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# Engendering gay and lesbian rights: the equality clause in the south african constitution

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### Abstract

The paper focuses on the origins and impact of the “gay rights clause” in the post-apartheid constitution of South Africa. The clause, explicitly prohibiting discrimination on the basis of sexual orientation, was the first of its kind in the world. It represents a paradox given the commitment of the post-apartheid state to mass participation in policy formulation and high levels of homophobia. The clause is explained in terms of the ability of a male-dominated gay rights movement to form strategic alliances with the anti-apartheid struggle, to mobilize the master narrative of equality and to lobby effectively during the constitution making process. Since 1996, it is shown that lesbian initiatives have been significant in attempts to mobilize the clause to realize substantive equality. However, these have tended to reflect class- and race-based privilege, and for the gay rights movement to become a transformative force, any development depends

on an extension of the present focus on justice as rights, to include redistribution.



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