
Police Turn Blind Eye to Homosexual Victims of Crime in Durban of South Africa

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ABSTRACT

This study focused on the perceptions of gays and lesbians regarding the role of the police in dealing with crimes committed against them in Durban. The study explored types of crimes committed against gays and lesbians, and their perceptions on the efforts of the South African Police Service in dealing with crimes reported by them. A qualitative research method was used to elicit the data. A sample of 15 participants (7 gay men and 8 lesbian women) was purposively selected. Interviews were used to collect data and it was analysed by means of a thematic analysis. The findings revealed homosexual victims experience crimes such as “corrective” rape, assault, sexual harassment and hate crime. These crimes committed against them are not investigated. Recommends: the police should be trained to deal fairly and more professionally when crime is reported by homosexual victims. Laws should be established that deal specifically with crimes that are motivated by hate based on sexual orientation.

1. INTRODUCTION

This study focused on the experiences of gays and lesbians on the nature of crimes committed against them and how the police tended to respond to the report of such crimes. The study was conducted among volunteers’ homosexuals studying at the University of KwaZulu-Natal (UKZN) Howard campus. Data was collected from purposively sampled gay and lesbian students who had been victims of violent crime. The aim of the study was to explore types of crimes committed against gays and lesbians, and their perceptions on the efforts of the South African Police Service in dealing with crimes reported by them.

The researchers are of the opinion that even though South Africa may have been the first country to liberate homosexual people by allowing same-sex relationships and prohibiting discrimination against them, it is a travesty that they are still victims of violent and hate-driven crimes simply because their sexual orientation diverts from the norm. Some are assaulted, raped, kicked out of their communities or fired from their jobs because of their sexuality, and some are even murdered. The fact that the perpetrators of these crimes often go scot free seems a travesty of justice and this study thus sought to understand why the police does not play a more active role in bringing the perpetrators to justice. Crimes against homosexual people continue unabated. Not much literature could be traced on this topic, with specific reference to the role of the police in Durban. The studies that could be traced focused predominantly on the number of crimes perpetrated against lesbians, gays, bisexuals and transgender (LGBT) people, and none specifically focused on the manner in which the South African Criminal Justice System responds to the

crimes committed against these members (homosexuals) of society. This was thus identified as a gap in scholarly knowledge which the study sought to fill.

Most studies that were conducted into this phenomenon embarked on a quantitative research approach as they attempted to quantify the extent of the problem that homosexual people face. However, this study focused on a qualitative research design in order to provide a detailed account of the experiences and views of gays and lesbians on the role of the police in dealing with their plight as victims of crime. Few studies were conducted in KwaZulu-Natal, with the majority focusing on Gauteng and the Western Cape. It was thus deemed appropriate to diversify the knowledge on crime against gays and lesbians by conducting the investigation in Durban in KZN. The quantitative studies that were conducted on the topic include a study Out LGBT Well-being that investigated the levels of empowerment of lesbian and gay people in Gauteng and KwaZulu-Natal. Another study was conducted by Sutherland (2016), who surveyed attitudes towards homosexuality and gender non-conformity in South Africa. The Out LGBT Wellbeing (2016), organisation also conducted a quantitative study on hate crimes against LGBT people in South Africa. Therefore, the current study diverted the focus to gain in-depth understanding of the phenomenon by listening to the voices of gay and lesbian people and giving them room to openly and frankly express their experiences within their respective communities and with the police without being limited or intimidated. This study thus deliberately employed the views of gays and lesbians who were living their lives openly and who had experienced a variety violent attacks simply because of their sexual orientation. Also, to explore the perceptions of homosexual people on how the police deal and respond with crimes committed against them. For the purpose of this paper, the gays and lesbians will be referred to as homosexuals.

2. LITERATURE REVIEW

for the purpose of this paper, the researcher employed a theoretical framework to delineate the phenomenon under study.

2.1 SOCIAL CONSTRUCTION OF GENDER AND SEXUALITY

For Subramaniam (2010), “social constructionism is a theory of knowledge that holds that characteristics typically thought to be immutable and solely biological—such as gender, race, class, ability, and sexuality—are products of human definition and interpretation shaped by cultural and historical contexts” (cited in Kang, Lessard, Heston & Nordmaken, 2017:20). Social constructionists believe that there should be a woman and a man, and that a man should not act inappropriately with another man. Lumen (2017) supports the statement by saying that the internalised belief that men and women are essentially different is what makes men and women behave in ways that appear essentially different. If the children adopt the roles of the opposite sex, they are viewed as having a problem and they are deemed ‘abnormal’—such boys are ‘sissies’ and girls are ‘tomboys’. Burr (1995:2) agrees, stating that our observations of the world suggest to us that there are two categories of human beings—men and women. For this reason, people believe that women and men should behave in a certain way, and if they do not, they are viewed as not normal by society.

The researchers are of the opinion that gays and lesbians experience crimes based on their sexual orientation due to the fact that societies believe that homosexuality is abnormal and thus unacceptable. Furthermore, homosexuals experience maltreatment by the police and many are not taken seriously when they report their cases. For instance, if a gay man was beaten and he reports the incident to the police, questions such as: “Why were you beaten by men if you are also a man?” or if a lesbian was raped, she might be asked a question such as: “How can you be raped by men when you are trying to be one?” Such questions reflect an attitude that is taught by society that heterosexuality is normal and homosexuality as abnormal.

According to Mpuka (2017), the social construction of gender roles is based on socialisation and enculturation. In a society, females are given roles that are socially constructed as those of women, and the same applies to males who are seen as men in a society. Therefore, if a person is not complying with these socially constructed assigned roles, he or she is viewed as a deviant. In a society where men want to be dominant, lesbians are at risk of becoming the victims of ‘corrective’ rape because men—particularly African men who still adhere to the traditional perception that women

are inferior to men—may feel that lesbians want to dominate although they are ‘mere’ women. Lesbians that have a masculine build are often referred to as ‘butch’. These lesbians in particular are likely to experience victimisation because it is believed they pose a threat to men. For example, O’Brian (2009:101) states that “numerous accounts of discrimination against butch lesbians illustrate the ways in which masculine women pose challenges to the binary gender system, as well as to men’s ownership of masculinity and the norms regulating women’s behaviour”. Furthermore, because it is expected by most societies that women should appear feminine and dainty, ‘butch’ lesbians are often harassed because their physique is masculine.

The researchers opine that, when society observes people diverting from their gender roles, they are labelled by attaching humiliating names to their character such as *stabane*, *nkonkoni*, and *moffy* (or *moffie*), and that they are persecuted and ostracised from ‘normal’ society. This was confirmed by this study that homosexuals were discriminated against as they do not conform to what society has constructed as a reality; as a result, they fall prey to ruthless community members who project animosity towards them. They reportedly experience the same fate when reporting crimes against them to the police. However, due to social construction perceptions, the police fail to take their cases and/or to investigate the crimes committed against them. The way in which societies and the police treat homosexuals may also be shaped by the fact that societies constructed the perception that human beings should be either a man or a woman, and that anything outside this norm is unacceptable. Thus, those who live their homosexual lives openly are at risk of victimisation and subsequently their cases are not taken to consideration by the police when reporting.

3. METHODOLOGY

A qualitative research method was used in order to elicit rich data about the experiences and perceptions of homosexuals pertaining to the role played by police officers in dealing with reported incidences of abuse and assault against them. Many studies that investigated the experiences of homosexuals were quantitative in nature as they focused on the extent of their experiences on violence. However, the current study focused on the elucidation of qualitative data in order to obtain a deeper understanding of gay and lesbian perceptions and experiences of violence crimes committed against them, and the role that the police plays in dealing with their complaints when they report violent crimes to them.

3.1 Sampling

The total sampling size was fifteen (15) participants comprising representatives of both the gay and the lesbian communities in Durban. Seven gay and eight lesbian participants ultimately participated in the study. These 15 homosexual participants had to satisfy the following demographical conditions: they had to be homosexual (i.e., be either gay or lesbian), and be between the ages of 20-35. Racial and socio-economic criteria did not apply in the selection of the sample. The participants were identified and selected with the clear intention that they had to be knowledgeable about the research topic; i.e., they had to have had experiences crime which they reported to the police. The exact nature of the violence experienced by the victims was not an inclusion criterion. When selecting the research participants from the population, the researcher used the purposive sampling technique. This technique relevant and appropriate because it helped in choosing the most relevant or knowledgeable participants with regard to the topic under study.

3.2 Data collection

In-depth interviews were used as the primary data collection tool. This approach was used to gain in-depth data based on the participants’ narrative experiences pertaining to the research topic. The researchers conducted a face-to-face interview with each of the participants, which allowed them to respond to the questions they were asked and to freely express their views without fear of coercion or repercussions. The interview sessions took 30-60 minutes, depending on the responses given by the participants. The open-ended questions in the interview schedule were used thus allowed the participants to dwell reflectively on the topic under discussion. The collected data was analyzed thematically.

4. RESULTS AND DISCUSSION

4.1 CRIMES EXPERIENCED BY GAYS AND LESBIANS IN DURBAN

The crimes experienced by gays and lesbians under study included hate speech, physical assault, and ‘corrective’ rape based on their sexual orientation

4.1.1 Hate speech

Participants revealed that they had been victims of hate speech. They mentioned that they had experienced hate speech in places like taxi ranks, on the streets when they were walking, at university, and at night clubs. The participants reported that, in some instances, the hate speech would lead to threats and sometimes to assault. Some of the responses are presented below:

‘I have experienced lot of verbal offence, being mocked and called names in a taxi rank almost led to physical abuse as some individuals were already grabbing me’ (P6).

‘I think the offence I’ve was being verbal mostly, where you’re walking down the road minding your business and these men think they can touch you however they please. And also, these remarks that you get once you disclose your sexuality that you haven’t got the ‘right dick’, so why you think you are lesbian’ (P7).

Another example of hate speech that was experienced by one of the participants was a misunderstanding between him and a taxi driver. The altercation was narrated as follows:

‘[The taxi driver shouted,] ‘I’m not a “stabane” you hear me! I’m a man.’ So, I was so quiet and he said, ‘I’m a man! I’m not gay!’ The mothers apologised for me and said forgive him. But he continued and said, ‘I’m not gay! You are used to the drivers in Durban who are also gay, I’m not gay!’ And then he opened the door and came to me. Like he opened the door on the driver’s side coming out. He walked out and when he came this side I was just like, ‘Ohhh! I’m sorry! I’m sorry, I’m sorry!’. And then he stopped and swore’ (P3).

It is evident from the responses that, most of the homosexuals tend to become victims of hate speech, and this type of crime goes unpunished in South African because there is no reporting category and there is no charge for this type of crime. This allows homosexuals to be more victimised and perpetrators getting away with it. Homosexuals in Durban experience hate speech in their communities, town, taxi ranks, university and night clubs. In some instances, hate speech is accompanied by physical assault. They are usually called names such as “*stabani*”, “*nkonkoni*”, or “*faggot*”, which are all names used to insult, derogate, degrade and discriminate gays or lesbians community. Nel and Judge (2008) arrived at same conclusion as the current study that vast majority of openly LGBT persons have experienced some form of victimisation, such as verbal abuse, threats, being chased or followed, or being spat on. Breen and Nel (2011) also state that often, hate speech includes harassment, slurring, name-calling and other forms of verbal abuse. Being open about their homosexuality gays and lesbians are at risk of hate speech in different places. It was found in the current study that, most participants are victims of hate speech due to their sexuality and viewed as abnormal in their society. This view correlates with Burr (1995) assertions that the dichotomy of hetero- and homosexuality is overlaid in societies so that heterosexuality is a represented as normal, natural and right whereas homosexuality is usually represented as perverted, unnatural and wrong. Which means that homosexual in Durban experience hate speech because they are viewed as abnormal by every community member.

4.1.2 'Corrective' rape

'Corrective' rape was experienced by two of participants: one was raped by a group of men and one was raped by a man who pretended to be her friend. Both participants indicated that they had experienced 'corrective' rape because of their sexual orientation. The participants mentioned the following:

'Well...uhm...when I was in matric...uhm...I had friends that were...uhm... heterosexual—straight girls—and they pretended to accept, that they had accepted the person that I was being the lesbian that I was, and they were okay with everything. Meanwhile they were plotting against me. They were just pretending and uhm...this one time in matric they were having a party and they obviously invited me to come to the party. My friends, very close friends, so they invited me to come over and then (clears throat), when I got at the party obviously the drinks were served and uhm...I swear I was not even drunk, I just had one shot and then the next minute everything was just numb, not blank, not blank but numb. I couldn't feel myself. I couldn't...yes, I just lost what you call? I lost energy. So I went outside to get some air and then the next thing I know this group of guys, in the yard, this group of guys uhm...pulled me to the bushes and they raped me repeatedly, all of them. I couldn't fight back but I could feel everything that was happening. And then after some time a lady came with a car and she rescued me' (P1).

Another participant shared a similar experience and mentioned that she had been raped by a man who pretended to be gay and her friend. She shared her experience in the following narrative:

'When I was doing my second year in 'varsity I had this friend who pretended to be gay and we would visit each other and I was very comfortable around him. He pretended to be the top gay... so the guy, he raped me when I was in his room. He forced himself on me and he told me that this was what I wanted this whole time and he just violated me in every way possible' (P10).

Correcting rape has been popular crime amongst the homosexual community, where people will attack and rape a female lesbian with the intention of correcting her behaviour and gender identity. The word corrective is used with inverted commas because there is nothing corrective about raped. However, people believe that they should correct lesbians and make them heterosexual women. The findings show that 'corrective' rape is also experienced by Homosexual, particularly, lesbians in Durban and they tend not to report it to the police due to the police insensitive attitude towards them. The reported cases are not effectively dealt with as a result a "dark figure" is realized. Van der Schyff (2015) reports that 'corrective rape' cases are growing and the reasoning varies from a misogynistic culture rooted in traditional perceptions of women faced with a new and emancipatory democracy, to alcoholism and homophobia.

In the current findings, one participant was drugged and gang raped at a party by boys who were friends with the victim's friends. She believes that happened because she was a lesbian. Another participant was raped by a friend who pretended to be gay and raped her because he said that is what she wanted. The responses from participants are in line with the definition of 'corrective' rape by Nel and Judge (2008: 24) that 'corrective' rape is "the prejudiced notion that a lesbian woman can be raped to 'make her straight' i.e., to 'correct' her lesbian sexuality". Phiri (2011) asserts that 'corrective' rape is a real and present danger to the lesbian women of the country. The researchers opine that the lesbians are raped due to the belief that they can change into heterosexual women. This view correlated with Moffett (2007) asserts that survivors of 'corrective rape' make it clear that their attackers were interested in humiliating and punishing them for how they choose to express their sexual identity. However, this does not happen but instead causes negative impact on the victim such as the fact that the victim may start blaming themselves and feeling afraid to live their lives. One participant mentioned that she was raped by a friend who said that she had been asking for it. Some lesbians may experience 'corrective' rape because men may feel threatened by lesbians and have a belief that victimizing and raping lesbians can cure them. However, the researchers argue that there is nothing corrective about rape and 'corrective' rape can have a major negative impact on the victim's life.

4.1.3 Physical Assault

Some of the participants did not only experience hate speech, but also physical assault in places such as clubs. A gay participant mentioned his experiences in the following narrative:

'I was assaulted at the club in 2016. You won't believe that I don't even go out a lot... So unfortunately, when I was kissing this guy, I was seen by these homophobic guys, and they yelled at us and they beat both of us. Yho! I was hurt, shame, and I hated clubs even more... When we were kissing these guys started talking like, 'What are you two doing? Why are two dudes kissing? Don't you see there's so many girls here instead of disgusting us?' So, it was all that and the other one pulled us and then things started going [badly] ...' (P14).

'Ok, I've experienced victimisation in many ways possible, but the worst one was being assaulted at the club. You know Club 58, right? On that road. It's a gay club but there are straight people, homophobic people too. So, he slapped and punched me many times' (P9).

Another participant was assaulted by a classmate in school because he was gay. He mentioned the following:

'So, there's this day after school the guy beat me...I was also scared of being uncomfortable in the community because it's not even easy to tell your family because even your family has not accepted you that you could report and say, 'He beat me because I am gay' (P11).

The findings showed that gay participants were mostly likely to be victims of physical assault. Gays experience physical assault in clubs, University and on the streets. "One participant mentioned that he was assaulted at the club for kissing another man". The physical assault was accompanied by hate speech and insults such as "why are the two dudes kissing, don't you see there's so many girls here instead of disgusting us", "you stabani", "you gay faggot", "we will teach you a lesson,". Another participant who was beaten by a one of his schoolmates said that "he beat me because I am gay". The above experiences by participants correlate with the case reported by De Barros (2016) of a gay who was assaulted outside the Society/Tokio club in full view of the bouncers, for no other reason than his sexuality. It is evident that homosexuals experience all kinds of crimes due to their sexual orientation. Assault amongst other crimes is mostly likely to be experienced.

4.3 LACK OF POLICE EFFORT IN DEALING WITH CRIMES COMMITTED AGAINST HOMOSEXUALS IN DURBAN

The participants believed that the LGBTI community in general is not taken seriously by the police when reporting their victimization to the police. Their cases are often not being investigated. The responses of the participants showed that they had little or no trust in the police. Some participants mentioned that they did not feel that they were protected by the police and that they did not trust the police with their lives. The participants stated the following:

'Yho, those ones are trash, oh my God! They are trash. I do not trust them. 'Cause if they see a gay person they look at you somehow. You never feel protected around a policeman as a gay guy, as we're supposed to feel protected especially in South Africa. Gays are accepted in this country by the law, but it doesn't accept us, the police they don't, they really don't. They don't want us, it's a few. I've never met those that are accepting' (P15).

'So, with the police shame I won't lie I wouldn't trust my life with them. I mean they ignore rape and murder cases of homosexuals. Who am I with my case of assault because I was kissing another guy! No way. Shame. No way!' (P14).

Another participant expressed a similar view in the following narrative:

'I feel it's still unsafe for gays mostly to report rape, simply because in most cases they are not taken seriously, and rather taken as laughing stocks. And on the other hand with the lesbians, imagine what it

would take for you to report rape and only to find the culprit/offender walking freely after that and sometimes hunting you down for revenge. Lesbians are assaulted daily and sometimes they never report because of such. So I would say the police does not yet play its role in protecting our community, especially the gays and lesbians' (P7).

The participants who had reported crimes also responded with similar vehemence. They mentioned that there was no support from the police when reporting crimes. The participants mentioned that they did not feel protected by the police even after reporting the cases because of the way the officers dealt with their cases. The two participants who had reported their cases confirmed that there was no support from the police. They mentioned that their cases were not taken seriously; instead, they were asked questions that were humiliating rather than helpful.

The participants mentioned the following:

'I won't lie. I felt homophobia for the second time after that incident happened. The police were homophobic and they were not paying attention to whatever I was telling them because I explained the entire story because I wanted them to hear it and help me. So I felt like they didn't help me and they were very homophobic. I'm the example of the fact that there's no support. We have laws that say we should be protected but where's the implementation of that? Because they only focus on the race issue and gender issue between men and women. What about us?' (P9).

'Okay, it's not much, because like I said as they are being put there by the government to protect the society but we do not get that in such an extent that you even fear going to the police station because you know the report that you will get there. Because like I said as much as I reported the case but I knew they were not gonna help me anyway. Because of the attitude they gave me. Like they failed to pretend to support me' (P11).

Participants who had not reported the crimes to the police also shared their opinions on the support of the police. The participants shared the opinion that there was no support from the police. One participant stated:

'You see, if there was support from the police I wouldn't be here, I would have been motivated in the beginning that there are police that know their job, they support homosexuals. I was also going to go get help. But from what I see, from then until now I don't think they get help, that they give us support because even them, they are homophobic most of them. So, they won't help you, they would say, 'Yeah, it serves you right'. So, they are homophobic themselves' (P2).

'You know, the biggest problem, guys, the biggest problem that I see is that SAPS, the criminal justice system, they can't give us support because they're not even sensitised about the society that they are supposed to protect, you know' (P3).

'Not much, since most homosexuals often resort to suicidal attempts or suicide for not getting the help they actually need' (P6).

'I think mainly well, we can say the policies right that are passed by our justice system they claim to protect individuals, every individual under if you are a citizen of South Africa a policy that is passed is meant at protecting, be it you are a child or a woman or you are gay, but it's just there to protect your right. I should say that as a human being. But however, I don't think that is really happening. I feel like more gay, the LGBT community is failed by the police mainly' (P8).

Almost all the participants under study did not report the crimes committed against them to the police. This was realised due to effortless depicted by the police and the Criminal Justice System (CJS) as a whole. Homosexual lost faith and trust to the criminal justice system because they make no effort to tackle the crimes committed against them in Durban. They believed that reporting their ordeal to the police is a waste of time and evoking of painful experiences

they wish to forget. They all hold the notion that, no help will come through due to their sexual orientation and they are avoiding a secondary victimization by the police officers.

Those few participants that had reported their cases to the police confirmed that they had negative experiences from the police when reporting crime. Their cases were not taken seriously by the police. The police asked derogatory questions that are insensitive, uncomfortable, humiliating and degrading them as humans, questions such as “*why don't you fight back because you are a man?*” “*why don't you fight as a man because you are trying to be one*”. Judge (2015) argues that police officers contribute to under-reporting by using oppressive language, asking heterosexist insensitive questions and thus making the LGBT victim feel uncomfortable and unable to access the criminal justice system. Human Right Watch (2011:48) agrees with the findings of the current study that “police response to lesbians and transgender men is also sometimes marked by inefficiency, corruption, inaction, and even complicity with perpetrators.” Looking at the rate in which homosexual refrain from reporting crime, it is reasonable to argue that the cases reported are not dealt accordingly and not taken seriously. The researchers are of the view that some of those participants who had reported crimes to the police and did not get positive responses may never report crime again. This means that the opportunities for the perpetrators to victimise them is guaranteed. Police provides no effort at all in dealing and/or investigating the crimes against gays and lesbians. They take for granted the crimes committed to the homosexual and provide no help to solve those crimeS. They often adamant and have apathy in the cases of the homosexual. They contribute to the “dark figure” by performing a “grey figure”. Mpuka (2017) states that the social construction of gender roles is taught based on socialization and enculturation. Therefore, the way in which police officers provide little or no effort in dealing with cases reported by gays and lesbians is because they believe that homosexuality should not exist in the first place or that it is not real.

The researchers share the same sentiment with Mahapa's (2012) findings that 41 out of 57 (72%) of the LGBT informants expressed a severe lack of trust in South African police and the criminal justice system. Reasons cited include lack of seriousness with which anti-gay hate crimes are dealt, ridiculing, and deliberate mishandling of cases on the part of the police. Nell & Shampiro (2011) report that a number of young lesbians that we interviewed recounted cases of gang rape, but seldom reported these because of fear of how the police would respond

5. CONCLUSION

The study found that there are crimes that are committed against gays and lesbians which include Hate speech, physical assault, and ‘corrective’ rape. Crimes are not reported to the police due to lack of trust to the police and the fear that their crimes may not be taken seriously. Those that reported were not treated and dealt well in the hands of the police. No investigations were carried our subsequently secondary victimization was realised. The participants believed that the CJS is not doing much to protect gays and lesbians and there is little effort when it comes to dealing with the cases reported by them to the police.

Police should sensitised to the plight of homosexuals and be trained in a manner that will encourage them to deal more sensitively and professionally with cases reported by gays and lesbians. Equality and a lack of discrimination should be major objectives. Even if police officers are personally, culturally or religiously against homosexuality, they should learn to deal with these cases fairly and without judgement or discrimination of homosexual victims, as that may lead to secondary victimisation of homosexuals which could impact negatively on the victim and may cause them to lack trust and not report any cases in the future. There should be laws that deal specifically with crimes that are motivated by hate or dislike of a person based on their sexuality or sexual orientation in order to thoroughly and adequately address these crimes.

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