

The background is a vertical rainbow gradient with horizontal bands of red, orange, yellow, green, blue, and purple. Overlaid on this are various circular patterns, including solid and dashed lines, and numbers ranging from 40 to 260, suggesting a clock or a data visualization.

# HISTORY OF ACTIVISM ON LGBT RIGHTS IN SOUTH AFRICA

BY NINA BENJAMIN

LABOUR RESEARCH SERVICE

- 13 October 1990 – first **Pride March in Johannesburg**

- 27 April 1994 – The Interim Constitution comes into force and includes a **clause** explicitly prohibiting discrimination on the basis of sexual orientation

- The National Coalition for Gay and Lesbian Equality (NCGLE) was the primary agent in securing an equality clause which includes sexual orientation in the final Constitution. The coalition was formed in December 1994, at a conference of 40 lesbian and gay activists from 32 South African organizations. The mandate, determined at the conference, was towards ensuring that the final Constitution retained sexual orientation as grounds for non-discrimination.

10 December 1996 – *“Thousands of people gather at Sharpeville stadium to watch President Mandela assent to the final Constitution of South Africa. There are few banners displayed, a small section of the crowd is singing and the general mood is sober. The promise of equality, justice and social development entrenched in the Constitution is yet unrealized. Hunger, inequality, joblessness, homelessness and violence are rife.*

*About ten lesbians, gays and supporters hold up the banner of the National Coalition for Gay and Lesbian Equality (NCGLE) inscribed with the slogan "Equality for All!" This small group came to celebrate the formal inclusion of sexual orientation as a ground for equality and non-discrimination in the final Constitution and to pay their respects to all those who died fighting for equality and justice. The NCGLE had achieved its first objective”.*

<http://www.africafiles.org/article.asp?ID=3804>

4 February 1997 - The final Constitution comes into force, including the same anti-discrimination protections as the Interim Constitution.

8 May 1998 - In the case of *National Coalition for Gay and Lesbian Equality v Minister of Justice*, a judge of the Witwatersrand Local Division of the High Court declares the **criminalization of sodomy and "unnatural sexual acts"**, and section 20A of the Sexual Offences Act, to be unconstitutional for violating the anti-discrimination clause of the Constitution.

12 February 1998 – In the case of *National Coalition for Gay and Lesbian Equality v Minister of Home Affairs*, three judges of the Cape Provincial Division of the High Court rule that it is unconstitutional for the government to provide **immigration benefits** to the foreign spouses of South Africans but not to the foreign same-sex partners of South Africans.

- 28 September 2001 – A judge of the Transvaal Provincial Division rules that same-sex partners must be allowed to jointly **adopt children** and to adopt each other's children, a right which was previously limited to married spouses.

- 31 October 2002 – High Court rules that a child born to a lesbian couple must be regarded as legitimate in law, and that both partners must be legally regarded as **natural parents** of the children and recorded as such on the birth register.

- 15 March 2004 – The Alteration of Sex Description and Sex Status Act, 2003 comes into force, allowing transsexual and intersex people to change their legally recognized sex.

- July 2004 – The Lesbian and Gay Equality Project launches a case in the Witwatersrand Local Division challenging the constitutionality of the provisions of the **Marriage Act** that limit marriage to opposite-sex couples.

- 1 December 2005 –The court rules that the common-law definition of marriage and the Marriage Act are unconstitutional because they do not allow same-sex couples to marry.

- 31 March 2005 – A judge of the Transvaal Provincial Division rules that a same-sex life partner is entitled to **inherit** from the intestate estate of the other partner as if they were married.

- 14 November 2005 – The National Assembly passes the **Civil Union Bill**, with amendments to allow marriages or civil partnerships available to same-sex and opposite-sex couples, by 230 votes to 41 and on 29 November the Civil Union Act, 2006 is signed into law.

- 1 December 2005 – The first legal same-sex marriage is performed, in George.

- 16 December 2007 - The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 comes into force, equalizing the age of consent at 16; previously it had been 16 for heterosexual sex and 19 for homosexual sex.

- Mid-March 2011 – The establishment of a National Task Team (NTT) to address the issue of hate crimes against LGBT people such as corrective rape is mandated by then Minister of Justice Jeff Radebe.

- 29 April 2014 – The National Intervention Strategy for the LGBTI Sector developed by the NTT is launched

- **The involvement of organized labor**
- 1998 - The NCGLE publishes policy proposals for a code of good practice on sexual orientation and the workplace. These policy proposals were been submitted to the Department of Labor and trade unions for consideration.
- The NCGLE establishes working relations with over 100 organizations including trade unions.

- BUT at this time there is a view that:
- *“Trade unions have not been cooperative in promoting lesbian and gay equality in the workplace, however. They will not publicly oppose equality for gay and lesbian workers because they do not want to be seen to oppose the Constitution. It is known, however, that several trade union leaders do not wish their unions to be "side-tracked.”*

- However by 2014 COSATU adopts the following resolution:
- **Resolution on Sexual Orientation and Hate Crimes against Gay, Lesbian and Transgendered People (2014) (NUMSA, SAMWU and DENOSA)**
- Call for actions by Government to deal with the rise in Hate Crimes
- Education aimed at combating homophobia and discrimination on the basis of sexual orientation
- Reaching out to organizations in the LGBT sector

- **National Context**
- Increase in hate crimes

- **International Context**
- **ILO: Promoting rights, diversity and equality in the world of work (PRIDE) Project**
- The project conducts research on discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) workers across the world and highlights good practices that promote meaningful inclusion.

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- The global union federations **Public Services International and Education International** have done a considerable amount of joint work to advance LGBT equality. There are trade unions today involved in national and international work to protect LGBT workers' rights.

- **Our present Context**
- **Federation wide resolution**
- **Social Dialogue**
- **CCMA commitment**

- **Gender Structures in the forefront**
- *September 2015 COSATU convened a gathering of members to discuss their emerging gender and sexual harassment policies. In this context, COSATU's gender-focal person had mainstreamed LGBT issues throughout the proposed policies*

- **Education and training**

- *But I must commend my union: we have done well in terms of this. I know for a fact we had employed here a person who was an open lesbian. Even in terms of dress code and all that. I must say, the reception she got here, she was like anybody else: she was not discriminated against.*

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- **Taking up cases**

- *It happened in one of the provinces where this lesbian lady went for an interview at a school, she's a butch lesbian and she was wearing men's clothes. She was actually recommended for the position but the problem is the parents had a problem with it. It's like the union came in there and assisted because now they wanted her not to be appointed. ... However, she was successfully appointed but parents were now wanting to take their kids from the school where she was appointed, thinking that she was going to turn their children into lesbians as well*

- **Working with NGO's and other organizations**

- *We call the LGBT organizations themselves to conduct these workshops and many a time they would send an open gay. Like in Cape Town, the person who was conducting the workshop is an open gay male. In Limpopo, the person who was there is an open lesbian. I'm told in the first workshop they had, she came with her partner. In the beginning, you would sense there's a tension, but as the workshop goes on and the terms are explained and people are taken through what LGBT means and what people are going through in their everyday life, you tend to see the change in terms of interaction. At the beginning of the workshop, people want to ask questions that would make others feel uncomfortable. As the workshop continues what is interesting is that the people who are conducting the workshops are giving practical examples because they deal with cases of people who are being harassed, people who have been killed, so they give practical examples.*

- **Collective Bargaining**

- *An example of a private-sector bargaining council agreement is the one developed by the Motor Industry Bargaining Council, which uses the BCEA as a guide and explicitly includes life partner in its provision for family responsibility leave. An example of a government bargaining council agreement is the one developed by the Public Service Coordinating Bargaining Council, which lists both spouses and life partners when referring to family responsibility leave. Company-level bargaining agreements are also concluded between one or more trade unions and employers.*

- **Workplace policies and programs**
- Multi-National Companies like IBM, Anglo American
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- **Involvement in the ILO Pride Project**

A large rainbow flag is waving against a clear blue sky. The flag's colors are vibrant and the fabric is in motion. In the background, there are faint, light-colored technical graphics including circles, lines, and arrows, suggesting a digital or research theme.

# Nina Benjamin Labour Research Service