

Abstract

This article explores the meaning of sexual rights as interpreted by different stakeholders during the development of the Beijing Programme of Action and within the Southern African Development Community (SADC). It illustrates how the lack of sexual rights as understood in the African context results from poverty as well as gender inequality, particularly in sexual relationships. This lack is manifested in the circumstances surrounding the HIV/AIDS pandemic and violence against women. In the European context, in contrast, sexual rights claims are motivated specifically in relation to sexual orientation. The article explores the extent to which these different discourses are being addressed in practice in SADC member countries and the opportunities that exist for building a concrete practice of sexual rights both in the region and internationally.

Cet article explore la signification des droits sexuels tels qu'ils sont interprétés par différents participants pendant le développement du Programme d'action de Beijing et au sein de la Communauté pour le développement de l'Afrique australe (SADC). Il illustre de quelle façon le manque de droits sexuels, tels qu'ils sont compris par le contexte africain, résulte de la pauvreté ainsi que de l'inégalité entre les sexes, particulièrement dans les relations sexuelles. Cette carence se manifeste dans les circonstances autour de la pandémie VIH/SIDA et la violence contre les femmes. Dans le contexte européen, par contre, les prétentions aux droits sexuels sont motivées spécifiquement en relation avec l'orientation sexuelle. L'article étudie la mesure dans laquelle ces différents propos sont exprimés en pratique dans les pays membres de la SADC et la possibilité d'établir une pratique concrète des droits sexuels dans la région et sur le plan international.

Este artículo examina el significado de los derechos sexuales de acuerdo con lo interpretado por diferentes partes interesadas durante el desarrollo del Plataforma de Acción de Beijing y en la Comunidad de Desarrollo Surafricana (SADC). Ilustra cómo la falta de derechos sexuales, de acuerdo con lo entendido en el contexto africano, es el resultado de la pobreza al igual que de la falta de igualdad de género, específicamente en lo que se refiere a relaciones sexuales. Esta deficiencia se manifiesta en las circunstancias que enmarcan el pandémico de VIH/SIDA y la violencia en contra de la mujer. En contraste, en el contexto europeo, los reclamos de derechos sexuales se entablan específicamente con respecto a la orientación sexual. El artículo explora hasta dónde estos discursos distintos se están tratando actualmente en los países miembros de la SADC y las oportunidades existentes para el establecimiento de derechos sexuales concretos y practicables ambos a escala regional e internacional.

SEXUAL RIGHTS IN SOUTHERN AFRICA: A Beijing Discourse or a Strategic Necessity?

Barbara Klugman

At the 1995 Fourth World Conference on Women (FWCW) in Beijing, the international community agreed that human rights include the right of women to control over their sexuality.¹ Although the terminology is contested, this principle is frequently encapsulated as “sexual rights.” Using the southern African region as a case study, this article explores varying interpretations of sexual rights and the extent to which the concept has significance beyond the rhetorical agreement reached in Beijing. The article is written from the perspective that sexual rights ought to encompass the conditions that allow for gender equality to be present in sexual relationships and for sexuality to become a positive and pleasurable component of human experience. Sexual rights matter because they are central to the achievement of social justice. The achievement of sexual rights requires gender equality in cultural and social systems, as well as in economic systems. Thus, they frequently serve as a pivot around which civil, political, social, and economic rights interact.

While sexual rights are relevant to a wide range of health and human rights issues, this article focuses on HIV/AIDS because HIV/AIDS policies and informational materials provide a targeted opportunity to interrogate international, regional, and national approaches to gender equality, sex, and sexuality. In addition, as HIV/AIDS has become a threat to the economic and social functioning of

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many countries, it provides an entry point for bringing questions of sexuality and sexual power relations into the public arena.

The article draws on the author's personal experience as a participant in the debates on sexual rights at the 1994 International Conference on Population and Development (ICPD) in Cairo, the FWCW, and the ICPD+5 review process, and as the director of an NGO that focuses on rights and health.² It also draws upon the relevant policies of the Southern African Development Community (SADC) and policies and information, education, and communication (IEC) materials of various member states. It focuses particularly on Botswana, South Africa, and Swaziland, since the very diverse political histories of these countries—Botswana is a long-standing democracy, South Africa has recently emerged from a human rights struggle, and Swaziland is a monarchy with government straddling traditional and parliamentary systems—offer some insight into the policy differences within the region.

The drafting of consensus language of international agreements is frequently and incorrectly presumed to be a one-way process controlled by international players. In fact, however, it is individual countries or alliances that bring the issues to the agenda at the outset. Therefore, it is important to ask not to what extent the debates and agreements regarding sexual rights in Beijing were later taken up in the SADC region, but rather to what extent the concept and terminology of sexual rights are part of SADC policy and of the policy and practice of its member states, and to what extent this practical experience can contribute to further processes of consensus development at an international level.

HIV/AIDS and Sexual Rights in Southern Africa

Women in general, especially young women, are particularly vulnerable to HIV/AIDS in the region. This results to some extent from biology but predominantly from the interaction of poverty and culture, an interaction that is consolidated within the dynamic of sexual interaction. We see in Southern African countries a "traditional" cultural practice in which men have the right to make all decisions regarding

sexual relations. If a husband initiates sex, his wife may not refuse him; the same applies in relationships outside of marriage. This makes it impossible for women to protect themselves from HIV/AIDS by initiating non-penetrative sex, for example, or insisting on fidelity or condom use. Women are, of course, also products of this culture and may themselves have internalized ideas of manhood that make it appropriate for men to have many partners and to manage sexual relations while they accept their partners' dominance and remain faithful. Within the economic system, women have unequal access to ownership of productive resources in the form of land, credit, or jobs within the formal sector—particularly jobs beyond the unskilled level. This reinforces their dependence on men and their inability to refuse unsafe sex. At times it leads women to engage in transactional sex—one man providing food, another clothing, and so on—to make financial ends meet.

Young people, too, tend to believe that men have a need for sex and the right to coerce women into sex. There is little discourse about women's sexual needs or rights.³ Young women are pushed to engage in sexual relationships not only by male coercion, but also at times by their own need for resources. The "sugar daddy" syndrome epitomizes this dynamic, but it is not the only expression of it. For example, a study of in- and out-of-school youth in the Manzini and Lubombo regions of Swaziland found that 38.3% of boys said that they believed that in sexual relationships girls expected money, 18.1% said girls expected sex, and only 5.5% said girls expected fidelity. When girls were asked what they believed were the reasons girls have sexual relations, 29.9% said that "girls want money from their boyfriends," while 13.9% said girls "cannot refuse proposals."⁴ Here, too, a complex interaction of economic subordination and cultural subordination in sexual relations places women at greater risk of HIV than men.

The absence of sexual rights within a society reflects a fundamental failure within that society. Fraser argues that women in cultures around the world are a "despised gender."⁵ To address the cultural domination of women by men, manifested in a lack of civil and political rights,

women would have to be revalued. However, civil and political recognition alone is not enough to achieve sexual rights. Also necessary would be the redistribution of access to such necessities as credit and inheritance, as well as of responsibility for such activities as domestic work and childcare, so that they are shared equally between women and men.⁶

The remainder of this article is composed of three sections, the first exploring the different assumptions underlying the positions of major interest groups on the language and content of sexual rights in the negotiations at the ICPD and the FWCW, focusing particularly on the positioning of Africa in this debate.⁷ The second section explores to what extent the principles of sexual rights are embedded in SADC policies and the practices of member states. This approach will help to illuminate the interactive process through which international, regional, and national policy and practice develop over time, and to explore how experience at one level may be used to push forward consensus at other levels. These two sections explore similar categories of issues but focus on diverse content within each category, given the different nature of the arguments and policies surrounding complex issues at the international, regional, and national levels. The second section also includes an examination of the implementation of specific portions of Paragraph 96 of the Beijing Platform for Action. The third section briefly addresses prospects for moving from the current focus on absence of rights toward acceptance of sexual pleasure as a component of sexual rights.

Assumptions Underlying Sexual Rights at the International Level Gender Equality

As already discussed, gender inequality is at the base of inequality in heterosexual relationships. The countries of the world accepted this principle and the need to promote equality between men and women in all sectors at the ICPD and the FWCW. Yet despite this recognition of the impact of gender inequality on sexual relations, there was no attempt to further conceptualize or develop action plans in this area.

There is still a critical need to conceptualize and elaborate actions to promote sexual rights.

The Language of Sexual Rights

The term "sexual rights" was first put on the international agenda by advocates from the international women's health movement during the preparations for the ICPD. Although it was ultimately not incorporated into the ICPD Programme of Action, the consensus reached on the existence and meaning of reproductive rights as including the "right to make decisions concerning reproduction free of discrimination, coercion and violence" was an achievement in itself.⁸ The conference also reached consensus on the existence and meaning of sexual health, and the Programme of Action alludes to sexual rights, although arguably it does not specify that sexual relations themselves should be free of discrimination, coercion, and violence. The ICPD Programme of Action also contains detailed descriptions and proposals regarding sexual rights. For example, in relation to violence, it promotes sexual rights by committing countries to "take full measures to eliminate all forms of exploitation, abuse, harassment and violence against women, adolescents and children."⁹ In relation to HIV/AIDS and violence, it talks about the need for "integral sexual education and health services for young people."¹⁰

It is not surprising that consensus could be achieved at the ICPD regarding the language of reproductive rights but not sexual rights. The victory for reproductive rights was won through a complex alliance between women's rights and health advocates and the population establishment. Despite divergences in the meanings attributed to reproductive rights and the disclaimers that implementation would be guided by national laws and cultural and religious contexts, the coalition was broad enough to win international consensus for this terminology.¹¹

Having achieved consensus on reproductive rights and sexual and reproductive health at the ICPD, delegations won agreement that the language of the Cairo document could not be renegotiated at the FWCW. Country delega-

tions, both independently and as a result of NGO input, seized this opportunity to cover new ground and once again tabled the terminology of “sexual rights” in the preparations for the FWCW. At the FWCW itself, sexual rights became the focus of one of the central debates. After a lengthy and heated discussion, consensus was reached on a wording that encapsulated the content of sexual rights without using the actual terminology:

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. Equal relationships* between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, require *mutual respect, consent and shared responsibility* for sexual behaviour and its consequences (emphasis added).¹²

What did different countries mean by this language, and why did they take positions for and against? The following broad categorizations cover some of the main debates at Beijing.

Talking about Sex and Sexuality

Some countries held that the term “sexual rights” implied the right to sex, meaning promiscuity, the right of people to have sex with whomever they desired (including children), and, at moments of tension in the negotiations, bestiality. In part this interpretation was the result of conceptual problems in the translation process, since the nuances of meaning are different across languages. However, it was also the result of discomfort with discussing sex and sexuality. This position was held predominantly by countries with governments espousing fundamentalist religious values and was linked to the doctrinal base underlying these countries’ approach to sexual relations. Every effort was made by the group advocating this position, both in Cairo and later during the ICPD+5 process, to ensure that the documents referred only to sexual health services or care.

Impact of Religion

The approach discussed above was based on interpretations of religious texts, rather than on an assessment of current issues faced by women and children in their countries. Fears were expressed from a religious perspective that sexual rights might undermine family relations. This position built on earlier debates on reproductive rights in which these countries favored the rights of the couple, but not those of the individual, to decide on matters of reproduction. At the heart of this debate is the question of whether women should be allowed the right to make decisions regarding their sexual and reproductive capacity independently of their partners and, indeed, their families. Freedman argues that in this position, women's desire for these rights is seen not as a normal aspiration but rather as a rebellion against national, ethnic, or religious identity.¹³

Development Priorities

The other substantive argument against sexual rights at the FWCW was that such issues were Western constructs out of touch with the immediate reality of poverty in developing countries. For example, in a small group discussion among countries holding opposing positions on sexual rights, the ambassador of Benin argued that in developing countries people were concerned with the burning issues of poverty and unemployment, not with issues such as violence against women. Other delegations—for example, from Morocco—argued that some problems in countries arguing for sexual rights, such as high rates of teenage pregnancy, incest, and violence against women, were not found in their countries, and hence were not high on their agenda. Their argument was that, since international agreements need to be responsive to the reality of all countries, sexual rights issues should therefore not be addressed.

On the other hand, the official African position—generated in an Organisation of African Unity (OAU) meeting of African ministers in preparation for the FWCW, and represented by Senegal, the leader of the OAU at the time—argued on the basis of national realities and priorities in favor of the language of sexual rights. African ministers had

accepted the terminology of sexual rights on the basis of its importance in the context of HIV/AIDS and violence on the continent. They recognized that addressing unequal sexual power relations between men and women was a central prerequisite for preventing HIV/AIDS and responding to violence against women and, further, that both HIV/AIDS and violence placed substantial constraints on Africa's development goals. As a result, although some African countries, such as Benin and Morocco, argued vocally against sexual rights, the official African position was for sexual rights. Delegates from a number of African countries, most notably Ghana, Cameroon, and some SADC member states, consistently supported the Senegalese delegate on this point.

Ultimately, sexual rights took prominence in Beijing as a topic of serious negotiation because so many non-Western groups supported the language. The African position in support of sexual rights, the willingness of many delegates from other southern countries at the Conference (particularly from the Caribbean) to speak explicitly for this position, and the presence of an organized lobby for sexual rights made up of NGOs from both North and South, such as Health, Empowerment, Rights and Accountability (HERA), undermined the fundamentalist argument that sexual rights was a Western construct irrelevant to developing countries. If the sexual rights language had been supported only by the European Union and Western NGOs, with a few other Western allies, global support would have been much weaker.

Addressing Discrimination on the Basis of Sexual Orientation

Another position during the FWCW debates, held by the countries of the European Union in particular, was to support the language of sexual rights because it implied freedom from discrimination on the basis of sexual orientation. At the start of negotiations in Beijing, freedom from discrimination on the basis of sexual orientation was made explicit in the text, but few believed it would remain there after negotiations. In the end, it was taken out despite eloquent and emotional arguments for its retention from a number of governments—predominantly, however, from

the West. South Africa was the only African country to speak for its inclusion. Thus, while commitment to the terminology of sexual rights was shared by the majority of delegates, interpretation as to its meaning differed. Had the African delegations understood sexual rights to mean rights to gay relationships, they would have retracted their support as a result of their own prejudices. The European delegates, on the other hand, unable to conceptualize sexual rights beyond the limited aspect of discrimination on the basis of sexual orientation, could not provide substantive support to the other delegations supporting this language. As a result, the pro-sexual rights delegates could not muster adequate support to get the terminology of sexual rights retained in the document. The extent of support for sexual rights did, however, allow delegates to negotiate a paragraph outlining the broad content of sexual rights that is loose enough to allow different interpretations.¹⁴

Are Sexual Rights a New Human Right?

In addition to substantive arguments, the debate also included a procedural argument: that including the concept of sexual rights in the text would mean creating a new right. Those against the concept used this as their fallback position. This position, however, was weak, given the agreement in Cairo that the use of the language of reproductive rights did not create new rights within the UN system, but rather worked to ensure that the interpretation of existing rights extended into the areas of family and reproductive relations. In Beijing, sexual rights advocates extended this principle to argue that sexual rights would not create any new rights; rather, the concept would extend international human rights protection to the terrain of sexuality.

From International to Regional: A Case Study of Southern Africa

This section takes up the diverse interpretations and concerns regarding sexual rights expressed in Beijing, as presented in the above categories, to consider their relevance and meanings both in SADC as a legal entity and in member states, using examples from different member states. In

doing so, it attempts to assess the linkages between international and national concerns, as well as between policy and implementation. It examines both the use of the words "sexual rights" and the extent to which the diverse meanings of the phrase are addressed in policy and practice. As indicated above, any discussions of sexual rights must be premised on an understanding of the need for gender equality. Since interest in gender equality cannot be assumed in any country, it is necessary to begin this exploration of SADC policy regarding sexual rights by looking at its approach to gender equality.

Gender Equality

SADC policies generally promote gender equality and require member states to do the same. In February 1997, the SADC Council of Ministers passed a Declaration on Gender and Development that established a policy framework for mainstreaming gender in all SADC activities and strengthening the efforts of member countries to achieve gender equality.¹⁵ The Declaration stipulates that "gender equality is a fundamental human right" and resolves to "ensure the eradication of all gender inequalities in the region."¹⁶ It includes a redistributive component, including a commitment to improving women's access to and control over productive resources.¹⁷ It also contains a revaluation or recognition component, including commitments to ensure women's equal political representation and to change laws and social practices that discriminate against women.¹⁸

On September 14, 1997, SADC passed an addendum to this Declaration entitled *The Prevention and Eradication of Violence Against Women and Children*, which commits to eradication of "norms, religious beliefs, practices and stereotypes which legitimize and exacerbate the persistence and tolerance of violence against women."¹⁹

While all SADC states accept the discourse of gender equality, in some states the law nonetheless continues to consider women as minors.²⁰ For example, Swaziland's National Development Strategy recognizes that minority status puts women in a position where they "cannot decide

about their lives, which includes reproductive health and sexuality," but the country continues to retain minor legal status for women.²¹ This contradiction between broad policy declarations of gender equality and laws that retain women as minors is found in a number of SADC member states. Partly it is due to a time lag, since most SADC countries have re-evaluated or are currently re-evaluating laws and policies that deny women's human rights, but it also demonstrates contradictions within government structures, with some sectors and machineries giving priority to gender equality and others ignoring or avoiding it.

Some countries use the language of gender equality more explicitly than others. Mozambique, for example, is implementing programs to institutionalize government capacity to promote gender equality. Many countries have or are developing specific policies on gender. The translation of gender equality concerns into health concerns is not, however, very systematic. This can be seen in a comparison of South African and Botswanan policies on the one hand and Namibian policies on the other. The first two commit to gender equality, the former in its overall development policy and the latter in its Policy on Women in Development.²² Both extrapolate from these commitments to their HIV/AIDS policies.²³ In contrast, the Namibian gender policy commits to addressing the linkages between gender inequality and health, but its National Strategic Plan on HIV/AIDS fails to note the need to approach men and women in different ways or to challenge gender inequality, even in its sections on IEC.²⁴

These inconsistencies (sometimes between and often within countries) reflect the ongoing realities concerning policymaking and implementation. In the case of Namibia, for example, a policy analysis would likely reveal that activists on gender equality, both within and outside of the government, had been engaged in the development of Namibia's gender policy, whereas more traditional health professionals had been responsible for developing the HIV/AIDS strategic plan. Identifying and understanding the sources of contradictions in policy is important for developing strategies to promote change.

Talking about Sex and Sexuality

In Beijing, a number of SADC member states were uncomfortable with references to sex or sexuality which went beyond the context of provision of sexual health services. It seems, however, that the architects of SADC member states' policies and IEC materials are comfortable using this language in a number of ways, although contradictions abound. Botswana's National Action Plan for Youth mentions a need for "culture sensitive health information dissemination" and recognizes the reality of secrecy and discomfort in communicating on health issues, especially between parents and children, but offers no guidance on the extent to which such cultural sensitivities should be accommodated or challenged.²⁵ Awareness of the need to approach sensitive matters in a culturally acceptable style can be seen clearly in such IEC materials as the Lesotho government pamphlet "Women and AIDS," which provides necessary information but also opens with a letter addressing women as "My children" and signed "from Granny (Nkhono)," drawing on the tradition that elders' voices have greater authority and credibility.²⁶

Outside of government, religious discomfort with talking about sex has been a major barrier to the realization of sexual rights. The HIV/AIDS pandemic is, however, beginning to challenge this problem. For example, Reverend Nangula Kathindi, a member of the Namibian National Multi-Sectoral AIDS Co-ordination Committee (NAMACOC) by virtue of her recent appointment as general-secretary of the Council of Churches in Namibia, stated publicly: "People are dying of AIDS because we are not willing to discuss sex. We cannot hide behind the Bible. Encouraging member churches to open up to new teachings on sexuality and HIV/AIDS is a priority. We cannot afford to condemn anyone because everyone is made in the image of God, whether or not they go to Church."²⁷ The cultural influence of the churches renders this recognition significant. Increasing the ability to talk about sex is but one of many challenges facing organized religion in addressing HIV/AIDS in the SADC countries.

Impact of Religion

Most populations of SADC countries are religious. Christianity is the predominant organized religion, although many citizens simultaneously hold to traditional spiritual frameworks. The discomfort of Christianity with sex and sexuality has meant that governments have understood HIV/AIDS prevention from the very beginning in terms of moral fundamentalism, although ironically this has not prevented them from promoting condom use. The message of "ABC: abstain, be faithful, and condomize" is the central conceptual framework for IEC in the SADC member states, as elsewhere in Africa, found on billboards, in pamphlets, and on the radio. For example, South African President Mbeki's call for a Partnership Against AIDS, argues: "You have the right to live your life the way you want to. But I appeal to the young people, who represent our country's future, to abstain from sex for as long as possible. If you decide to engage in sex, use a condom. In the same way, I appeal to both men and women to be faithful to each other, but otherwise to use condoms."²⁸ The Botswana HIV and AIDS Plan provides for IEC covering "delay of sex initiation and adoption of abstinence," to be achieved in part through strengthening "the provision of moral education" and "empowering adolescents through Family Life Education to resist early sexual activities and practice safer sex."²⁹

We may assume that, in the absence of this religious context, the approach to HIV/AIDS prevention would be directed more to the actual causes of current sexual behaviors, at both economic and cultural levels. The Swaziland strategic plan, however, notes: "Condoms are by far the only available device that could help this country to reduce the spread of HIV/AIDS/STDs. The use of condoms is not acceptable to the majority of people. Culture and religion are cited as the driving force that makes people reject condom use."³⁰ IEC messages throughout the region continue to promote abstinence and faithfulness messages simultaneously with condom messages. There seems to be no attempt to understand the social norm that religious popu-

lations have sexual relationships in violation of religious mores. Further, there has been very little recognition of the internal contradiction within the "ABC" message, which in one sentence tells people to abstain or be faithful and in another tells them to use a condom, recognizing that they are in fact unlikely to abstain or be faithful. It seems that lip-service to the moral values of abstaining or being faithful must be maintained in order to avoid acknowledging the reality of extensive premarital and extramarital sexual relations. Since the IEC messages have not even attempted to understand the factors motivating sexual behavior, it should come as no surprise that there is a high awareness of HIV in most SADC countries, but inadequate behavior change.

Development Priorities

In Beijing, some SADC member states questioned the relevance of sexual rights to developing countries. On the other hand, the SADC and its member states have recognized HIV/AIDS, and the sexual behaviors that are the immediate cause of transmission, to be both the result of poverty and a threat to the maintenance of development achievements.³¹

The HIV/AIDS plans of most member states recognize the need to address both poverty and HIV/AIDS because poverty, within a context of gender inequality, has catalyzed the rapid spread of the disease. For example, the Botswana HIV/AIDS plan includes attention to provision of credit facilities and income-generating activities for both youth and women, as well as the need to support projects which give commercial sex workers alternative sources of income.³² IEC materials identify a range of contexts and activities that highlight the lack of sexual rights, such as peer pressure, exposure to "situations such as gang rapes," and the fact that "girls living in a poor family can have relationship (sic) with older men for economic reasons."³³ One IEC pamphlet produced by the government of Lesotho exhorts women to help other women who are jobless and to initiate programs to prevent teenage pregnancies and unemployment for girls.³⁴

Thus, to return to Fraser's analysis, HIV/AIDS strate-

gies in SADC countries are often redistributive, recognizing the need to redress women's poor economic position because it makes them vulnerable to exploitative sexual relations and thus increases their risk of HIV transmission. This approach has become increasingly institutionalized. The SADC Health Ministers' meeting in Maputo in 1999 reoriented the SADC institutional response to HIV/AIDS, directing that its existing task force, which comprises only health sector representatives, be broadened to include other relevant sectors. This move may foster greater recognition of the need to address women's economic empowerment as part of an HIV/AIDS prevention strategy, thereby helping to promote an inclusive sexual rights approach. At the level of member states, some countries already have detailed plans to be executed by different sectors of government; others are in the process of reorienting towards a multisectoral strategy.

Addressing Discrimination on the Basis of Sexual Orientation

In Beijing, the issue of sexual orientation remained a subtext in the discussion on sexual rights, since so many countries—particularly the African bloc—would have withdrawn their support for the language of sexual rights if the phrase had been explicitly interpreted as including freedom from discrimination on the basis of sexual orientation. Nevertheless, Paragraph 96, construed broadly, can be understood to allow this interpretation. How, then, have the SADC countries approached the question of sexual orientation?

Of all SADC member states, only South Africa explicitly guarantees against discrimination on the basis of sexual orientation.³⁵ There is full legal recognition of gay and lesbian identity, and gay and lesbian groups have mobilized around a human rights discourse. Recently, the economic discrimination faced by gay and lesbian people has been recognized, leading to attempts towards redistribution—for example, to grant same-sex partners the same medical and life insurance benefits as heterosexual married partners. This reorientation has extended into certain parts of the

religious community; Nobel Peace Prize winner Archbishop Desmond Tutu, for example, has advocated internationally for the ordination of gay priests in the Anglican church. Nonetheless, South African HIV/AIDS IEC materials make no effort to explicitly address gay people or to promote acceptance of gay relationships.

In other SADC countries, the battle for legal recognition of gay men and lesbians is ongoing.³⁶ In recent years there has been a spate of pronouncements by African politicians against homosexuality.³⁷ In Zimbabwe, one activist sums up President Mugabe's position as follows: he does not mind if homosexuals "do it in private, it's when they try to organize themselves that he objects."³⁸ This raises the question of to what extent the vitriol against homosexuals is a response to the public mobilization of gay people around recognition of gay identity in the past decade. The presence of gay rights organizations in these countries is a challenge to the policy-level denial that gay people live in these countries. Stigmatization is not, however, the whole picture in SADC countries. A review of some HIV/AIDS materials from a number of countries indicates substantial differences in practical approaches to homosexuality in relation to HIV/AIDS prevention. For example, although the president of Namibia has argued that homosexuals should be condemned, materials in the Namibian life skills program directed at children in the school system acknowledge homosexuality and argue that ". . . you are born with these attractions. Gay people face different life style choices than heterosexual people and their choices should be accepted and respected."³⁹ To some extent, this definition recognizes homosexual identity, in that it does not describe homosexuality as a matter of choice. This contrast suggests that, despite the public position of the President, Namibian policymakers are open to recognizing different sexual orientations.

Occasionally, HIV/AIDS prevention activities in SADC countries recognize same-sex sexual practice as distinct from homosexual identity—for example, a Botswanan pamphlet describing why anal sex is risky, presumably predominantly a reference to homosexual practice.⁴⁰ On the other hand, other materials further stigmatize homosexual rela-

tionships. For example, a pamphlet on women and HIV/AIDS from Lesotho fails to specify why anal sex can be dangerous, instead suggesting that it is homosexual relations themselves that are dangerous.⁴¹

This brief review shows that public statements by political leaders in the SADC countries do not always accord with actual policy. When they provide information about homosexual identity or about anal sex, countries are acknowledging the reality that their populations include people having sex with same-sex partners.⁴² Just as HIV/AIDS has pushed many countries to break the barriers around discussion of sex and sexual relations with young people, so it may provide an entry point for recognizing homosexuality within countries of the region.

Are Sexual Rights a New Human Right?

SADC states did not engage in the debates in Cairo and Beijing about whether the terminology of sexual rights was creating a new right. The SADC Declaration on Gender and Development, however, does use the wording of “sexual rights” once, committing SADC and member states to “Recognising, protecting and promoting the reproductive and sexual rights of women and the girl child.”⁴³ The use of this language is significant in that it indicates that the language itself is acceptable to the SADC community. The language is not, however, common currency within all SADC countries, and it may be used differently by different actors. This policy was developed by human rights and women’s rights activists, while health policies continue to be framed by health professionals whose discourse does not include rights language.⁴⁴ However, the fact that those in the health field are wholeheartedly promoting reproductive rights just five years after Cairo is an achievement in itself.⁴⁵

SADC member states do not use the term “sexual rights” in their policies, and not all refer to “reproductive rights.” Yet, as will be discussed below, all promote some dimensions of sexual rights. Thus the oblique language of Beijing’s Paragraph 96 parallels the situation on the ground in Southern Africa: there is commitment to the concept of sexual rights in broad terms but little use of the term. Since

many SADC countries are currently revisiting their HIV/AIDS policies, it will be interesting to monitor the extent to which the words “sexual rights” appear in future policy and programmatic work.

The Relevance of Paragraph 96

This section examines policy at the SADC level and in diverse SADC member states in relation to various components of the sexual rights paragraph in the Beijing Platform of Action.

“Free of Coercion, Discrimination and Violence”

The SADC Declaration on Gender and Development and the Addendum on violence both require interventions at the legislative, social service, and educational levels to remove discrimination against women, to empower them, to promote and protect their human rights, and to take action against perpetrators of gender-based violence while providing support to those who have been abused.⁴⁶ The Strategic Plan of the SADC AIDS and STD Programme likewise recognizes the linkages between women’s position and violence as contributing factors to the rapid spread of HIV, as well as the need to review cultural issues to inform further action, although specific details are not provided.⁴⁷

Most SADC countries have or are currently considering legislation regarding women’s legal status and specific issues concerning violence against women and children. HIV/AIDS policies throughout the SADC region recognize the linkage between coercion, discrimination, and violence and women’s vulnerability to HIV transmission. However, while there is a broad commitment to ensuring that women are “free of coercion, discrimination and violence,” the depth of this commitment varies among countries, as does its link to sexual relations of different kinds. Swaziland, for example, provides no actions to address women’s vulnerability.⁴⁸ On the other hand, Botswana distinguishes between obligatory, coercive, commercial, and recreational sex and provides policy, institutional, and service-related interventions in relation to each.⁴⁹

“Equal Relationships and Shared Responsibility”

Less clear is the position of SADC countries on “equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person” and the “mutual respect, consent and shared responsibility for sexual behaviour and its consequences” that these require.⁵⁰ The policies and IEC materials of member states are generally very ambivalent in this regard, and there are vast differences between countries, particularly in the extent of gaps between policy and action.

Swaziland and Lesotho, for example, identify the problem of unequal power relations between men and women but provide no strategies to address it.⁵¹ Botswana’s plan, in contrast, can be read as a sexual rights strategy in that it identifies the linkages between poverty, sexual behavior patterns, and women’s lack of power and specifies prevention strategies to address these problems, including an explicit recommendation to empower women “for more effective participation in decision-making about safer sex.”⁵²

“Mutual Respect and Consent”

While in many ways Botswana seems to be further along than other member states with regard to sexual rights, its approach is not entirely consistent. Its plan also presents the strategy of “encouraging men to use their authority and power in sexual and family relationships responsibly and positively to protect themselves, their partners and families from infection, through targeted education activities.”⁵³ Conspicuously absent is the goal of building mutuality in sexual decision-making. One might argue that this strategy is designed to be pragmatic in that it promotes responsibility without attempting to challenge the more fundamental human rights abuse of gender inequality. The juxtaposition of the two strategies does indicate that the focus is on limiting the spread of HIV rather than on promoting sexual rights overall—that sexual rights are being promoted only to facilitate prevention of the spread of HIV. In fact, there is an unresolved ambivalence regarding the role of men and cul-

ture, relative to the problem of inequality in sexual relations, in most SADC-country policies. The South African policy, for example, strives to offer “facts,” leaving cultural norms unchallenged: “While such education will endeavour to be sensitive to the moral and cultural ethos of different communities, it will, nevertheless, ensure that factual information is provided to the youth.”⁵⁴ It fails to offer an alternative cultural ethos that would promote equality in sexual decision-making. In the Botswana plan, strategies for addressing “obligatory sex” in marriage and established relationships focus on strengthening the family and traditional values and on promoting men’s role and responsibilities in reproductive health.⁵⁵ Nowhere does it specify that women’s subordinate roles in traditional practice must also be challenged. Thus the plan unrealistically proposes contradictory strategies to promote women’s status and participation in politics and the economy, on the one hand, and to strengthen men’s traditional role in the family, on the other. Many other policies and materials promote a focus on men and men’s access to services without attempting to redress the unequal power relations between men and women in Southern Africa. Most interventions are “gender-blind”—for example, the South African policy, which addresses youth without specifying the differential experiences and power of young men and women.⁵⁶ Likewise, in Botswana, HIV/AIDS pamphlets describe the right to say no and the importance of “you and your partner” working together to prevent HIV/AIDS or sharing responsibility for using condoms.⁵⁷ They fail, however, to acknowledge women’s vulnerability or to warn that it is common for men to abuse or beat up their female partners for suggesting condom use. Some IEC materials do discuss the different experiences of men and women, but generally they too fail to address the ability of men and women to promote mutual respect and equality and shared responsibility. For example, a Swazi NGO pamphlet contains a case study that encourages a woman to leave her relationship if her boyfriend won’t use a condom, but fails to suggest ways of building mutual communication and shared responsibility.⁵⁸ In general, such pamphlets neither promote nor build skills to move towards gender equality in sexual relations.

Some peer education materials assert rights in this context.⁵⁹ For example, one brochure states that “women have the right to protect their health by having safer sex”—although they usually fail to advocate explicitly for a change in men’s behavior and in power relations between women and men.⁶⁰ One exception is a South African training manual on sexual rights, which explicitly guides participants through a process of exploring their experience of “saying no” or of having been refused sex and identifying steps that they could take to prevent negative outcomes.⁶¹ This approach indicates a recognition that mutual respect and equality cannot be achieved solely by asserting the right to equality or women’s right to protect their health—that, in fact, all individuals need opportunities to explore how to claim these rights.

Beyond Beijing: The Right to Sexual Pleasure

From the above review, it is clear that the dominant discourse on sexuality within southern Africa attempts to deny it, avoid it, cover it in latex, or protect women from coercion, rather than recognizing it as a dimension of human experience—a dimension that can and should provide richness and fulfillment in addition to satisfying a reproductive function. This latter approach would allow enjoyment of sexuality to replace anti-sex morality as the entry point for addressing HIV prevention. It would promote women’s right to sexual decision-making as part of this approach.

The international consensus has gone as far in its definition of reproductive health as including a statement that “people are able to have a safe and satisfying sex life.”⁶² Sexual pleasure for its own sake, however, is not yet on the international agenda. HERA, one of the international NGOs that lobbied for the sexual rights terminology in Cairo and Beijing, has provided a definition of sexual rights that reaches much farther than simply protecting women from harm, toward creating the conditions in which sexuality and sexual experience can be positive and pleasurable. HERA’s approach is positive rather than negative. Rather than seeking a commitment to sexual rights solely to avoid discrimination or prevent the spread of HIV/AIDS, HERA argues

that sexual rights are valuable in their own right. In their definition, “[s]exual rights are 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.”⁶³ To what extent, then, is this perspective on the agenda in Southern Africa?

Currently in SADC countries the discourse of sexuality requires men to show their masculinity by having sex at a young age and with many women. Women, in contrast, are not expected to flaunt their sexuality, but rather to satisfy men. This principle is most graphically demonstrated in the common practice of using vaginal drying agents, which dry the vagina to simulate virginity and provide men with a tight sheath.⁶⁴ A wet vagina has been constructed as a sign of promiscuity rather than of normal sexual desire. The drying agents not only mean that sex is painful for women, but they also damage the vaginal walls, thus increasing women’s vulnerability to transmission of STDs, including HIV. Jackson points out that both men and women may be ignorant of the signs of female arousal or about female orgasm and that women may not feel entitled to pleasure.⁶⁵ Yet IEC materials provide no information on pleasurable sexual relations, nor do they challenge the sexual power relations implicated in the practice of dry sex and the consequences for women’s experience of sex. The Botswanan pamphlet for youth on HIV/AIDS lists as one explanation of why women are particularly vulnerable “the use of drying or tightening agents into the vagina in order to increase male sexual pleasure.”⁶⁶ It makes no attempt to challenge men’s expectations of a dry vagina or women’s concern to please men in this way.

Some SADC countries are beginning to table the question of sexual pleasure. Namibia’s National Gender Policy and Plan of Action on Gender uses the Cairo language, saying that “[r]eproductive health means that women and men are able to have a safe and satisfying sex life.”⁶⁷ Just as significantly, Swaziland’s strategic plan includes “poor quality

of sexual experience" as a problem in its analysis of factors causing the HIV/AIDS epidemic. However, it presents no strategies or interventions to address this issue.

The absence of a chapter on sexuality in the Swaziland training guide for teachers on HIV/AIDS highlights this gap. This potentially useful guide covers biological development and substantial information on HIV/AIDS and discusses to a limited extent the reality of gender inequality. The chapter on sexuality describes the physical, psychological, and social changes associated with adolescence but does not provide teachers with any information on sexuality itself. The diagram in that chapter on female reproductive organs is a case in point. While ovary, vagina, and even urethra are marked, the clitoris is not.⁶⁸

A South African government pamphlet on HIV/AIDS and relationships redefines sex as not being limited to penetration, although its purpose is only to promote safer sex by presenting sex without penetration or "contact with body fluids" as alternatives to condom use. It instructs readers to "find out other ways to have safer sex," but does not encourage finding other safe ways to enjoy sexual pleasure or to explore other ways of enjoying each others' bodies—a step that would have begun to challenge current approaches to sex. Despite an overall tendency within the region to avoid addressing sex as it relates to pleasure and to focus instead on danger, there are some positive approaches. For example, an HIV/AIDS prevention training manual targeting women in Botswana provides a diagram that includes the position of the clitoris and a short explanation of its role in sexual pleasure.⁶⁹ Namibia's life skills training material acknowledges masturbation as "a normal sexual behaviour and the safest form of sex."⁷⁰ In the section on condoms, it says that "It is important that girls know how to assist boys with putting on a condom. The idea is to make condom use part of the sexual play rather than a step which interrupts the sex play."⁷¹

The existence of these materials suggests that there are openings that could be used to help redefine assumptions about the nature and purpose of sex. One initiative explicitly promoting such a change in paradigm is the Sexual Rights Campaign being run by a consortium of NGOs in South

Africa, which seeks to bring together mutuality, choice, and pleasure in sexual relations.⁷² It suggests “love play—that is, having sex without penetration. Examples are ‘ukusoma’ or thigh sex, masturbating each other, hugging and cuddling, body massage, kissing or stroking.”⁷³ It also offers case studies that explore diverse negative experiences, including not only sexual violence but also discrimination on the basis of sexual orientation. Finally, it engages participants in a process of articulating their own responses to these issues in order to develop a rights-based consensus on a positive and respectful approach to sexual expression.

Conclusion

This review of the policies and materials of the SADC and some of its member states suggests that, while the words “sexual rights” are not present in the general discourse, the issues underlying sexual rights and a commitment to human rights—in particular, the impact of the interaction of poverty, culture, and gender inequality on sexual relations—are generally reflected in the problem analyses presented and in the commitments made. Nevertheless, their implications for action are not spelled out in great detail, and it is therefore possible for SADC, as well as the relevant sectors and officials in member states, to avoid addressing gender inequality in sexual relationships. In the final analysis, these countries remain ambivalent about women’s rights. While they argue for the right of women to say “no,” they nonetheless avoid undermining cultural values regarding roles and responsibilities that privilege men.

In relation to HIV/AIDS prevention, this has translated into a focus on technical fixes to the HIV/AIDS problem—in particular, condom use—with no attempt to redress the social and economic injustices that often make condom use impossible. Rhetoric aside, this approach is not dissimilar to that of the old population paradigm that existed prior to the development of the ICPD Programme of Action and the Beijing Platform for Action. In the population context, exhortations to use contraception failed because they did not address the structure of women’s identity and the social

and economic reality of those targeted by the messages. Attempts to prevent the spread of HIV/AIDS should be informed by this experience.

SADC countries are all beginning to take action to promote women's economic and social status, both for its own sake and for the overall development of their countries—two areas that are fundamental to the achievement of sexual rights. Countries are also increasingly aware of how women's subordination makes them more vulnerable to transmission of HIV/AIDS. This recognition provides an entry point for promoting actions focusing specifically on the sexual dimension of sexual rights—on building a new culture of sexuality that allows individuals to take responsibility for their actions, and that promotes mutual respect as well as individual choice, expression, and pleasure.

It is not the case, as is frequently argued, that women who assert their rights to control their bodies and their sexuality are acting in opposition to their own national, religious, or ethnic identities.⁷⁴ A sexual rights approach allows individuals to develop to their full potential and experience themselves fully within their own family and society. Gupta has stated that arguing for individual empowerment is important not only for the sake of the individual, but for the collective social and economic good.⁷⁵ As this article has indicated, there are some openings for progress in countries in the region, including a number of contradictions between policy and practice that reflect changing contexts, as well as the roles of diverse actors in influencing the discourse surrounding sexuality. As the debates taken to Cairo and Beijing continue to play themselves out at country, regional, and international levels, the opportunities to push for a paradigm shift continue to grow. It may seem instrumental to argue for sexual rights in order to avoid a further escalation of the HIV/AIDS pandemic. However, HIV/AIDS is placing the economic and social functioning of countries fundamentally under threat. This disaster may provide the opportunity for a fundamental shift in paradigm, in which sexual rights will become a means not only to defeat the spread of HIV/AIDS, but to promote social justice.

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