

OP-ED:

Lessons on the pursuit of happiness

BY GLEN ELDER

On 9th October 1998, the new South Africa's highest court in constitutional matters, the Constitutional Court declared the laws which criminalized sex between men unconstitutional because they affected the "dignity, personhood and identity" of lesbian and gay people at a deep level.

Lesbian, gay, bisexual and transgender people, and their South African heterosexual counterparts have celebrated this decision by the Constitutional Court because it affirms respect for diversity in their society and equality for all. But, it is sobering to note that the criminal law punished the expression of love for more than 300 years. As the court pointed out: "Equality delayed is equality denied."

The presiding Supreme Court Justice stated on behalf of a unanimous Court that the common law offence on sodomy, section 20A of the Sexual Offences Act, Schedule 1 of the Criminal Procedure Act and the Schedule of the Security Officers Act were unconstitutional.

According to the ruling, any person who was charged, convicted or suffered loss because of committing consensual same-sex acts under any of the laws declared unconstitutional has the right to approach any High Court for appropriate relief.

The Court held that the laws that criminalize same-sex sexual and erotic activity independently breached the rights to equality, dignity and privacy. Judge Ackermann said the laws undermined self-esteem, caused psychological harm and legitimated violence and blackmail against lesbian, gay, bisexual and transgender people. In addition the Court held that:

"The harm also radiates out into society generally and gives rise to a wide variety of other discriminations, which collectively unfairly prevent a fair distribution of social goods and services and the award of social opportunities for gays. (para 36)

In its finding that the laws breached the right to dignity, the Court held that "at its least, it is clear that the constitutional protection of dignity requires us to acknowledge the value and worth of all individuals as members of our society."

The Court stated that the "...[S]ymbolic effect [of the law] is to state that in the eyes of our legal system all gay men are criminals. The stigma thus attached to a significant proportion of our population is manifest. But the harm imposed by the criminal law is far more than symbolic. As a result of the criminal offence,

gay men are at risk of arrest, prosecution and conviction of the offence of sodomy simply because they seek to engage in sexual conduct which is part of their experience of being

in our broader society. As such it is a palpable invasion of their dignity and a breach of section 10 of the Constitution."

Section 14 of the Constitution states that "every-

force gays, lesbians, and transgendered people into the bedroom or the closet. Personal freedom and intimacy were the cornerstones of defending the right to privacy.

"Privacy recognizes that we all have a right to a sphere of private intimacy and autonomy which allows us to establish and nurture human relationships without interference from the outside community. The way in which we give expression to our sexuality is at the core of this area of private intimacy. If, in expressing our sexuality, we act consensually and without harming one another, invasion of that precinct will be a breach of our privacy.

Equality, dignity and privacy rights of lesbian, gay, bisexual and transgender people are

now protected and enforced through the Constitutional Court decision

Today, South Africa joins many countries that value freedom and equality in recognizing the dignity of lesbian and gay people. But, as we celebrate, we remember Matthew Shepard who died with the knowledge that they were denied the protection of the US Supreme Court; we remember the men and women in Iran and Afghanistan who are routinely imprisoned and punished because of their sexual orientation; and, we salute the courage of people living in Zimbabwe who are being blackmailed, persecuted and charged under the same common law offence of sodomy. ▼

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human. There can be no doubt that the existence of a law which punishes a form of sexual expression for gay men degrades and devalues gay men

one has a right to privacy." The Constitutional Court made it clear that its defense of the privacy rights of lesbian and gay people was not an attempt to

OP-ED:

Out

BY JOY D. GRIFFITH

"Ask you, in those 2,000 years of intervening between Jesus and Matthew Shepard, how much have we really learned?" stated Rev. Roger Schmit of St. Paul's Newman Center University Parish in Billings, Montana as he compared the attack on Shepard to the crucifixion of Jesus.

So many of us have been thinking about the meaning of being Out during Matthew Shepard's final days that entered our National Coming Out Week. We have already taken important lessons from Matthew's life of being a strong believer in humanity and human rights in that all people should be treated with respect and dignity with the same rights for pursuing happiness.

As I stood in the Ira Allan Chapel October 10th talking to a lesbian friend about Matthew's fight for life and my personal pride in his open self-acceptance, she said, "Yeah, I can understand a lot about what he is going through. I was gay bashed by two guys last New Year's Eve as I rode on my motor cycle in Apache Junction, AZ. They beat me with a board on my arm and leg, knocked me off and continued smashing my motorcycle with the board!"

Matthew was 21 and my lesbian friend is 64. Fear is always my innermost emotion stemming from such shocking revelations. Then starts the reasoning of how to grasp this internal attack and channel it into a positive position. And then I remember my life as a heterosexual misfit transitioning into a new life of becoming a positive Lesbian experiencing the joyousness and acceptance that comes with this deeper realization of self worth. All of this happens within seconds!

Coming out is an effective political statement and the most

personally traumatic and yet the most freeing event of our lives. The energy released from self-doubt, anxiety, self-resentment and anger flows into strengthening the sense of well-being, the heartfelt love for humanity and even an inner realization of (finally) peace. Once we nurture ourselves into an out healing, we become our own leaders in this society along with the professionals in mental health, politics, education and religion to work together against the social disease created years ago by the misinformed and uneducated. The educational campaign has been started, but it will take more of us to make our society aware that the heterosexual conditioning, propaganda and violence against homosexuals is what is truly sick and damaging in our American society today.

My colleague in California was visiting through an internet AARP (American Association for Retired People) chat room. She was chatting with an AARP woman and asked if there were any Lesbians in the chat room. Whereupon the woman she was chatting with replied, "Oh no, we're older people and we're not into that kind of thing." My colleague responded to this stating that she was aware that several women she knows were going to resign from AARP, because AARP will not acknowledge Gays and Lesbians. The AARP woman said, "Well, I don't know enough about what it all means." I admired my friend's open questioning and how she managed to get the chatroom woman to respond to her. What neither my lesbian colleague or the AARP woman knew was that "Lesbian and Gay members of AARP had complained about the heterosexual presumption in the editorial policy of its magazine Modern Maturity." One of their columnists was Gay, but he would never come out of the closet. Finally in

1996, American Families had a cover story about a family who loved and completely accepted their lesbian daughter and her lover. Then in 1997 AARP opened its couples membership to Lesbians and Gays, which entitle

them to a discount on their Medicare supplement insurance premiums. And it saves trees too, since couples receive one copy of AARP publications instead of two!

My Lesbian friend lived in an apartment complex where their mailboxes were in a single site. One day, she invited one of her neighbors, a gentleman, in for cheese and wine and they discovered that both of them had invited, without success, his next door neighbor for coffee. This was a woman a few years younger...an artist. During the course of the conversation my friend suggested that the artist might be Lesbian. "Oh, no," replied the gentleman, "she doesn't look like one of THOSE." Of course my out friend asked him if she looked like one. He didn't know what to say or how to react. It was sadly humorous. He was on such a spot! He stayed and chatted for a while, but she never invited him back. When their paths crossed in the complex he was always friendly and just a bit embarrassed.

We are handicapped by the invisibility of g/l/b/ts. Census figures have a tremendous influence on coverage of minority populations. In 1996, the Gay, Lesbian and Bisexual Officials caucus of the National League of Cities

asked the Census Bureau to add a question in the 2000 census which would count Gay Americans in a manner similar to that of racial and ethnic groups. Many of you already know that the Census Bureau refused due to the non-

existence of any federal law pertaining to a person's sexual orientation. This is why ENDA (the Employment Non-Discrimination Act) must be a priority issue.

In San Francisco, Gay and Lesbian Outreach is partially funded by Title III of the Older Americans Act. They help overcome isolation and homophobia and promote social well-being, but San Francisco isn't the whole country! We need to come out to make these differences. The polls continue to show that when our civil rights are challenged those who know some of us personally support us and those who have never met any of us remain in opposition. We need to change prevailing social attitudes and work to enlarge the liberties and rights of the nation's g/l/b/t community. Harvey Milk said, "If a bullet should enter my brain, let that bullet shatter every closet door." But that statement is Harvey Milk. As individuals, we each have our specialty of who we are and how we can let go of the fear and find the path to keep natural balance in our lives. The balance of forces is Natural Justice and her close companion is Truth. Never shy away from Justice and Truth again. ▼

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