

# Rethinking gender and conduits of control: A feminist review

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## ABSTRACT

The South African Constitution has been hailed as one of the most progressive in the world and has received high acclaim internationally (Mkhwanazi 2016:6). However, the war on women, their bodies and their right to self-determination persists, irrespective of the Constitution. Literature reveals experiences of brutal rapes and killings of black lesbian women, as well as mistreatment and hate speech in the name of morality against sex workers, women seeking abortions and HIV-positive women (Strode *et al.* 2012:64). Based on a desktop review of images and audio-visuals of women's narratives in South Africa, this paper finds that many of the country's contemporary social institutions, such as the state, family, church and culture, amongst others, normalise forms of gendered violence, such as the policing, control and exploitation of women's lives and bodies through cultural practices like *ukuthwala* and *ukuhlolwa kwobuntombi*. Research findings also include narratives of women, who – in spite of prevailing social and institutionalised violence – have leveraged personal agency to declare autonomy and make personal choices regarding their bodies and lives.

**Keywords:** gendered violence, LGBTI people, patriarchal societies, rape, *ukuhlolwa kwobuntombi*.

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# Introduction

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to –  
Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;  
Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law (Constitution 1996:1).

South Africa boasts one of the most liberal and progressive constitutions in the world. It promotes and protects democratic values, social justice and fundamental human rights for every citizen, who is equally protected under the law. What is of relevance to this research is the Bill of Rights that precedes the Constitution, which stipulates that,

[e]veryone has the right to bodily and psychological integrity, which includes the right–  
(a) to make decisions concerning reproduction;  
(b) to security in and control over their body (The Constitution of the Republic of South Africa 1996:6).

The Bill of Rights affirms the values of dignity, equality and freedom for all South African citizens (The Constitution of the Republic of South Africa 1996:5-6). In section 9(2), the Constitution (1996:5) defines equality as including ‘full enjoyment of human rights and freedoms’, which means that human rights are not enough in themselves: freedom is also a necessity in ensuring equality. Our argument is that as long as some citizens are not free because of their gender and/or sexual orientation, equality remains a fallacy and a delusion. We are troubled by the fact that the promise of ‘freedom and security of the person’ (The Constitution of the Republic of South Africa 1996:6), has not been sufficient to guarantee women’s and LGBTI people’s “bodily integrity”. Most citizens with identities considered as deviating from the norm, such as LGBTI people and women (especially young, poor, HIV-positive women, women with disabilities, lesbian women, bisexual women and women sex workers), are not often viewed as deserving of freedom and/or *rights* to bodily integrity, which include control over one’s body (Mkhize 2015; Njawala 2016).

Nonetheless, Section 22 of the Constitution (1996:9) can be seen to underpin an important provision for sex work in South Africa when it states that ‘every citizen has the right to choose their trade, occupation or profession freely’. Further to this, there are numerous jurisprudential documents that point to aligning the Constitution with the law in South Africa. One example is the Criminal Law (Sexual Offenses and Related

Matters) Amendment Act 32 of 2007, popularly known as the New Sexual Offenses Act of 2007. Amongst other advances, the Act expands the legal definition of rape to include all forms of sexual penetration without consent, irrespective of gender or sexual orientation. Later in this article, we explore how, despite these advances, the law still fails women, who are experiencing varied and multiple sexual and gender oppressions in South Africa.

## Theoretical paradigm: Radical feminism

Radical feminist theory offers a holistic worldview for the experiences of LGBTI people, girls, and women involved in *ukuthwala*,<sup>1</sup> *ukuhlolwa kwobuntombi*<sup>2</sup> and polygamy in South Africa. This theory creates an original and social theory of women's oppression and strategies to end that oppression, which comes from women's lived experiences (Rowland & Klein 1996). Unlike other feminist theories, radical feminist theory is based on the premise that patriarchy is a system that is at the core of women's oppression and believes that women's oppression is best alleviated by the eradication of patriarchy entirely (Johnson 1997; Mkhize 2015).

Most African cultural practices, such as *ukuthwala*, *ukuhlolwa kwobuntombi* and polygamy, are socially constructed and based and premised on patriarchal discourses in which women and females – young or old – are viewed and treated as properties of culture and men. Such cultural possession and the control of female sexualities, behaviours and bodies lead to the objectification and oppression of women and girls, subjecting them to gendered violence and abuses. Patriarchal African cultures not only control sexualities and genders of women and girls, but also those of LGBTI people. Within this context of control, policing, objectification, and the violation of sexualities and genders, radical feminist theory attests that all females are oppressed, and that their oppression runs across all groupings by race, ethnicity and social class (Renzetti 2010). Feminist theorists note that some women accept this, but that not all oppressed people agree or accept that they are oppressed. We find radical feminism appropriate for our study because diverse women's experiences in South Africa are located within a patriarchal experience, which connects the personal and the political. Radical feminist theory is useful in analysing how the Constitution and policies in a democratic South Africa are failing to address women's oppression in the area of gendered violence and harm.

We have also found postcolonial feminism to be relevant to our analysis in this article. Postcolonial feminism seeks to understand women's experiences in relation to history, culture and society (Tyagi 2014).<sup>3</sup> Postcolonial, as a term, suggests resistance to

“colonial” power and its discourses that continue to shape various cultures, including those whose revolutions have overthrown formal ties to their colonial rulers. In addition to the oppression that cuts across all races, ethnicities and classes, the oppression of black African women, girls and LGBTI people seems to operate through a culturally specific oppression that promotes the abduction of young girls and women. That is, the control of female sexuality through *ukuhlolwa kwobuntombi*, the othering of LGBTI people – given that their genders and sexualities are viewed as ‘unAfrican’ (Tamale 2013:13) – and polygamy. Western feminism assumes that the female experience of oppression, violence, and reproductive health issues are universal (Mohanty 1984:334-335). Postcolonial feminists critique this essentialist view of women, which often does not acknowledge women’s different identities and experiences (Mkhize 2012). Radical and postcolonial feminist thinking, then, allow for the critical analysis of colonialism, apartheid, democracy, and their effects on the lived experiences of girls, women and LGBTI people – their reproductive rights and general human rights (Anderson 2003:5).

Using these theories, the construction of identities and the oppression of women and girls are exposed. It is patently evident that South African women have different experiences because of their different races, ethnicities, locations, professions and religions. Further, concepts such as reproduction, the sexual division of labour, the family, the marriage household, and patriarchy, must be used in relation to their specific local, cultural and historical contexts (Mohanty 1984, 2007:337). With this in mind, we now examine South African gendered practices.

## Social institutions and violence in South Africa

### The state and the family

The word “state” has a number of different definitions. In a general sense, it signifies a self-sufficient body of persons, united in one community for the defence of their rights; in this definition “the state” and “the people of the state” are equivalent expressions. Its specific meaning expresses legislative and judicial powers, making it synonymous with the government (The Free Dictionary 2014). In this article we use it in the latter sense, meaning the power of government in South Africa. Family life in South Africa is not simple to understand or describe. Colonial and apartheid legacies have promoted the breakdown of families in South Africa; and the high rate of mortality, which creates many orphans and extended families, has left the concept of the nuclear family paradoxical. Taking this into account, when we refer to South African families, we mean not only the nuclear families, but also extended and child-headed families, as well as caregivers or guardians including lovers, siblings and friends (SAIRR 2011:1).

Existing analyses on gendered violence in South Africa show that most individuals are more likely to be raped by a family member, relative, or an acquaintance, than by a stranger (Rape Crisis Centre [Sa]). This research reveals that more than 30 percent of women over the age of 18 have been raped (Rape Crisis Centre [Sa]). This figure points to a lack of safety and protection for most females in South Africa. Research also confirms that one third of girls who graduate from high school have been raped (Faul 2013). This occurs within the context of “an average family life” for females (girls and women, whether heterosexual, bisexual, lesbian or transgender) in South Africa. Most African cultural and religious practices normalise such gendered violence by promoting male hegemony (Njawala 2016:32). The situation is exacerbated by the fact that most cultural and religious leaders are men, who reinforce gendered discourses within these institutions by promoting the rights of men above those of women.<sup>4</sup>

## Culture and religion

Culture and religion play significant roles in the lives of many South Africans. It is estimated that about 84.5 per cent of the South African population consider culture and religion to be important (NationMaster 2014:1). Many leaders, including Jacob Zuma, the former President of the country, use culture and religion as tools to defend their rhetorically and/or physically gendered abusive behaviours and to maintain the patriarchal status quo, creating a serious gendered violence crisis in South Africa’s democracy. For example, in a 2008 ANC<sup>5</sup> rally in Khayelitsha near Cape Town, former President Jacob Zuma stirred up a storm by declaring the ANC as God’s chosen party, stating that, ‘[w]e shall build this organisation. Even God expects us to rule this country, because we are the only organisation which was blessed by pastors when it was formed’ (De Waal 2012:1). When Zuma was implicated in a rape case and facing fraud charges, *The Sowetan* explained that, like Christ, his enemies were trying to crucify him,

‘[h]e [Zuma] is Jesus Christ. They spit at him, they throw stones at him, they swear at him ... but he never left the ANC,’ Free State ANC leader Ace Magashule told party loyalists in a show of support for Zuma when he was facing corruption charges brought by the National Prosecuting Authority (De Waal 2012:1).

The depth of the crisis around gendered violence in South Africa is shown in the fact that a president can be accused of rape, successfully escape punishment, and then immediately be deemed a god of the nation. In addition, when the president is questioned on his polygynous practice, he always states that his culture allows him to have multiple wives. Polygyny is deemed a cultural norm in South Africa; yet polyandry – women

with multiple husbands – is unheard of. Culture, it appears, legitimates different norms for men and for women. Moreover, young girls and women continue to go through harmful cultural practices such as *ukuthwala* (see Ngwenya 2014) and *ukuhlolwa kwobuntombi* (see BurnTV 2014) particularly in rural areas. *Ukuthwala* and *ukuhlolwa kwobuntombi* exemplify the control, policing and violation of female sexuality.

Comparable to forced marriage and rape, *ukuthwala* is considered an African traditional practice evident especially among the Ngunis in South Africa, which not only promotes patriarchal control of female sexuality, but also perpetuates a direct violation of the rights to individual autonomy and bodily integrity – hence, upholding gendered violence. In agreement, Chelete Monyane (2013:66) views *ukuthwala* as a form of forced marriage that ‘exposes women and children to sexual and domestic violence’. Whilst *ukuhlolwa kwobuntombi* – virginity testing – is ostensibly aimed at curbing the spread of HIV and AIDS in South Africa (Mdhuli & Kugara 2017; Chisale & Byrne 2018), it can also be read as a form of control of women’s bodies and sexualities in patriarchal African societies. *Ukuhlolwa kwobuntombi* is a cultural practice that is performed only on girls and not on boys, thus promoting sexual abstinence for girls only. This reinforces the feminisation of HIV/AIDS, which is restricted to being seen as a women’s problem and stereotypes women as the main carriers of the disease (Leclerc-Madlala 2001:537).

Both *ukuthwala* and *ukuhlolwa kwobuntombi* are based on an understanding of female sexuality as symbolically troublesome, deviant, hyperactive and unruly, and hence needing to be policed. These practices cause female sexualities to be regulated, objectified and ‘othered’ under patriarchal social constructions of African sexualities (Tamale 2013:35). This contradicts the freedoms of individual autonomy, sexual rights and bodily integrity afforded to all citizens, which are foundational to the Constitution. Despite this, the Children’s Act of 2005 makes provision in Section 12 for virginity testing and forced marriages, allowing these practices among children between 16-18 years of age. Although female genital mutilation is prohibited in the Act, virginity testing promotes the policing and violation of female sexuality, as does female genital mutilation. Catherine Albertyn (2009:251) fiercely argues that virginity testing, amongst other harmful cultural practices against girls and women in South Africa, represents the stubbornness of patriarchy in cultural systems and must be abolished. Other scholars argue that virginity testing is a cultural concession to an act of gendered violence (see Behrens 2014, Chisale & Byrne 2018). Another form of gendered violence is the violent rapes – referred to as ‘corrective rape’ – meted out to lesbians, who are also often the victims of hate speech owing to their gender identity (Vilakazi 2014:12).

Manifestly, patriarchal social constructions of African cultural practices, such as *ukuthwala*, *ukuhlolwa kwobuntombi* and polygamy, along with their promotion of heteronormativity, which leads to the stereotyping of LGBTI people, not only police and control female sexuality as though it were the property of men and of culture, but also promote gendered violence. For example, young girls in forced marriages become rape victims when they are forced to have sex with their husbands, who are normally much older. In addition, they suffer unwanted pregnancies and STDs, including HIV/AIDS. Some young girls involved in virginity testing fall victim to men's desire when their virginity becomes known, leading to sexual abuse (Leclerc-Madlala 2001:555), and also resulting in forced marriages that expose them to abuse and harm, including rape and diseases. LGBTI people, whose gender identities are seen as non-conforming and "rebellious", are similarly vulnerable to injurious practices such as corrective rape and other hate crimes stemming from homophobia.

## Methodology: Qualitative desktop review

The data for this chapter was collected via a desktop review. This involved the collection of secondary data that contained narratives of the lived experiences of girls, women and LGBTI people, who are the focus of this study. We chose this research method as it is flexible and can be used in several ways when analysing historical material and various available secondary data concerning a particular topic or subject (Johnston 2014:55). Data was collected through reviewing books, journal articles, websites, video clips, news articles, local government policies, government publications and relevant documents on gendered oppression and violence (Kumar 2014). The method proved to be an effective process of inquiry into existing data on girls', women's and LGBTI people's narratives recounting their experiences of gendered violence. Regarding women, our research focused specifically on sex workers and women living with HIV/AIDS, including women seeking abortion services, whom we believed would be among the most vulnerable women in the country. Unlike face-to-face interviews, which generate in-depth rich data, engaging in secondary data limited us not only to understanding already recorded experiences of gendered violence, but also allowed us to survey a wide range of narratives of gendered violence. We used qualitative content analysis (QCA) in analysing the data. QCA allowed us to identify and explore key theoretical challenges and themes, to test them, and then to qualify them in relation to the available data and findings of the research.

## Results: Persistent control over gendered bodies: A state of war

### Rape of lesbians, gay men, bisexual women and transgender people

This is what I say to my comrades in the struggle who ask me why I waste time fighting for moffies and this is what I say to white gay men or women who ask me why I spend so much time talking about apartheid when I should be fighting for gay rights. I am black and I am gay. I cannot separate the two parts of me into secondary or primary struggle. They will be all one struggle (Ditsie & Newman 2016).

The words above were spoken by Simon Nkoli at the inaugural lesbian and gay pride march in South Africa in 1990. This statement remains relevant for many lesbians in South Africa, but specifically for those in townships, who not only have to face oppression on the grounds of race, gender and sexual orientation, but also of class. Despite the Constitution's prohibiting discrimination on the basis of gender and sexual orientation (amongst other forms), lesbians are still not allowed into the nation's most public spaces and are punished for their sexual orientation. Since the late 1990s, South Africa has witnessed hate crimes,<sup>6</sup> including countless numbers of black lesbians being violated, raped and/or brutally murdered in townships (Hlati 2018). Even though these forms of sexual and gendered violence receive some media attention, they remain severely under-reported and under-investigated. The perpetrators of such crimes often intend to send a message or threat to a whole community. For instance, violence against lesbians in townships is intended to frighten the entire LGBTI community by making them afraid of similar attacks. Our research indicates that the narratives of most lesbian victims of gender-based violence assert that the attacker confirms harming them because of their sexual orientation and gender expression, with most of the lesbians being attacked and stereotyped as "butch". Most of the survivors' narratives claim that they were attacked by people who are familiar to them. For example, Dikeledi Sibanda (2013), a black lesbian, expresses her annoyance and impatience with a disreputable South African justice system because of increasingly brutal gendered violence against black lesbians. Dikeledi Sibanda has called on authorities to prioritise crimes against homosexuals. 'We urge them to protect every woman and child around issues of gender-based violence' (Eyewitness News, 2013).

Many hate crime survivors reported fearing secondary victimisation by the police and health care officials as a reason for their reluctance to report their hateful situations to the police. An interview conducted with Zanele Muholi (2014:5), a famous South



African photographer and visual activist, portrays the ways in which police and health care officials do not take cases of rape against lesbians seriously. Many officials use their cultural and/or religious beliefs to judge lesbian survivors of gendered violence. Muholi claimed that one doctor attending to a rape survivor at a hospital expressed her judgemental personal view that being a lesbian was immoral and questioned how Kid, the survivor, could claim to be a Christian and still identify as a lesbian (Muholi 2014:6). This is an example of one of the many situations that most lesbian victims and survivors of gendered violence face in South African health, social, religious and family institutions. In addition, there are cases of young lesbians who have been forced to leave school because of hate crimes and hate speech against them. These victims are not protected by teachers or by the law. In Maphoitsile (a village in Limpopo Province), a young lesbian aged 18 was suspended from school because the principal of the school opposed her sexual orientation,

[t]he principal sent me packing after I came to school wearing a trouser which was part of [the] uniform,' Molema, who identifies as lesbian, told the newspaper. 'He said I must go back home and wear a skirt since I was a girl. I told him that I cannot wear a skirt because I've never worn any in my life. I had to stay home for three weeks without attending any classes' (Iqbal 2016:1).

Cheryl Potgieter (2011) asks a crucial question in view of the ongoing violence on the grounds of sexual orientation and gender identity when she writes in an article titled 'The imagined future for gays and lesbians in South Africa: is this it?'. A national task team to deal with homophobia and hate crimes was formed in 2013 to combat the increase in violations against lesbians in South Africa. A draft Bill against hate crimes (Minister of Justice and Correctional Services, 2018) was released in 2019 and is likely to be signed into law. This leads us to ask whether more legislation is the answer. South Africa may have one of the best constitutions in the world, but it also has one of the highest rates of hate crime violations against lesbians and gendered violence at large. If the so-called progressive Constitution of South Africa has not decreased the number of violations, it is doubtful that this new legislation will yield better results.

## Criminalising sex work

Our research found recent estimates placing the percentage of sex workers among the South African population at 43 per cent of the population. 34 per cent of those are female, five per cent male and four per cent transgender (SWEAT 2013:24). SWEAT (Sex Worker Education and Advocacy Taskforce) (2013:24) further reveals that some of the sex workers view sex work as a right to self-determination and freedom of choice, especially among self-identified feminist sex workers. In addition, SWEAT's database shows that the majority of sex workers are concerned about making a living

and staying safe and are not concerned about issues of exploitation or objectification, as has been the focus of some critiques of sex work (Arnott 2006:89). In 2009, the South African Law Reform Commission developed a discussion paper on the decriminalisation of sex work in South Africa. The report reveals that socio-economic determinants of sex work are driven by a complex intersection of social and economic factors, in which poverty and inequality are key drivers (SALRC 2009:57).

Research further shows that patriarchy, conservatism and fundamentalism remain entrenched in the ways in which South Africans view, treat and engage with sex work. In 2012, the Women's Legal Centre, together with SWEAT and Sisonke, interviewed over 300 sex workers in Cape Town, Johannesburg, Pretoria, Durban and Limpopo to document gross human rights violations by police against sex workers in South Africa (Rangasami, Konstant & Manoek 2016). One respondent in the interview mentioned that,

[t]he patterns of abuse that sex workers experience are the direct result of their criminal status which increase their vulnerability to violence. The current legal framework forces sex workers to the margins of South African society, where they are easy targets of abuse at the hands of police and clients. The only remedy is to change the way in which the sex work industry in South Africa is viewed under the law and by institutions responsible for its administration. This will ensure that sex workers are afforded the same rights, in law and practice, as others in the country are given (Manoek 2012).

Sex work has been illegal in South Africa since the passing of the 1957 Immorality Act, later amended to the Sexual Offences Act in 1957. The Immorality Act aimed to consolidate and amend the laws relating to brothels, unlawful carnal intercourse and other related acts. This shows the persistent legacy of colonialism in South African society in that the Immorality Act of 1957, combined with other pieces of legislation enacted by colonial administrators, was designed specifically to control the sexuality of the colonised people.

## Forced marriage and virginity testing

The Children's Act of 2005 makes provision in Section 12 for virginity testing and marriage. Virginity testing is prohibited for children under the age of 16, but permitted over that age if the child gives her consent. Marriage is forbidden under the legal age for marriage, but the Act does not specify this age. Unfortunately, the life experiences of young women and girls reveal that their rights are not prioritised. Young girls are tested for virginity from as early as 12 years old, or at the onset of puberty, because puberty is viewed as a stage when young girls begin to be problematic and require policing, control and monitoring by older women (BurnTV 2014). Frequent virginity

tests are allegedly aimed at protecting young girls from early pregnancy and ensuring a good dowry for her family when the young girl gets married. The same applies to *ukuthwala*, a customary practice that forces young women into marriage. One young girl tells a story of how she was abducted at the age of 13 years and kept as a slave during her forced marriage whilst another woman recalls how she was abducted while taking a bath at home (Louw 2014). Everyone in her family knew that this was going to happen but neglected to inform her (Louw 2014).

Another young girl was kidnapped for the purpose of marriage as a result of a plot hatched by her mother and aunt. The girl narrated, 'I was 19 doing Grade 12. There was this old man. I say he was an old man because he was about 20 years older than me. He worked at a mine in Johannesburg' (Gontsana 2017:[Sp]). The young girls forced into marriages by *ukuthwala* are not only kidnapped and forced to stay in undesired marriages, they are also subjected to violence and various abuses such as rape. There are cases of sexual assault and human trafficking of young girls that are directly linked to *ukuthwala* (Maduna 2017). Moreover, some young girls are reported to have been 'abducted and repeatedly raped' by men who, in collusion with the girls' families, abduct them as their wives (Maduna 2017:[Sp]). Often, in *ukuthwala* and *ukuhlolwa*, other women are complicit in the practice. As in female genital mutilation, in *ukuhlolwa kwobuntombi*, other women are directly involved as they are the ones who inspect young girls' hymens to ensure "purity" and its preservation. In this way, it is often women ingrained in patriarchal beliefs who contribute, directly or indirectly, to the oppression and control of female sexuality and abuse of young girls. As a result, Gabi Mkhize (2015:6) and Allan Johnson (1994:201), in discussing patriarchy and the systemic oppression of individuals within heteronormative contexts, challenge individuals to evaluate their contribution to the system of patriarchy.

## Forced sterilisation and abortion for women living with HIV/AIDS

Although the right to bodily integrity and autonomy is protected and guaranteed by the South African Constitution, this right is not successfully upheld when it comes to making decisions about reproduction. This became evident when women living with HIV found their right to bear children contested and, in some cases, blatantly restricted. Literature reveals that most women in South Africa learn of their HIV status only during pregnancy. Information regarding the national prevalence of HIV is based in large part on statistics acquired through antenatal settings. The outcome of the test often has a damaging effect on women's choices and rights. The vulnerabilities become apparent when women are coerced into abortions and are sterilised under

the guise of mitigating health risks for mother and child. The Global Coalition on Women and AIDS (GCWA) (2016) notes that women living with HIV are subjected to many forms of institutional violence, including forced sterilisations and abortions, denial of voluntary sterilisations and safe legal abortions, and discriminatory practices at health care facilities, which constitute further barriers to services.

In the past, laws criminalising wilful exposure and/or transmission of HIV infection were proposed by various African states (for example, in Zambia).<sup>7</sup> Although South Africa does not have such laws pending or in effect, the rising number of cases of alleged forced sterilisations and abortions relating to and arising from HIV testing is disconcerting. The South African law allows for consensual sterilisation of any person above the age of 18 years and for voluntary termination of pregnancy for all pregnant women. These laws are intended to respect the individual's right to physiological and psychological integrity, as well as the right to make informed decisions concerning reproduction regardless of health status, in this instance if a woman is HIV-positive. The reality of women living with HIV, however, reveals experiences of alleged involuntary or coerced sterilisation on the grounds of being HIV positive. In a recent study, an HIV-positive woman narrates her ordeal as follows,

I was going for a caesarean section. That was the only thing I had signed for. I don't know the rest; I found out later when I had gone to [a] gynaecologist. I had asked if it possible to have a baby. He said, 'No, you were closed up.' 'In which way is my womb there?' He said, 'No, the womb is there. You did a tubal ligation. And that is complicated because the tubes were burned' (Strode, Mthembu & Essack 2012:64).

This case indicates the challenges in translating legal provisions into effective policies that should protect individuals from institutional violations. Human rights violations in health care settings impede access to HIV prevention, treatment, care and support. Most narratives from women who have been forcibly sterilised demonstrate that health care providers failed to provide information that would enable the patients to make informed decisions. For instance, one woman stated that, 'I do not know anything, even what form of sterilization was performed' (Strode *et al.* 2012:64).

Another participant claimed,

I was told to be sterilized. They said it was a simple procedure. Only when I went to the [operating] theatre did I begin to realize the seriousness of my situation. They had not told me that I would be taken to a theatre (Strode *et al.* 2012:64).

In some instances, the procedure was not even mentioned, and the women only found out that they had been sterilised when they tried to have another baby. According to the International Community of Women Living with HIV (ICW), women living with

HIV are vulnerable to human rights violations. The practise of forced sterilisation is a violation of rights and adversely affects women's physical and mental health, as well as infringes the right of a woman to decide on the number and spacing of her children.

In 'She made up a choice for me' (Strode *et al.* 2012), participants who shared their experiences portray how their ability to make choices was taken away from them and placed in the hands of health care providers, who in turn took away control of their bodies. One participant mentioned,

I wouldn't have asked anything because the doctor said nothing must be requested of her [the doctor] ... even if you're talking, one can see in any case that, no, she [the nurse] has epaulettes so she was an important somebody and she'd say she doesn't want to be questioned (Strode *et al.* 2012:64).

Another participant reflected on the loss of her right to choose,

[t]oday, I would have said no, I would have taken my own decision. But in those days we did not know much about our rights. One was simply told, and to say to a doctor, 'I do not want' was unheard of. You were just told to do this or else you had to leave the clinic or hospital (Strode *et al.* 2012:64).

These testimonies give a clear indication that health care facilities, largely run by the state, believe that power over women's bodies is justified. Some critics go as far as to equate the practice of forced sterilisation to a form of institutionalised gender-based violence. The narrative of a participant whose tubes were burnt, making it impossible to reverse the procedure, shows the brutality of the process. History also tells us that forced sterilisations were performed on individuals with a lower social standing, including individuals with mental disabilities, people of colour, or anyone who was deemed incapable of raising a child (Stubblefield 2007:170).

## Discussion

Our research reveals that women's oppression is rife in the South African context, despite progressive legislation. The control and policing of women's lives, bodies and sexualities by the law, tradition, culture and religion continue to be normalised and shape the practices and ideas about women's bodies and sexualities in various spheres. Gendered violence is structural, systemic and layered in various areas of women's lives. Our research further shows that most violence against women happen within the family. In the cases of *ukuthwala* and *ukuhlolwa kwobuntombi*, for instance, elderly women are used as tools to oppress young women's sexualities and bodies. The narratives demonstrate the role of elderly women within families, who often act as virginity testers. In most of these scenarios, men and fathers act as custodians of

tradition and culture and as beneficiaries, mostly through the bride price that is paid for a girl child who is found to be a virgin before marriage. By contrast, those found not to be virgins are cast out as dirty and unfit for marriage. In a family setting, a girl child is often denied the freedom to determine what happens to her body. The power to determine a young girl's sexuality is held by her father, her potential and future husband, and elderly women. Sexual violence against women of all backgrounds remains pervasive in South Africa. In most instances progressive laws and policies exist, but ordinary women are not enjoying progressive outcomes. Similarly, cultural practices persist in violent forms of socialisation of the members of its society that perpetuate the subjugation of women, girls and LGBTI people, as well as the pervasive compromise of the Constitutional Rights to autonomy and freedom for such individuals in these societies.

The autonomy of girls, women and LGBTI people is persistently compromised. Sheila Meintjies (2013:131), in her review of Shireen Hassim's book, *Women's organizations and democracy in South Africa: Contesting authority*, notes that autonomy is less valued in postcolonial societies than in the west, because women's political activism is embedded within broader struggles for national liberation or social transformation in the global south. This context forms a critical factor in determining the opportunities and constraints for advancing women's aspirations for gender equality. In some instances, the family institution succeeds in making women believe that harmful cultural practices, such as virginity testing, amongst others, are done for their benefit and protection (BurnTV 2014), when in reality the opposite is true. As a result, some young women find themselves colluding with the status quo. The root cause of these oppressions is to be found in the norms that emanate from traditions, customs and religious belief systems that have become normative in the lives of many South Africans and have been imposed on women and girls.

These norms prescribe in many ways, through harmful cultural and religious practices, that a woman's body and sexuality are not her own, because they belong to another person. This may be her father, husband, boyfriend or lover/s. She is not allowed to own, claim and exercise power, freedom and autonomy over her body and life. As a result, men continue to rape and kill women because they firmly believe that it is within their rights to subject women in that way, especially when women show signs of non-conformity, resistance, and attempts to retain control over their own bodies. Such women include lesbians, trans-diverse people, sex workers and the cases of *ukuthwala* where young women fight and flee from their abductors. Our research reveals that, in extreme cases, violations of people's autonomy are part of gendered violence. Escalating instances of rape and murder against women by men in 2019 has led the ruling party in South Africa to call for a state of emergency;

violence against women and gender-based violence has been declared a national crisis by President Cyril Ramaphosa (Van Diemen 2019). There is a state of war on women's bodies.

## Conclusion

South Africa has good constitutional and legislative provisions in place regarding the protection of its citizens. It should be experienced as enabling freedom; ironically, it is not, particularly for women, girls, sex workers and LGBTI people. Our research reveals a country that remains deeply rooted in religious, traditional and cultural fundamentalisms. This research also shows that institutions such as the state, family, culture and religion, which exist in a stubborn and systemic patriarchal manner, are used in contemporary South Africa to subjugate girls', women's and lesbians' bodies and lives through harmful cultural and religious practices such as *ukuthwala* and virginity testing. This is also apparent in the manner in which women's sexualities and bodies are treated, handled, policed and engaged with. Even in practices that include legal protection, such as those afforded to HIV-positive people, termination of pregnancy and sexual orientation, women's reproductive rights, freedoms and choices are not respected. There are still experiences of forced sterilisation of women living with HIV, brutal rapes and killings of black lesbians, and the mistreatment and hate speech in the name of morality against women seeking abortions and sex workers. The patriarchal war on female bodies shows no signs of slowing down; but the narratives we encountered also tell the stories of women who are conscious and aware of their power and freedom to determine what happens to their bodies and sexualities. Despite the deafening cries of society telling them no, these women still continue to make their own choices regarding their bodies and their lives.

Our discussion has pointed to the urgency of eradicating all harmful practices towards girls, women and LGBTI people, which are embedded in cultural, religious and mythological beliefs, as they constitute forms of gendered violence against the bodies and lives of individuals. We write from the feminist principle that it is imperative to rethink gendered violence that has been normalised by patriarchy. This paper thus advocates for spaces, policies and action that push the frontiers of patriarchal fundamentalisms embedded in state, family, cultural and religious institutions in South Africa in both individual and collective activism, making this study significant and original in the case of South Africa and a contribution to the eradication of gendered violence embedded in patriarchal African cultures.

# Notes

1. *Ukuthwala* is an IsiZulu word used in South Africa that refers to forced marriage(s).
2. *Ukuhlolwa kwobuntombi* is an IsiZulu phrase that refers to virginity testing (a process of inspecting young girls to determine whether their hymens are intact or not).
3. Postcolonial theory, therefore, focuses on subverting the coloniser's discourse that attempts to distort the experiences and realities of the colonised, and inscribe inferiority on the colonised people in order to exercise total control.
4. In making this general claim, we do not wish to be understood as implying that political affiliation is always determined by one's identity position. We recognise that some men are genuinely and actively involved in promoting women's safety and rights in South Africa.
5. The African National Congress, which is currently the ruling party in South Africa.
6. A hate crime is defined as an offence recognised under any law, the commission of which by a person is motivated by that person's prejudice or intolerance towards the victim of the crime in question because of one or more of the [common] characteristics or perceived characteristics of the victim or his or her family member or the victim's association with, or support for, a group of persons who share the said characteristics (Minister of Justice and Correctional Services 2018:4; Mkhize *et al.* 2010).
7. See Menon Musepa *et al.* (2014).

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