and expressing a same-sex identity.
- 3 A handful of African countries, primarily in Francophone west and central Africa, do not have legislation criminalizing sexual acts between people of the same sex/gender. In some countries, colonial legislation against "unnatural" sexual acts (or "carnal knowledge against the order of nature", as phrased in British colonial laws) has been repealed on the basis that it criminalises forms of heterosexual sex or auto-eroticism.
- 4 I agree with Pereira (2003) that it is unhelpful and inaccurate to argue that African women are uniformly unable to exercise sexual agency, and acknowledge that women's right to sexual pleasure is articulated both in women's sexual counter-

cultures and in hegemonic discourses (e.g., Islamic discourse on the sexual rights of wives). This articulation, however, is invariably framed in the context of heterosexual marriage.

- 5 These include Sierra Leone, Ghana, Nigeria, Liberia, Rwanda, Kenya, Uganda, Tanzania, Zambia, Zimbabwe, Botswana, South Africa, Mozambique and Namibia.
- 6 Miller (2000: 100, fn 22, 23) mentions anti-“White Slavery” legislation against trafficking in the early 1900s, and the 1949 Geneva Convention, which calls on states to protect women “against any attack on their honour”.
- 7 These include South African lesbian activist Palesa Beverly Ditsie, who presented the statement of the international lesbian caucus to the governmental forum at the Beijing conference in 1995.
- 8 Those who allege that an acceptance of lesbianism is “Western” tend to ignore the fact that there is a long tradition of homophobic sentiment in the global North. Social and political antipathy to lesbian (and other non-heteronormative) existence continues throughout the global North, despite the introduction of equality legislation and visible social movements around sexual orientation.
- 9 There have been a number of tragic homophobic murders of lesbians in recent years, including the murders of Fanny Ann Eddy in Freetown, Sierra Leone in 2004 and South Africans Lorna Mlosana and Zoliswa Nkonyana in 2005 and 2006. Activist groups such as the Forum for the Empowerment of Women (FEW) in South Africa have been working to address rising homophobic rapes of lesbians, often in public and by groups of men.
- 10 Yaba Badoe’s exploration of life stories of women in a witches’ camp in Gambaga, Northern Ghana, is revealing here (*Feminist Africa* 5). Her analysis shows that women are labelled by their community as “witches” when they transgress gender norms by expressing sexual agency or developing economic independence. Such accusations result in a social and economic exile (2005).



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