



The duty for public higher education sector to  
integrate sexual orientation as a policy connect: a  
case of the North-West University's Potchefstroom  
Campus

**L Radebe**



**[orcid.org/0000-0002-2882-5878](https://orcid.org/0000-0002-2882-5878)**

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Supervisor: Prof. KG Phago

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Student number: 26697262

## DECLARATION OF ORIGINALITY

I, Lerato Radebe, (Student Number: 26697262) hereby declare that the dissertation titled: **the duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the LGBTQI+ student community of the North-West University's Potchefstroom Campus**, is submitted in fulfilment of the requirements for the degree Master of Public Management and Governance at the Potchefstroom Campus of the North-West University. This dissertation is my own work and has never been submitted by me to any other University. I also declare that all the sources used have been acknowledged by means of complete referencing. I understand that copies of this dissertation submitted for examination will remain the property of the North-West University.

Signed by: Lerato Radebe on the 14th day of February 2022

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## **ABSTRACT**

In 1996, former President Nelson Mandela signed the new Constitution of the Republic of South Africa of 1996 into effect. This made South Africa the first ever country in the world to actively include a sexual orientation clause in their Bill of Rights, which is in Chapter Two, Section 9 of the Constitution of the Republic of South Africa of 1996. This study was conducted as an attempt to investigate sexual orientation as a constitutional element and its integration by the public higher education sector as a policy connect. A literature review was conducted, which shows that there is a lack of, as well as the need for, public policies, programmes and frameworks that include sexual orientation or the needs and challenges of the LGBTQI+ community. The research methods for the study are a qualitative approach with an exploratory design. Data collection instruments that were used include document analysis and semi-structured questionnaires. The study also interrogated public higher education sector's inability to integrate existing policies and frameworks. It is clear that the public higher education sector has failed to generate LGBTQI+ relevant interventions that many universities in South Africa, such as the North-West University, need to implement.

The main finding of this study is that there is a need for the integration of sexual orientation by the public higher education sector in South Africa. LGBTQI+ appropriate policies need to be promulgated by not only the public higher education sector broadly, but also at institutional level. NWU needs to ensure the safety, treatment and protection of the LGBTQI+ community as a critical policy connect for an inclusive environment. Based on this finding, it is recommended that the public higher education sector should promulgate all-inclusive policies that are targeted at concepts such as sexual orientation, discrimination and equality. The NWU has a constitutional obligation to make affirmative measures to create a safe and secure environment in which students, particularly where the LGBTQI+ community is concerned, to thrive and reach their ultimate potential in their education drive, irrespective of their sexual orientation, gender identity, race and other various elements.

**Key words:** Sexual Orientation, Section 9(3), Discrimination, Public Higher Education Sector, Policy connect, LGBTQI+ students, North-West University Potchefstroom Campus.

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## LIST OF ACRONYMS

ANC	-	African National Congress
DHET	-	Department of Higher Education and Training
FET	-	Further Education and Training
GALZ	-	Gays and Lesbians of Zimbabwe
GASA	-	South African Gay and Lesbian Association
GBV	-	Gender-based violence
GLOW	-	Gay and Lesbian Organization of the Witwatersrand
LGBTQI+	-	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex
NWU	-	North-West University
PDA	-	Public Display of Affection
PEPUDA of 2000	-	Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
SUN	-	Open Stellenbosch movement at Stellenbosch University
SR	-	Student Representative Council
TVET	-	Technical and Vocational Education and Training
UCLA	-	University of California
UCT	-	University of Cape Town
USA	-	United States of America
USAf	-	Universities of South Africa
UNESCO Organization	-	The United Nations Educational, Scientific and Cultural Organization

# CHAPTER ONE

## BACKGROUND AND ORIENTATION

“Injustice anywhere is a threat to justice everywhere.”

Dr Martin Luther King, Junior. (1963)

### 1.1 INTRODUCTION

The above-mentioned quote is from the late Dr Martin Luther King in 1963, where he wrote a letter while in prison at an Alabama Jail during the Civil Rights Movement in the United States of America (The Atlantic, 2018: online). This letter was motivated by a country that was racially segregated and divided in terms of race, and he believed that eradicating oppression and discrimination was crucial, or all members of society would be at risk. Nonetheless, Dr Martin Luther King's words in 1963 spoke to the racial discrimination and segregation of America. However, it is necessary that the essence of his message should be translated to many more injustices faced by the LGBTQI+ community (Robison, 2012: 1). South Africa went through conditions that were similar to America during its dark time in history of Apartheid, where oppression, discrimination and segregation were encompassed in the South African society (Morris, 2018: online).

LGBTQI+ is an acronym for Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, etc. This is a term that is used by the LGBTQI+ community. The terms in this acronym are utilised to describe a person's sexual orientation or gender identity (Gay Center, 2022: online). LGBTQI community is often viewed as gender violators or deviant by heterosexual members of society (“deviant” means any behavior that threatens established norms or challenges established authority). LGBTQI+ people are not considered to be "real men" or "real women" because they are attracted to someone of the same sex. Violation of gender norms is often seen as a threat, which can be punished with social sanctions. Consequences of violating heterosexual norms include violence, discrimination, harassment, social exclusion, and homophobia (Muñoz Boudet *et al.*, 2013: 18).

Heterosexism is the notion that the social and cultural standard hold a biased conviction that “heteros” or straight people are socially and culturally better than the lesbian, gay, bisexual, transgender, intersex (LGBTQI+) community (Lesbian, Gay, Bisexual and Transgender Resource Center, 2022: online). According to De Deer (2020: 13), heterosexism is a claim allegation that heterosexual relationships, sex and expressions of sexual orientation are ordinary to whatever else is a deviation. Heterosexism could be seen as a facet of patriarchy that attempts to restrict and mistreat “invalid” expressions of sex, gender, sexuality and sexual orientation. For example, most women and men who attest that women are equal to men and believe that it is not normal to be attracted to the same sex, fall under the category of heterosexism (Barnes, 2020: 23).

The prevalence of heterosexism controls and limits the portrayal of what sexuality and sexual orientation are allowed within society (Endanger, 2009:2). Heterosexism and patriarchy have a negative impact on the LGBTQI+ community through discrimination, inequality and violence. For example, in terms of heterosexism, LGBTQI+ individuals come out daily due to the people that they meet because of the assumption that everyone is straight. In terms of patriarchy, for example, the LGBTQI+ community faces violence such as rape and murder (that is, hate crimes) due to the fact that women who fall under the LGBTQI+ community are attracted to the same sex (European Institute for Gender Equality, 2007:1). In 1996, former President Nelson Mandela signed the new Constitution of the Republic of South Africa of 1996 (hereafter referred to as Constitution of RSA (1996) into effect which made South Africa the first ever country in the world to actively include a sexual orientation clause in their Bill of Rights, which is in Chapter Two of the Constitution of RSA of 1996 (Croucher, 2002:315). The Constitution of RSA (1996) continues to advocate for change and equality, which shows determination to right the wrongs of Apartheid (Johnson, 1997:585). It is imperative to highlight that there are legal instruments, such as the Constitution of RSA of 1996, Employment Equity Act 55 of 1998, Labour Relations Act 66 of 1995 and The South African Housing and Rental Act 50 of 1999 that provide protection for the LGBTQI+ community, both within the work environment and the communal environment. However, the LGBTQI+ community still faces violence, discrimination, stigmatization, prejudice and hostility for expressing their sexual orientation (United Nations International Children's Emergency Fund, 2015:1).

This shows the incongruence between the legal provisions and the actual experiences of the LGBTQI+ community, where the government has failed to instil and administer legal

and constitutional provisions (Rosenbloom, 2016:55). For example, in 2018, 23-year-old, Noxolo Xakeka was stabbed to death on New Year's Day; the only crime she committed being identifying herself as a lesbian (Hlati, 2018: online). Furthermore, the National Development Plan Vision 2030 does not overtly include the needs of LGBTQI+ community in the future projections for South Africa, which raises several "red flags" regarding the inclusion of the LGBTQI+ community in the country's future. Policies within the public higher education sector do not always articulate positions of equality, particularly when it comes to the LGBTQI+ community. Since 1996, the LGBTQI+ community has slowly become visible through its strong voice, which is mainly being heard through the LGBTQI+ pride parades and in newly found LGBTQI+ university organizations, such as Campus Pride at the North-West University Potchefstroom Campus (Daly, 2022: 3).

Before South Africa signed its new Constitution, international human rights bodies, such as the United Nations Human Rights Council started recognising the change in legal status of the LGBTQI+ community (Christiansen, 2000:1000). South African human rights activists, such as Simon Nkoli, also contributed to LGBTQI+ rights in South Africa. Before Nkoli was arrested, he became a member of the South African Gay and Lesbian Association (GASA). He later realised that GASA was primarily white and often apolitical at the time. GASA did not approve of Nkoli's anti-apartheid stance, which led to a decline in support on racial issues that he felt were crucial (South African History Online, 2020: online). After his release from prison, Nkoli founded the Gay and Lesbian Organization of the Witwatersrand (GLOW). The group organised Africa's first Gay and Lesbian Pride March in Johannesburg in 1990. During the *State v Malindi and Others* (115/89) [1989] ZASCA 114; [1990] 4 All SA 45 (AD), which is known as the Delmas Treason Trial, Mr Nkoli was one of 22 people who were charged with treason. During this time, Mr Nkoli revealed that he was gay and because of this, Mr Nkoli gained support from members of the African National Congress (ANC) government and his co-accused in this trial (DeBarros, 2018: online).

Section 9, Subsection 3 of the Constitution of RSA (1996) discusses discrimination on all spheres, especially when it comes to sexual orientation. The aspect of sexual orientation is related to the LGBTQI+ community, which introduces some level of importance for the LGBTQI+ community. However, foregrounding the rights of all persons, regardless of their sexual orientation, did not necessarily translate into the unequivocal acceptance of

members of the LGBTIQ+ community by their heterosexual counterparts (Patron, 2000:125). Rights to protect the LGBTIQ+ community from various social injustices does not exist, despite the sexual orientation clause in Section 9, Subsection 3 of the Constitution of RSA (1996). This means that within a public institution, such as a university, discrimination or homophobic remarks need to be dealt with through formal procedures, such as disciplinary hearings; unlike the repercussions should it have been in a public place such a restaurant (Reid & Dirsuweit, 2002:100).

Despite South Africa's lack of the LGBTIQ+ community's inclusivity in policies, frameworks and programmes when it comes to equality and non-discrimination, the judicial system of South Africa has protected members of the LGBTIQ+ community. For instance, in *Du Toit and Another V Minister of Welfare and Population Development and Others* (CCT40/01) [2002] ZACC 20; 2002 (10) BCLR 1006; 2003 (2) SA 198 (CC) (10 September 2002), lesbian couple Suzanne du Toit and Anna-Marie De Vos sought to adopt two children. Nonetheless, in light of the fact that the Child Care Act 74 of 1983 restricts adoption to a married couple, custody and guardianship right could only be granted to one person. Both applicants opted to bring this matter to the High Court and challenged the constitutionality of the Child Care Act 74 of 1983 and the Guardianship Act 49 of 1997. The Constitutional Court found that the provisions of both statutory acts were discriminatory based on Section 9 of the Constitution of RSA (1996) that discuss sexual orientation and marital status. In 2006, the Civil Union Act 17 of 2006 came into effect, which legalised same sex marriages and adoption by same sex couples (Southern African Legal Information Institute, 2002:1).

The Bill of rights in the Constitution of RSA (1996) also interprets an attitude adjustment in terms of the legal provisions that exist to protect the LGBTIQ+ community and the LGBTIQ+ community's lived experiences. Attitudes towards the LGBTIQ+ community continues to be negative as homophobia remains a social issue that is often interwoven as a tapestry in the South African society. The reluctance of people to accept homosexuality could include these persons' levels of awareness regarding the LGBTIQ+ community in terms of education, their religious affiliations and beliefs, cultural groups, traditions and race. Often the negative attitudes towards homosexuality and the LGBTIQ+ community are found in denominations that are conservative and highly religious. Some protestant churches, such as Anglicans, and Mosques, like Hindu temples (Mandir), seem

to be more positive, which could emerge from equality, the acknowledgement of differences and human dignity (Roberts & Reddy, 2008:11).

South Africa is a society that is deeply rooted in patriarchy, which has forms of masculinity and masculinity known as heteronormativity. The term heteronormativity could be understood through a gender-based violence (GBV) perspective, where lesbians are in many cases subjected to corrective rape practices. Corrective rape practice is a phenomenon that is believed to change a woman's sexuality or sexual orientation by simply having sex with her against her own will (Mulaudzi, 2017:9). It is clear from the foregoing that this type of a society has patriarchal tendencies that suppress femininity through toxic masculinity, which exhibits itself through violence against women. Corrective rape practices towards lesbian and transgender women has sadly become a common practice in South Africa and several individuals have suffered from this epidemic. Examples abound, such as the well-known 23-year-old Noxolo Nkosana, who was stabbed multiple times by two men from her community, on her way back home with her girlfriend (Fihlani, 2011: online). Gqola (2007:118) contends that it is rather bizarre that particularly violent men think that women need to be cured from being lesbian.

In South Africa, gay men also face the same tragedies as lesbians, where gay men are constantly attacked and violated for simply being themselves. One could assume that a gay man that is considered feminine tends to be more ostracised due to the fact that a feminine gay man is deviating from masculinity and practices of heterosexuality (Human Rights Watch, 2011: online). In the case of a 21-year-old man from Langa, Cape Town, a similar corrective rape took place in the bushes after a man asked him for a cigarette (Moore, 2022: online). The LGBTQI+ community tends to seek heteronormative norms and standards that produce systems of exclusion and heteropatriarchy (Nkumane, 2018: online).

This shows that discrimination against the LGBTQI+ community as a sexual minority still exists in South Africa, particularly when issues such as gender-based violence and rape are silenced continuously (Baird, 2010:8). Social injustices towards the LGBTQI+ community prevail, as Pillay (2018: online) states that being a part of the LGBTQI+ community in the current state of South Africa is the same as Apartheid. This is due to the fact that the LGBTQI+ community are seen as deviants that serve as a threat to the nation and because of this, the LGBTQI+ community remains in a locked status of being exposed to eradication and violence discrimination (Isaacs & McKenderick, 1992:10).

The purpose of this introductory chapter is to bring the importance for the public higher education sector and its institutions to integrate sexual orientation references to the protection and acknowledgement of members of the LGBTIQ+ community into its policies, to the foreground. The chapter further provides background, orientation as well as a problem statement to ensure an alignment to the contextual outline of the overall study. Research objectives and questions are provided, which are vital to guide activities of the study. This chapter concludes with a central theoretical statement, significance of study and a chapter layout.

## **1.2 ORIENTATION OF THE STUDY**

Public policy is considered the government's intention or action plan, which attempts to demarcate the intricacies associated with an apparent problem within society and to identify a possible solution and address the matter for future generations (Cloete & de Coning, 2011:4). Sexual orientation is a constitutional requirement that public institutions, such as universities, need to integrate as a policy connect to realising an inclusive higher education system. For the reason that education is the core element and function of public higher education sector, the Department of Higher Education and Training needs to develop and implement policies that integrate sexual orientation element or issues surrounding the LGBTIQ+ community in the public higher education sector. Homosexuality remains a divisive issue, particularly in many African countries. For example, former President Robert Mugabe stated at a conference in 1995 that he does not believe that the LGBTIQ+ community should have any sort of rights. Mugabe's lack of support regarding the LGBTIQ+ community was emphasised by the Zimbabwean government as the Zimbabwean government threatened to withdraw their financial support because of the Gays and Lesbians of Zimbabwe (GALZ). Among its major achievements, GALZ fought for the inclusion to participate in the Zimbabwe International Book Fair during 1995 (Murray, 1998:249). Similarly, in 2014, President Yoweri Museveni stated that the Ugandan government would shoot at anyone who committed any same-sex acts that he considered to be unnatural. That same year, a local Ugandan newspaper outlet ran a page in the newspaper with the words "Homosexuals increasing in Uganda, who's responsible?" (Magdaleno, 2014: online).

Despite adopting treaties, such as the United Nations' Resolution on Protection against Violence and Other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity' (Resolution 275), homosexuality

continues to be a societal issue that is contentious in today's society and in a South African context (Tshilongo, 2017:2). Many African countries disapprove of homosexuality, as over 37 countries in the African continent, still criminalize homosexuality in Africa. Anyone found to be guilty of same sex acts, depending on that state, can either be sentenced to prison or the death penalty. To most, homosexuality is considered as taboo and viewed as un-African, a practice that resists the traditions and customs of what is known as African culture (Gitari, 2013:39). Homosexuality has existed within African people; in fact, evidence suggests that the long history of colonization consistently changed African sexual practices (Buckle, 2021: online). For example, across the African continent, we see more relaxed attitudes towards sexuality, sexual orientation and gender identity. In 2400 Before Christ (BC), the Egyptians accepted same-sex relationships to a point where they not only recognised it as a third gender, but worshipped it (Buckle, 2021: online).

The constant discrimination towards the LGBTQI+ community is a result of the misconception regarding homosexuality (Alimi, 2015: online). Twenty-one various African politicians, such as former President of Zimbabwe Robert Mugabe and former President of South Africa Jacob Zuma, have fated homosexuality and have stated that homosexuality is "unAfrican". In 1995, Robert Mugabe contended that, "Gays are perverts and their behaviour is worse than that of pigs. They are lower than dogs and pigs, for these animals don't know homosexual behaviour. He then encouraged the population to take the law into its own hands, to arrest homosexuals, to report, and deport them. Homosexuality is un-African and in conflict with culture" (Duke, 1995: online). In 2006, Jacob Zuma stated that, "same-sex marriages are a disgrace to the nation and to God. When I was growing up a gay would not have stood in front of me. I would knock him out" (ENCA, 2015: online). Despite these harsh and discriminatory statements made by some of these politicians considering homosexuality being un-African, anthropologists found evidence leading to the fact that homosexuality was a part of African culture, which was sanctioned culturally and socially between men and women before colonialism in various African cultures (Dlamini, 2006:130).

Some of the responsibilities of schools and academic institutions in any society are that they exist to educate, socialize and provide a service and a social-emotional experience for people. Academic institutions, such as colleges and universities can often be a challenging setting for students, regardless of their sexual orientation. A lack of policies,

frameworks and programmes shows the lack of support for the LGBTQI+ community (Wilson & Cariola, 2020:188). Failure to implement such policies and practices indicate that LGBTQI+ students continue to face exclusion, isolation, violence and discrimination within an academic space, such as universities, which may result in a restriction in their education in terms of dropping out, experiencing depression and anxiety. Social pressure is part of the social-emotional experience that most students are usually subjected to. However, this experience can be difficult for LGBTQI+ students, particularly those who struggle with their identities in a sense that one can identify with the LGBTQI+ community; however, they might not know whether they are bisexual, queer or pansexual, since the LGBTQI+ community is a broad community that lacks extensive support from their family, friends and community. Sadly, LGBTQI+ students tend to experience homophobic slurs and attacks from heterosexual students and even lecturers (Human Rights Watch, 2016: online). For example, according to Ngubane (2017: online), two lecturers from Coastal College in Umlazi allegedly mocked and laughed at a 20-year-old student, Bheka Khanyile, then kicked him out of class because he is gay.

In South Africa's academy, institutions such as universities have not invested resources and conducted convincing research regarding the inclusion of sexual orientation within their campuses as compared to most Western countries, such as America. The United Nations Educational, Scientific and Cultural Organization (UNESCO) conducted a report, which showed that it was of utmost importance for higher education institutions to provide educational programmes that deal with issues that relate to sexual orientation, gender identity, sex and gender (UNESCO, 2012:16). Particularly when it comes to the universities as higher education institutions, research presents two perspectives in which the LGBTQI+ community is accepted, those for the equal treatment for LGBTQI+ students and those against the equal treatment for LGBTQI+ students. However, on the other hand, there are individuals who often attempt to limit the acceptance of the LGBTQI+ community as a part of campus life (Msibi, 2012:517).

In 2014, Blade Nzimande, Minister of Higher Education and Training, tabled a Social Inclusion Draft Policy Framework for comment to assist the higher education sector to develop their own policies and guidelines. Section 7.13 of the Social Inclusion Draft Policy Framework (2014:15) states the protection of the LGBTQI+ community within public higher education institutions, such as universities. This policy calls for universities, TVET colleges and schools to develop guidelines that will promote awareness on LGBTI rights

and fight any form of homophobic violence, discrimination and exclusion (Social Inclusion Draft Policy Framework, 2014:16). The report continues to state that concealed and unconcealed behaviours regarding heterosexism and homophobia are sustained through patriarchal expressions by students and staff in higher education institutions. These expressions include institutional traditions and cultures, which may be violent towards the LGBTQI+ students (Social Inclusion Draft Policy Framework, 2014:16).

Despite this policy framework, no precise measures have been made by entities such as TVET colleges, universities and schools to be more inclusive, to protect LGBTQI+ students and treat them equally. LGBTQI+ students still face challenges such as homophobic treatment, discrimination, exclusion and violence from lecturers and heterosexual students as previously stated. This context reveals that it has become imperative that universities actively and effectively promulgate LGBTQI+ friendly policies that deal with discrimination towards the LGBTQ+ community, particularly equal treatment when it comes to psychological assistance, healthcare and placement in hostels (Gopal & Niekerk, 2018:175). For example, a former North-West University Potchefstroom Campus student, Dewaldt Visser, who is gay, alleged that he was grabbed on his collar by one of the students that stayed in the same residence as Mr Visser, who proceeded to spit in his face and said, “Fok off uit hierdie huis uit. Jy behoort nie hier nie” (which means “fuck off out of this house, you do not belong here”) (Collison, 2017: online). Another similar incident occurred at the University of Pretoria, where Themba Sithole had to stop participating in residence activities once people found out about his sexuality because no one wanted to be around him. Sithole contends that, “Residence culture is very Afrikaans, so integrating people of different racial groups and sexual identities is very difficult” (Collison, 2017: online).

In 2011, a study conducted by Francis and Msibi (2011:160) found that it was crucial for South African higher education institutions to provide programmes based on the challenges that LGBTQI+ students face as there is a shortage of higher educational policies that are aimed at curbing the marginalization of sexual minorities, such as the LGBTQI+ community within universities (Hames, 2007:55). In general, being a part of the LGBTQI+ community brings various challenges; however, being a homosexual student at any higher education institution that can be possibly unreceptive, is harder. Homosexual students may face exclusion, discrimination, violence and isolation from a space that is likely heterosexual, and the end result might lead to everlasting

psychological and socio-economic issues (Isaacs & McKendrick, 1992:11). For example, members of the LGBTQI+ community may be subjected to homophobic remarks from lecturers and students. In terms of the former, such marginalization could manifest into prejudices that warrant a lack of knowledge and information regarding the LGBTQI+ community and their sexual orientation, which ultimately needs educational attention (Evans, 2000:25).

Authors such as Newman (2007: 250), and Athanases and Larrabee (2003:25) have listed the challenges that are faced by the LGBTQI+ community at a university, which include homosexual students being isolated and excluded socially, leading to intellectual and emotional bullying; all these facets are influences that can obstruct the overall wellbeing of any homosexual student. Other researchers, such as Burn, Kadlec and Rexer (2002: 25), relied on official reports, which have stated that homosexual students that have been exposed to any form of discrimination, or verbal, psychical and even sexual assault are prone to suffer from depression, live in fear, use substances such as drugs and have suicidal thoughts. All these result in a decay of their physical and mental health. A research report led by UNESCO in 2012 showed that learners in South African education institutions have suffered from homophobic violence (UNESCO, 2012: 18). For example, 11 gay students from a Johannesburg private school expressed the constant verbal and physical abuse they had endured from other students, which agrees with what Rothmann stated in 2016 regarding the landscape of homophobia within South African educational institutions (Tshilongo, 2017:2). Students that are a part of the LGBTQI+ community need assistance that will help them to deal with any type of discrimination, violence and isolation. This would require government, together with the Department of Higher Education and Training and Universities of South Africa to concisely develop and implement the Social Inclusion Draft Policy Framework alongside a LGBTQI+ policy, which will be a safe haven for the LGBTQI+ community where perpetrators will be dealt with accordingly, were they to commit any type of homophobic discrimination or violence.

### **1.3 PROBLEM STATEMENT**

Based on the background and orientation of this study, an academic investigation is necessary to consider the constitutional provisions regarding sexual orientation as a policy connect and a duty of the public higher education sector. This study engages the importance of the public higher education sector to integrate formal policies based on sexual orientation, that seek to protect the LGBTIQ+ community on campus. This notion

of sexual orientation integration as a policy connect by the public higher education sector should be intended to guide the treatment and protection of the LGBTQI+ students' rights within the higher learning sector. The intention should be to adhere to basic human rights practices, such as sexual orientation within the public higher education sector. Sexual orientation, including homosexual identity, needs to be a central theme for most universities when dealing with the constitutional rights of their students as enshrined in the Bill of Rights of the Constitution of the Republic of South Africa of 1996. In that way, universities as academic and public institutions would need to provide LGBTQI+ friendly policies and environments regarding educating their student members about sexual orientation and sexual health whilst dealing with the discrimination, social exclusion, violence, isolation from fellow residence students, depression and substance abuse that the LGBTQI+ community on campuses face (Rothmann, 2014:8).

A specific focus on the North-West University Potchefstroom Campus has been maintained to determine elements such as social exclusion, isolation from other residence students and violence that the LGBTQI+ students face on a daily basis. The main problem this study sought to investigate was to highlight how the public higher education sector needs to integrate sexual orientation as a constitutional element and as its key policy feature. In this way, the treatment and protection of the LGBTQI+ community would be institutionalised and promoted.

#### **1.4 RESEARCH OBJECTIVES**

Several study objectives were considered to guide the realising of the research problem for the study. These were formulated as follows:

- To conceptualize and describe theoretical approaches and foundation for discrimination and sexual orientation in Public Administration.
- To analyse the constitutional provision for discrimination on sexual orientation as an element of Section 9 of the Constitution of RSA of 1996.
- To discuss the institutionalization of Section 9 of the Constitution of RSA (1996) for the treatment and protection of the LGBTQI+ students in the public higher education sector.
- To provide recommendations for the public higher education sector and North-West

University to institutionalize sexual orientation as a policy connect for the LGBTQI+ community.

## **1.5 RESEARCH QUESTIONS**

The following research questions are necessary and linked to the study objectives in guiding this study:

- What are the theoretical approaches and foundation for discrimination and sexual orientation in Public Administration?
- What are the constitutional provisions for discrimination on sexual orientation as an element of Section 9 of the Constitution of RSA of 1996?
- How can institutionalization of Section 9 of the Constitution of RSA (1996) for the treatment and protection of the LGBTQI+ students in the public higher education sector be undertaken?
- What recommendations can be given for the institutionalization of sexual orientation as a policy connect within the public higher education sector?

## **1.6 CENTRAL THEORETICAL STATEMENT**

Kirk and Okazawa-Rey (2010:5) define intersectionality as a centralising perspective that underlines the context-specificity that informs the way in which facets such as gender, race, sexuality, sexual orientation and class intersect with one another. Intersectionality is often used to investigate sexuality, sexual orientation (such as LGBTQ+ discourses), race/ethnicity and the connection between these facets when applied to one's understanding. More than 30 years ago, Kimberlé Crenshaw introduced intersectionality, which is a term that defines the way in which people and social identities, such as race, class, sexuality and gender, can intersect (Intersect, 2021: online).

Intersectionality is a broadly applied theory in discoursing challenges surrounding sexual orientation, gender, gender identity and many others. When utilised insightfully, intersectionality can distinguish the encounters and challenges of sexual minorities, such as the LGBTQI+ community, and create a policy, programme or framework that could address the challenges faced by the LGBTQI+ community in the public higher education

sector. A LGBTQI+ friendly policy, framework or programme could set a pathway to a more impartial world, where acceptance is the new norm (Intersect, 2021: online).

During an interview with Kimberle Crenshaw, Steinmetz (2020: online) stated that in this day and age, intersectionality is a focal point for seeing the manner in which different types of inequality regularly intensify one another, such as gender and sexuality/sexual orientation. Intersectionality, as a theory, can be used for a more diverse leadership within Public Administration and Political Science, as intersectionality aims to challenge and explore the focal idea behind race, gender, class and sexuality, particularly the LGBTQI+ students and sexual orientation. As a perspective, intersectionality has been recognised as a primary tool when it comes to hypothesising oppression and identity. The academic context of intersectionality is being applied within various disciplines, which shows its importance within the research paradigm. However, when it comes to public policy, intersectionality requires a focused attention to integrate practical societal developments, such as LGBTQI+ matters, with government interventions that are intended to improve the living conditions of citizens. The intent behind intersectionality and policy analysis in a study of this nature seeks to categorize and address the way in which particular government interventions tackle the inequalities that are experienced by numerous social groups. These interventions should take social identities such as gender, class, race and age interrelations into consideration, in order to form capabilities and meanings within and between groups in society (Hankivsky & Cormier, 2011:1).

In the context of public policy, intersectionality theory seeks to expose the restrictions and segregated nature of traditionally developing public policies. Intersectionality addresses the complexity of inequalities and how people will be subjected to inequality and discrimination; however, their experiences are not a sum of inequality and discrimination. This shows that a one-size-fits-all approach to public policy is compounded with limitations. Public policy is not neutral, due to the fact that populations do not experience policy the same way. This is imperative, particularly when public policy consists of variances that need to be taken into account when it comes to promulgating, implementing and evaluating public policy. Intersectionality varies from one approach to another to accommodate single identity markers, such as gender, sexual orientation, race and class. From an intersectionality point of view, policies that are targeted are often considered to be ineffective and inefficient as general policies fail to address multiple identifiers within a group. For example, none of the social problems that public policy aims

to address can be seen as the result of one affiliation of discrimination and one identical group (Moore, 2012: 35). This study distinguished how sexual orientation as a critical constitutional element and human right can be integrated within the public higher education sector. This discourse is undertaken by discussing policy approaches, frameworks and programmes that currently exist or that could be promulgated to tackle the challenges that LGBTQI+ students face within public institutions, such as universities.

## **1.7 RESEARCH METHODOLOGY**

The objective of this section is to stipulate a brief overview of the research methodology used in this study. The researcher adopted a qualitative approach for the purpose of this study. The researcher used an exploratory research design. Three data collection instruments were used, which included document analysis and semi-structured questionnaires. Document analysis is intended to make use of publicly available documents and not those that are considered to be confidential. It is with semi-structured questionnaires that data were collected through two instruments from the invited respondents. It is also necessary to highlight that the detailed research methods discussion and their justification for this study are outlined in chapter four.

## **1.8 SIGNIFICANCE OF THE STUDY**

The developing body of knowledge as well as legislation supporting the LGBTQI+ community issues in the higher education sector require strengthening and focus. These foci should be centred on examining the foundational issues regarding sexual orientation, constitutional provisions and institutionalization of the Constitution of RSA (1996) in the higher education sector on LGBTQI+ matters. This study sought to discuss sexual orientation as a policy connect within the public higher education sector, where government, the Department of Higher Education and Training and higher education institutions such as universities and colleges in South Africa are able to actively develop and implement context-specific interventions of the Social Inclusion Draft Policy Framework. The Social Inclusion Draft Policy Framework is aimed at assisting with the better treatment and protection of the LGBTQI+ community against the challenges that they face, such as inequality, discrimination and violence.

## 1.9 CHAPTER LAYOUT

Chapter One functions as the focus of the study. The chapter further discusses the orientation and background of the study, problem statement, research objectives and questions, research methodology, central theoretical statement, significance of study and a chapter layout.

Chapter Two addresses the available literature regarding the public higher education sector's duty to integrate sexual orientation as a policy connect within universities by enhancing and bettering the Social Inclusion Draft Policy Framework for the equal treatment and protection of LGBTQI+ students across public institutions such as universities and colleges. Chapter two further presents and considers critical concepts used in this study.

Chapter Three serves as a theoretical and conceptual framework for the study. This chapter discusses the provision of information relating to sexual orientation as a constitutional provision and how the public higher education sector can integrate sexual orientation as a policy connect in public institutions. This chapter uses Intersectionality as a base for the equal treatment and protection of LGBTQI+ students.

Chapter Four outlines the research design and methodology that were utilised to collect data and how the data was analysed. Document analysis and semi-structured questionnaires were used to gather the relevant information for the study.

Chapter Five provides data analysis of the study, which explores the challenges of LGBTQI+ students and how the North-West University Potchefstroom Campus can contribute or improve the safety, treatment, protection and non-discrimination practices. The analysis is premised on data collected through document analysis and semi-structured questionnaires.

Chapter Six mainly provides concluding remarks and recommendations regarding how the identified challenges of the LGBTQI+ students at the North-West University Potchefstroom Campus can be alleviated by an implemented Social Inclusion Draft Policy Framework. This chapter provides recommendations regarding how the public higher education sector can integrate sexual orientation as a policy connect within public institutions such as universities and colleges.

The next chapter provides a discussion on the literature review regarding the main problem of this study.

## CHAPTER TWO

### LITERATURE REVIEW ON SEXUAL ORIENTATION

“People may hate you for being different and not living by society’s standards, but deep down, they wish they had the courage to do the same”-

(Gecko & Fly, 2019: online)

#### 2.1 INTRODUCTION

Chapter One undertook to provide a context to the study especially regarding the nature of the research problem under investigation. Sexual orientation is an individual's sexual identity or self-identification (Merriam-Webster Inc., 2021). Sexual orientation can be conceptualised as a peculiarity that inclines a person to encounter physical attraction to someone of a similar sex, to people of another gender or to people of both genders (sexually unbiased) (Jaspal, 2019:19). Throughout time, numerous sexual orientation concepts have been utilised to portray physical attraction amongst men and women like homosexual, gay, lesbian, bisexual, heterosexual and straight, to name a few. Every one of these concepts and future ones can without a doubt, be considered as separate meanings for the reason that these concepts are socially constructed (Jaspal, 2019:20).

Sexual orientation has been recognised as a mixture of sexual and emotional facets. One can argue that emotional attraction is not effectively discernible on its own; however, sexual conduct is discernible through sexual behaviour. Authors like Kinsley revealed that sexual conduct was the focus point in identifying sexual orientation in the 1950s (Kinsley Institute, 2019: online). Sexual orientation has shown itself not only in biology, but in studies such as twin and genetic linkages along with homosexuality (Meade-Kelly, 2015: online). There is a body of research that is growing, which demonstrates how biology influences one’s sexual orientation and sexual identity. This definitely falls outside of heterosexism. For example, boys are expected to play with guns and cars whereas girls are expected to play with dolls and tea sets (Meade-Kelly, 2015: online). The question of sexual orientation breaks the status quo in this regard on such traditional roles that are usually attributed to certain genders.

In 1996, former President Nelson Mandela signed the new Constitution of RSA (1996) into effect, which made South Africa the first ever country in the world to actively include a sexual orientation clause in their Bill of Rights. The Constitution of RSA (1996) continues to advocate for change and equality, which shows determination to right the wrongs of Apartheid (Johnson, 1997:585). However, policies within the public higher education sector do not articulate equality, particularly when it comes to the LGBTQI+ community reflecting the Bill of Rights. The role of students, in becoming wholesome and educated individuals, has vastly changed in today's society, particularly when it comes to higher education institutions.

Performing academically is an aspect that most students must undergo, and this process happens through personal student development. This can consist of coming out as being a part of the LGBTQI+ community, gender expression, sexual identity and how that can affect them as students (Bolden, 2018:1). Since 1996, the LGBTQI+ community has slowly become visible through their strong voice that is being heard through the entertainment industry, LGBTQI+ pride parades and in newly found LGBTQI+ university organizations, such as Campus Pride at the North-West University Potchefstroom Campus (Gevisser & Cameron, 1994:10).

As change increases within higher education institutions, increasing diversity remains an important feature. Predominantly, it is rather imperative that the LGBTQI+ community becomes content with their sexuality and sexual orientation so that higher education institutions can start to make the relevant changes in being more inclusive. The issues that LGBTQI+ students face at higher education institutions include bullying, low self-esteem issues, anxiety, depression, stress and acts of negligence. Students need to be properly educated and informed regarding matters affecting the LGBTQI+ community as well as providing preventative measures for LGBTQI+ students so that they can succeed in these institutions (Bolden, 2018:2).

A literature review allows the researcher to exhibit knowledge regarding a specific field of study, which includes vocabulary, hypotheses and theories, key factors and phenomena as well as its approaches and history. The purpose of a literature review is to report on knowledge and ideas that have been established on a certain topic whether it be their strengths or weaknesses. A literature review demonstrates a researcher's knowledge regarding the subject area, and a comprehension for the relationship between the various contributions, the gaps determined or unanswered questions. A literature review also

assists the researcher to justify how their work will fill a gap within scholar or academic literature (Randolph, 2009:2). This chapter aims to focus on the existing literature on sexual orientation within the public higher education sector through a Section 9 of the Constitution of RSA (1996) lens. The literature on sexual orientation as an element of Section 9 of the Constitution of RSA (1996) is considered to focus on the conceptualization of sexual orientation in Section 9, Subsection 3 of the Constitution of RSA (1996) as a constitutional element, as a policy connect, concepts linked to sexual orientation, constitutional provisions and the public higher education sector.

### **2.1.1 Concepts used in the study**

Concepts of sexuality, sexual orientation, gender, gender identity, sex, LGBTQI, homosexuality and homophobia represent various phenomena in social sciences and humanities, which justifies the point previously made regarding these concepts as being socially constructed (Academy of Science of South Africa, 2015:16). The International Organization for Migration (2011:5) states that the core facet of sexuality is sexual orientation due to the fact that sexual orientation remains a core part of their being for the entirety of their lives. Sexual orientation has several capacities regarding gender identity and how individuals see themselves in society (Victor *et al.*, 2014).

Sexuality, sexual orientation, gender, gender identity, sex, LGBTQI, homosexuality and homophobia altogether are precise concepts that need to be discoursed. Through public policy discourse, there is a vigorous approach to integrating these concepts, such as sexual orientation within the public higher education sector and the entire government sector (Academy of Science of South Africa, 2015:17). The World Health Organization (2021: online) and authors such as Ndelu (2017:5) provide the accompanying definitions:

**Gender:** Established cultural and social identities and roles categorised as female and male that are allocated to people constructed on the interpretation of their body, more explicitly, their reproduction system (Gay, Lesbian & Straight Education Network, 2016:40). The researcher is of the opinion that gender is a social construct as people who identify as Transgender within the LGBTQI+ community defy gender due to the fact that one can reject or accept the gender allocated to them at birth.

**Gender Identity:** How an individual categorises their sexual orientation, including and not limited to; male, female, transgender and queer or a blend thereof (Gay, Lesbian & Straight Education Network, 2016:41).

**Homophobia:** Ritter and Terndrup (2002:12) contend that “homophobia refers to a phobic or fearful response. Often, though it is used to indicate anti-homosexuality prejudice”.

**Homosexuality:** An individual’s emotional, romantic and psychical feelings for a person whose gender is different to their own (Department of Justice and Constitutional Development, 2015:15).

**Sex:** The genetic and physical attributes that are utilised to categories an individual as male, female or intersex (Ndelu, 2017:8).

**Sexuality:** Sexuality alludes to an individual’s ability to have sexual feelings such as pleasure and intimacy. Sexuality is a basic fragment of a human being which embraces sexual orientation, gender identity, socially constructed gender roles (Academy of Science of South Africa, 2015:18).

**Sexual Orientation:** Carroll et al, (2002:133) contend that “sexual orientation is a term that refers to the gender or genders and sex or sexes to which an individual is “emotionally, physically, romantically, and erotically attracted”.

**LGBTQI+:** Embodies individuals that are addressed as lesbians, gays, bisexuals, transgender, transsexuals, queer, questioning and intersex. The LGBTQI+ community is an acronym that is utilized to address a group rather than sexual minorities (Mikalson *et al.*, 2014:207).

## **2.2 CONCEPTUALIZATION OF SEXUAL ORIENTATION**

Sexual orientation has become a challenge in society as a whole as well as within today’s higher education environment. Sexual orientation is the gender to which someone is sexually or romantically attracted (Lynch, 2016: online). According to the University of Minnesota (2003: online), sexual orientation refers to an emotional, sexual, romantic or affectional attraction to someone that can be differentiated from facets such as sexuality, gender identity or biological sex. Sexual orientation includes a variety of sexualities, which include homosexuality (a person that is attracted to the same sex), heterosexuality (a

person that is attracted to the opposite sex) and bisexuality (a person that is attracted to both male and female).

Klein, Sepekoff and Wolf (1985:5) expand on the sexual orientation as a concept, as individuals who amount their conduct, fascination and dreams towards either the same sex or the opposite sex, or commonly known as gay, lesbian or heterosexual. Discrimination towards LGBTQI+ students commences as early as primary school. For example, in 2011, a 13-year-old Tanesha who identifies as a lesbian was discriminated against by her teacher because she is a lesbian. Her educator stated that “if she gave birth to a stabane (a derogatory isiZulu slur for people who identify with either being gay or lesbian), she would kill it” (Department of Basic Education, 2012:6).

LGBTQI+ students tend to experience harassment and violence from heterosexual students due to their sexuality and/or sexual orientation. This often leads a dangerous atmosphere and environment for all students regardless of their sexual orientation. Discrimination towards LGBTQI+ students is not only an ethics challenge but it is also an equality and safety issue, which could affect the entire campus setting. It is the responsibility of the public higher education sectors’ stakeholders, such as the higher education institutions’ management to protect and enforce LGBTQI+ rights as well as the institution’s population (Lynch, 2016: online). For the purpose of the study, it is important to pay attention to Section 9 of the Constitution of RSA (1996), which has an immense impact on the discourse of sexual orientation as a constitutional element.

The public higher education sector needs to encourage higher education institutions to create safe spaces for all students to succeed, as anyone who attends a higher education institution seeks to justify personal growth, development and receive an education. A higher education institution’s reputation is its biggest and most vital strength; however, reputation goes out of the window when the inclusivity of LGBTQI+ students is considered to be lacking (Nduna & Mavhandu-Mudzusi, 2015: online). Non-discrimination on the basis of sexual orientation continues to remain an indefinable exercise, where LGBTQI+ inclusivity remains a challenge within the public higher education sector. LGBTQI+ students continue to feel like universities are not a safe space for them, with a lack of inclusive and non-discrimination practices and policies based on sexual orientation (Kiguwa & Langa, 2017:53).

Academic institutions like colleges and universities are not just learning areas of education, that focus only on academic qualifications, such as public administration, physics, politics and communications, among others. Rather, institutions such as universities and colleges are a way for people to do a lot of cultivating when it comes to realising one's sexual orientation, sexuality and gender identity, particularly matters that consist of sexual orientation, which is closely connected with sexuality and gender identity (Francis, 2017:1). At present, the public education sector plays a vital role as society's imperative socialiser, which is deemed to build character in a safe and inclusive environment to ensure a wholesome social, emotional and educational experience (Fields & Payne, 2016:1). This is important for the public higher education sector to institutionalize non-discrimination policies and programmes that are inclusive, not just on race but also of LGBTQI+ students that will result in the safety, treatment and protection of the LGBTQI+ community in the public higher education sector.

Discrimination, violence and exclusivity are still considered sore spots for LGBTQ+ students who think that universities and colleges are not safe spaces (Tebele & Odeku, 2014:609). It is imperative that transformation and inclusion occur, particularly when it comes to the LGBTQI+ community, to make them feel safe and secure; this will only occur through promulgated policies, frameworks and programmes with various strategic responses that will deal with discrimination, violence and exclusion, to ensure the treatment and protection of LGBTQI+ students within the higher education sector (Tebele & Odeku, 2015:610).

There is a great possibility and opportunity for the public higher education sector to tackle and question spaces that are considered heteronormative in nature, such as universities and colleges (The Conversation, 2015: online). This is not only to yield research when it comes to the LGBTQI+ community and their struggles with discrimination and violence, but also to comprehend the impact that educational and social spaces have on LGBTQI+ students and to ensure the treatment and protection of LGBTQI+ students with the idea of Section 9 of the Constitution of RSA (1996) and transformation in mind. International research done by Taulke-Johnson (2010:403) shows the LGBTQI+ students and their experiences depicting traditional and harmonious spaces, whereas South African research, which is minimal at best, attests to the challenges that are faced by LGBTQI+ students, which include violence, discrimination and exclusion.

It is argued by Jagessar and Msibi (2015:65) that LGBTQI+ students usually keep quiet regarding such incidences of discrimination and violence because of normalised sexuality, sexual orientation and gender identity within institutional cultures that are heteronormative in nature. Researchers in this area, such as Gibson and Macleod (2012:5), and Graziano (2005:300), have claimed that many South African universities and TVET colleges continue to be exclusion spaces for several LGBTQI+ students. Higher education institutions should aim to create safe environment for all students, eliminate homophobia and ensure quality treatment and protection measures exclusively for LGBTQI+ students. Such measures are necessary in the sense that members of the LGBTQI+ community are different in terms of their preferences and sexual orientation; however, that does not mean that LGBTQI+ students pose a threat within the public higher education sector. All LGBTQI+ students want is equality, equal opportunities and social justice (Walton, 2011:132).

### **2.2.1 Constitutional Provisions**

Chapter Two of the Constitution of RSA (1996) is termed the Bill of Rights, which assures the citizens of the Republic of South Africa equality and the exclusion of discrimination on grounds not limited to gender, sex and sexual orientation, among others. Since the late 1990s, provisions have been made for the LGBTQI+ community, which include the Adoption and Child Care Act 17 of 2002 and the Civil Union Act 17 of 2006 (Tshilongo, 2017:4). In South Africa, pessimism constantly surrounds the LGBTQI+ community; for example, the arguments that surrounded the legalization of same-sex marriages between the Constitutional Review Committee and the National House of Traditional Leaders and the Congress of Traditional Leaders of South Africa (Mkhize, 2008:100). The Congress of Traditional Leaders states that “the LGBTQI+ community do not need to fear traditional courts as traditional leaders want nothing to do with them. Sexual orientation is ungodly, uncustomary and un-African whereas the Constitutional Court affirmed that same-sex couples as humans are entitled to respect, dignity, value and acceptance as members of society” (Ntlama, 2014: online).

In the international arena, South Africa has affiliated itself with several global institutions that have to do with the promotion of human rights, including LGBTQI+ rights. Section 231(4) of the Constitution of RSA (1996) states that any international agreement becomes law in the Republic when it is enacted into law by national legislation. Because of this constitutional obligation, South Africa is a signatory of several international and African

treaties that promote human rights, freedom and equality for all, which include The Universal Declaration of Human Rights (1948), the Convention on the Elimination of all forms of Discrimination Against Women (1981), the Convention on the Rights of the Child (1989), the United Nations Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power (1985), the Protocol to the African Charter on Human and People's Rights and the Rights of Women in Africa (2003), and the Southern African Development Community Protocol on Gender and Development (2008) (Department of Justice and Constitutional Development, 2015:1).

As an instrument of governance, the Constitution of RSA (1996) provides an influential platform for determining social attitudes, which afford constituents with a legal structure that is based on human rights with no tolerance to discrimination or prejudice (Nel, 2005:243). According to South African law, the LGBTQI+ community has achieved sufficient equality in terms of the law; however, legal precedence does not always translate to a change in societal attitudes and acceptance (Isaack, 2003: online). The Department of Justice and Constitutional Development (2015:2) stated that homophobic opinions or assumptions towards the LGBTQI+ community are associated to gender issues since sexual orientation-based discrimination sometimes results in violence, which is prompted by the LGBTQI+ community not conforming to patriarchal and sexuality norms that are created by society and deemed as deviant behaviour. These opinions and assumptions expose the LGBTQI+ community to discrimination, hate speech and violence, which often costs them their lives.

## **2.3 CONCLUSION**

This chapter encompassed extensive literature on sexual orientation as an element of Section 9 of the Constitution of RSA (1996), concepts related to sexual orientation were conceptualized and constitutional provisions. A literature review was utilised in this study as a means to gain an overall understanding from the perspective of various scientists regarding sexual orientation as a constitutional element. The theoretical framework that supports sexual orientation as a constitutional element is covered in the next chapter.

## CHAPTER THREE

### UNPACKING A THEORY OF INTERSECTIONALITY

“Openness may not completely disarm prejudice but it’s a good place to start”. -Jason Collins (2016)

#### 3.1 INTRODUCTION

In Chapter Two, the literature review led to the assumption that sexual orientation as a constitutional element is underpinned by various scientists. Lesbian, gay, bisexual, transgender, queer, intersex (LGBTQI+) individuals have made extraordinary walks in the battle for equality (Thapa, 2015: online). The Constitution of the RSA (1996) is premised on the spirit of equality, freedom and human dignity. For this reason, the South African government has aimed to abide by the principles set out in chapter two of the Constitution of RSA (1996). As previously mentioned in chapter two, policies within the public higher education sector do not always articulate equality, particularly when it comes to the LGBTQI+ community to reflect constitutionalism, especially as enshrined in the Bill of Rights.

There is a lack of research and development pertaining to the LGBTQI+ community and in creating safe spaces where equality, non-discrimination, protection and fair treatment are on the agenda (Jagessar & Msibi, 2015:65). Based on the literature review conducted in chapter two, the existing literature is constructed on theoretical ideas and assumptions, which clearly have not transcended into actual or concrete policies, programmes or practices. Intersectionality as a theory is used to provide theoretical relevance of sexual orientation as a constitutional element of Section 9 of the Constitution of RSA (1996) and policy connect for higher education institutions.

Intersectionality serves to “paint a picture” in this study of sexual orientation and the discrimination that is attached to LGBTQI+ students within the public higher education sector environment with a focus on Public Administration as a field of study. The purpose of this chapter is to fulfil the role of conceptualising and describing a theoretical foundation for Public Administration with regards to its link to Intersectionality, with specific reference to sexual orientation, the LGBTQI+ community, discrimination and the public higher education sector. This chapter focuses on sexual orientation, Section 9 of the Constitution

of RSA (1996) and the public higher education sector through a theoretical lens of Intersectionality.

### **3.2 PUBLIC ADMINISTRATION THEORY**

Public Administration as a field of study often serves to accommodate a blend of theoretical positions to examine an interplay of the various phenomena in dealing with public policies and governance choices. The practical component of public administration is also used as a way of proving how public servants (such as in the public higher education sector) inform the policy and governance practices made to maintain an efficient public sector environment (public higher education sector). As indicated by Lamidi (2015:1), there is no strident point in history where the account of public administration starts, much the same as that of its practice. For example, in the United States of America (US), there are two manuals written by White and Willoughby and published individually in 1926 and 1927, on the subject of Public Administration theory, which were viewed as primary endeavours at presenting the discipline. Despite the fact that the publication of these books manifested the introduction of Public Administration as a discipline, it should be noted that there had been decades of preparation for the birth of the discipline, before the books were even published (Lamidi, 2015:1).

For example, the endeavours and efforts of some US political pioneers, such as Thomas Jefferson and Alexander Hamilton cannot be ignored, as they viewed the issues of Public Administration theory in an innovative and revolutionary way (Thornhill & Van Dijk, 2010:96). The study of Public Administration has been portrayed as a standardising approach (such as focusing on aspects like political philosophy, law-making and constitutional arrangements, among others) up until the 19th century. According to Akindele (2000:20), socio-economic life turns out to be increasingly particular and complex. There continues to be an expansion in government capacities and obligations, where there is a requirement for the enhancement of efforts towards a progressively exact analysis of events. For the purpose of this study, it is vital to pay attention to how Public Administration, as a discipline, can play a role in institutionalising sexual orientation as a policy connect in the public higher education sector environment from an intersectionality theoretical perspective. It is necessary that this role be considered in accordance with Section 9 of the Constitution of RSA (1996) as a constitutional element that needs adherence from public institutions, including within public higher education, such as universities and colleges.

### 3.2.1 The concept of theory

The word *theory* originates from the Latin word, “*theoria*” and the Greek word, “*theoro*”, which means observation, conjecture and sight (Hanekom & Thornhill, 1983:65). Nevertheless, for the purpose behind discussing the advancement of theory for scientific study, special consideration ought to be dedicated to the increasingly pertinent translations of the term, such as reference, ideas, facts or speculations. A theory speaks to a psychological perspective on a marvel of a framework that will shape the reason for a chain of thinking. Thus, in this manner, theory would envelop at least one or more elements. This would bring about understanding a phenomenon, clarifying its qualities and, notwithstanding, anticipating specific results. It must be stressed that theory does not suggest the nullification of reality, however, that reality ought to be considered with regards to its portrayal as a psychological perception of a system of ideas or proclamations (Welman, Kruger & Mitchell, 2005:12).

In the quest for theoretical bases for the study of Public Administration, it would be occupant on the theoretician to think regarding the connections between variables. For a theory to be all inclusive, it should have the option to portray the phenomenon or action, to clarify why a specific movement has occurred or been fruitless, and anticipate what could occur if a specific condition applies with respect to the phenomenon that is under analysis. As an applied science, Public Administration needs to relate theories relevant for its purposes to the pragmatic circumstances within public administration as practised, which is a precondition for most scientific studies. In totality, there are essentially three principled reasons as to why one needs to consider Public Administration theory. Initially, speculations give a steady concentration to comprehend what society experiences. In this way, a theory provides a criterion to what needs to be considered as practically important (Van der Waldt, 2017:182). Second, theories empower society to communicate competently and, in this way, move into an ever-increasing number of complex relations with other individuals. Lastly, speculations make it possible to challenge humans to continue discovering more regarding their own reality (Van der Waldt, 2017:183). Public Administration, as an interdiscipline, involves the assembly of authoritative theory, social theory, political theory and related studies. In such manner, Pollitt (2010:292) sustains that Public Administration “experiences numerous personality disorders”. Public Administration centres around the significance, structures and elements of the public sector realm in its entirety. Therefore, Public Administration is portrayed by variety and

discovers its origin in various theoretical schools of thought, which defines Public Administration as a group of mini paradigms.

From a theoretical perspective, Public Administration relates chronicled establishments for the study of government just as epistemological issues related with public service as a profession and scholastic field. Research conducted in Public Administration is commonly confused by the way that governance-related phenomena are so mind boggling, and require various dimensions, methodologies, models and theories to dissect them. However, Public Administration in its interdisciplinary posture can presumably be portrayed as a multi-dimensional field of study, which includes different research customs and methodologies concentrating on governmental, political, economic, technological, legal, social and cultural systems (Van der Waldt, 2017:184). The following section will focus on Intersectionality as an interdisciplinary theory, which is considered for the public higher education sector in order to integrate sexual orientation as a policy connect for the better understanding, treatment and protection of the LGBTQI+ community.

### **3.3 A THEORY OF INTERSECTIONALITY**

Intersectionality can be characterised as the study, idea or concept of discriminative or repressive foundations and institutions on disappointed groups or minorities and the manner in which these groups or minorities are interconnected. A Theory of Intersectionality depends on the idea that harsh conditions within a society, for example, racism, sexism, homophobia and ageism, do not act freely, however, those institutions are rather interrelated and persistently formed by one another (Centre for New Racial Studies, 2012: online). The term Intersectionality was first created in 1989 by Kimberle Crenshaw of UCLA School of Law. The idea is thought to have originally risen during the 1960s in connection to the advancement of a radical and multiracial feminist movement. A Theory of Intersectionality alludes to the concurrent experience of unqualified and ranked groupings, including yet not constrained to race, class, gender, sexuality and nationality (Centre for New Racial Studies, 2012: online).

A Theory of Intersectionality seeks to address constructs that society has developed, which intersect with one another, such as gender and race. A Theory of Intersectionality is often used as a tool to analyse a woman's gender and race, which intersect through oppression, and which ultimately affect her experiences and challenges. In today's society, a Theory of Intersectionality can be utilised to classify other identities, such as

sexual orientation, and race or class (Dominski, 2016:3276). A Theory of Intersectionality alludes to the real-time experience of clear-cut and tiered groupings together with, but not restricted to, race, class, gender, sexual orientation and nationality. Likewise, this Theory indicates the way in which different types of oppression (or frequently seen as such), for example, racism, sexism, homophobia and xenophobia, often intersect with each other due to the fact that they constitute an amalgamated structure of discrimination and oppression. Therefore, the benefits that people appreciate and the segregation that people face are stereotypically invigorated by our one-of-a-kind situation in society as determined by such groupings (Adelman & Taylor, 2015:1).

Furthermore, a Theory of Intersectionality observes the interconnection amid different sorts of traditional predispositions that might be experienced currently. Such inclinations are usually related to numerous sorts of privilege and coercion. For example, homophobia is discrimination based on someone's sexual preference, their personal appearance and with whom they want a romantic relationship (Goff *et al.*, 2008:393). Because of this, the LGBTQTI+ community continue to be targets of oppression, particularly black lesbians, because of the misconception that they want to assume masculine traits or be like men. A Theory of Intersectionality should be considered a backbone idea of critical race studies, feminist studies and queer studies, which are influenced by facets such as religion, culture, gender, age and sexuality (Bond, 2003:73).

According to Kirk and Okazawa-Rey (2010:30), a Theory of Intersectionality as an integrative perspective accentuates the overlap between the different elements, such as gender, race, class, sexuality and nationality. Scholars such as Parent, DeBlaere and Moradi (2013:640) used a Theory of Intersectionality to investigate the identities of gender and sexuality, such as the LGBTQI+ community, race and ethnicity, as well as the relationship between such elements when connected to a person's lived experience. Moreover, it was investigated how predominant cultural influences can impact one's perceptions and recognitions as to one's own comprehension of identities particularly concerning the LGBTQI+ abbreviation combined with racial and ethnic identities. Generally, consolidating Intersectionality perspectives enables researchers to advance insight into the intersection of race, gender, sexuality and its effect on identity development (Parent, DeBlaere & Moradi, 2013:641).

Therefore, for the purpose of this study, a Theory of Intersectionality can be used as an instrument that highlights oppression and how to remedy that same oppression. Such

oppression relates to attempt to create spaces for LGBTQI+ students in terms of treatment and protection through promulgating public policies or revising current policies, such as the Social Inclusion Draft Policy Framework and constantly monitor them to ensure that such policies work effectively and efficiently. Using a Theory of Intersectionality as an analytical lens can assist the public higher education sector to examine how they can integrate sexual orientation as a basis for a policy that will assist in situating the challenges that LGBTQI+ students face in higher education institutions, and how to alleviate those issues at the centre of oppression and segregation.

### **3.3.1 A Theory of Intersectionality and Public Administration**

Through its research and practice, Public Administration has strengthened and bred the differences in the governance system based on gender, sexuality and sexual orientation. As a discipline, Public Administration should pay attention to life experience and the voices of a sexual minority such as the LGBTQI+ community to the same extent as what it prioritises equality, racism, discrimination and sexism. A Theory of Intersectionality as a framework, smears the ideology on which public administration (as a practice) rests. For example, the experiences of communities that are not socially constructed are often deemed as insignificant. Public Administration aims to examine the dynamics between communities and provide clarity, more knowledge and activism through the means of policies, programmes and frameworks (Berger & Guidroz, 2009:5).

The study regarding gender, sexuality and sexual orientation are not new concepts in the field of Public Administration. Authors such as McGinn and Patterson (2005:939) remind us, as Public Administration scholars, that we should always leave room for other variables that influence the gender experience, including and not limited to race, ethnicity and sexual orientation. The variables that McGinn and Patterson mentioned are concepts that are embedded at the core of Section 9, Subsection 3 in the Constitution of RSA (1996). It can be said that the speed of language learning in Public Administration is often slow in the sense that other disciplines have been exposed to feminism. However, the aspect surrounding Public Administration as an interdisciplinary field itself is that it can draw on the literature and experience of other disciplines, such as sociology and politics, and formulate its own design patents. For example, during graduate school, Bell Hooks decided to teach feminism because female research projects at the Department of Black Studies were not focused on gender and race (Bearfield, 2009:384). The researcher believes that the expression of an intersectional framework between sexual orientation

and the public higher education sector can be applied in the studies and discipline of Public Administration. This approach could be considered a Theory of Intersectionality in Public Administration. Government as an institution must prioritize human rights, not only with the Constitution of RSA (1996) but by implementing a policy, programme or framework that has state actors (such as the public higher education sector) to integrate sexual orientation and focus on the institutionalization of the LGBTQI+ community's protection and treatment in higher education institutions.

### **3.3.2 A Theory of Intersectionality and sexual orientation**

As stated in chapter two, Jaspal (2019:19) states that sexual orientation can be conceptualised as a peculiarity that inclines a person to encounter physical attraction to someone of the same sex, to people of a different gender or to people of both genders (sexually unbiased). Intersectionality proposes a new way to comprehend social inequality, which makes it possible to discover, investigate and clarify previously unknown inequalities, such as the challenges that the LGBTQI+ community faces daily. Intersectionality theorists such as Collins (1993:643) believe that identities founded on race, gender and sexuality accompany individuals in every social intersection. For example, a black woman who identifies as a lesbian will experience at least three forms of discrimination due to the fact that she is a woman, she is black and that she is a lesbian, a simple case of oppression due to systems of domination similar to race, gender and sexual orientation.

Sexual orientation can constitute a situation; however, it may not be as obvious or important to another person's self-definition. Sexual orientation is experienced differently based on a number of system dominations, such as gender and sexuality. For example, when it comes to gender, there is male and female and when it comes to sexuality and sexual orientation, there is heterosexual, homosexual, bisexual and pansexual (Veenstra, 2011:2). Intersectionality is very popular in humanities and social sciences, particularly when it comes to quantitative and qualitative methods. Hence, studies on racism, sexism and classism, to name a few, exist for the reason that there are studies that have been done to prove their existence and measures, such as policies, structures and forums that have been generated to combat these issues (Skelton, 2021: online).

The researcher believes that the same vigour should be applied in promulgating LGBTQI+ policies, programmes and frameworks that will institutionalize sexual

orientation as a constitutional element and the duty of the public higher education sector. Hence, a Theory of Intersectionality is significant because intersectionality is an attempt to unravel the boundaries that create discrimination and inequality, and to elevate the understanding regarding these phenomena that arise within the LGBTQI+ community. Sadly, the rights, voices and challenges regarding the LGBTQI+ community and sexual orientation are often ignored and ostracised. If there is no clear-cut approach to the challenges surrounding sexual orientation as a constitutional element, discrimination and inequality might continue to reproduce more discrimination patterns with society, particularly higher education institutions (Nyeck & Shepherd, 2019:31).

A Theory of Intersectionality is not about plugging away all systems of discrimination right away; the latter is impossible. However, an intersectional approach targeted at sexual orientation, discrimination and inequality intersection will assist in addressing processes of exclusion and discrimination. Within the public higher education sector's duty to integrate sexual orientation, the objective should be to combat discrimination within discrimination, to fight inequality within inequality and ultimately protect minorities such the LGBTQI+ community within minorities (Center for Intersectional Justice, 2021: online). The previously mentioned is a prerequisite for effective policies, programmes and frameworks to ensure fair treatment and protection of the LGBTQI+ community within the public higher education sector through the use of intersectionality approaches by virtue of leaving no one behind, while avoiding the use of one form of discrimination against another form of discrimination at the expense of another form of discrimination (Meyer, 2016:851).

### **3.3.3 A Theory of Intersectionality and the LGBTQI+ community**

As previously mentioned in chapter one, a Theory of Intersectionality can be utilised as a tool to learn, comprehend and respond to the way that certain facets, such as race, class, gender and sexual orientation, intersect with characteristics such as oppression, disabilities, discrimination and socioeconomic statuses (Kirk & Okazawa-Rey, 2010:5). A Theory of Intersectionality aims to investigate how society functions with the various identities that exist and how members of society can be a part of more than one community simultaneously, which can result in members of a particular community, such as the LGBTQI+ community, experiencing discrimination in numerous ways. (Lavizzari, 2015:5).

A Theory of Intersectionality has likewise been a significant subject when it comes to the LGBTQI+ community. Recently, the LGBTQI+ community is dominated by individuals that identify as LGBTQI+; additionally, they have different crossing points or identities, which means that they are better placed to confront various types of marginalization (Leachman,2016:656). A Theory of Intersectionality has uncovered a few impediments of utilising particular frameworks for comprehending social wonders and phenomena, especially when it comes to hate crimes such as discrimination, gender-based violence, sexual assault and abuse. However, the LGBTQI+ community continues to face these nightmares, which often leads to psychological costs of discrimination and violence (Dunbar, 2006:325).

The researcher is of the opinion that when it comes to the public higher education sector's duty to integrate sexual orientation, A Theory of Intersectionality can be utilised to redress any social injustice and inequality that LGBTQI+ students have experienced in terms of discrimination, unfair treatment and the lack of protection. A Theory of Intersectionality should be the driving force behind public higher education in creating LGBTQI+ friendly policies and programmes.

### **3.3.4 A Theory of Intersectionality and discrimination**

A Theory of Intersectionality is a system for theorising an individual, a group of people or a social issue as influenced by various discriminations and disadvantages, which deliberates individuals' personalities and encounters so as to grasp the multifaceted nature of the prejudices that they face (YW Boston, 2017: online). A Theory of Intersectionality states that individuals are recurrently hindered by various causes of oppression, such as race, gender, sexual orientation, sexuality, culture and/or religion. The idea behind intersectional perspectives encourages individuals and authorities to react and comprehend perplexing characters through portraying the way in which disparities and discrimination is demonstrated, yet additionally proposing the manner by which policies, programmes and practices can be promulgated and enforced (YW Boston, 2017: online).

Practically speaking, an intersectional approach towards areas such as sexual orientation and discrimination can assist in terms of how specific groups of identities and social positions have a bearing on access to human rights and opportunities. An intersectional approach can also assist with how policies, programmes and practices can be created to

elevate equality, non-discrimination, fair treatment and protection for all, particularly LGBTQI+ students within the public higher education sector (Smith, 2016:76). For example, an intersectional approach between LGBTQI+ students and the discrimination that they receive for being “different” from the societal norms are different from heterosexual students and this shows through equality, treatment and protection. A Theory of Intersectionality could possibly go farther than just identifying oppressive behaviour and the discrimination that LGBTQI+ students face within the public higher education sector and actually find ways to implement interventions to ensure a safe environment for LGBTI+ students that is stimulated by fair treatment, protection, opportunities and basic human rights (Truscan & Bourke-Martignoni, 2016:105).

### **3.3.5 A Theory of Intersectionality and the public higher education sector**

Universities around South Africa have experienced an unhealthy environment that is reluctant to accept LGBTQI+ students. Homophobia is a widespread issue that all higher education institutions experience, which has serious side effects on the wellbeing of LGBTQI+ students. Homophobic incidents range from harassment, verbal abuse, physical violence and sexual abuse to discrimination (Msibi, 2013:67). South Africa has actively attempted to combat discrimination faced by the LGBTQI+ community through constitutional mechanisms such as The Constitution of RSA (1996), The Alteration of Sex Description and Sex Status Act 49 of 2003 and The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

One of the main efforts that the South African government sought to achieve, was to create and ensure a safe and secure environment for LGBTQI+ students through the White Paper on Higher Education Sexual Orientation (1997) (White Paper 3 on the Transformation of Higher Education, 1997:42). Despite the effort of promulgating the 1997 White Paper on Higher Education, there is silence regarding homophobia and transphobia that currently occurs within the South African higher education institutions. The researcher argues that the Department of Higher Education’s focus on race needs to include other discriminatory elements such as sexual orientation, sexuality and gender identity.

Section 7.13 of the Social Inclusion Draft Policy Framework (2014:16) contends that “the protection of Lesbians, Gays, Bisexual, Transgender and Intersex (LGBTI) rights in South Africa is based on Section 9 of the Constitution of RSA (1996), which forbids unfair

discrimination on the basis of sex, gender or sexual orientation, and applies to the government and to private parties”. The Social Inclusion Draft Policy Framework was promulgated to address the grievances and challenges that LGBTQI+ students face within the higher education sector space, such as discrimination, inequality and social exclusion. However, in today’s climate, the Social Inclusion Draft Policy Framework is not practiced by most universities and TVET colleges. For example, most LGBTQI+ organizations, such as Campus Pride (a LGBTQI+ organization) at the North-West University Potchefstroom Campus, was created by students and not necessarily with support of the university’s management. This is a clear indication that the public higher education sector needs to enforce a way that will ensure that higher education institutions adopt and implement progressive interventions, such as the Social Inclusion Draft Policy Framework, effectively and efficiently, and ensure that the objectives in the Social Inclusion Draft Policy Framework are practiced.

Matthyse (2017:115) states that the public higher education sector also needs to adopt the responsibility of establishing non-normative sexual orientations, sexualities and gender identities within a safe and secure environment. These non-normative identities will not only allow the equal treatment and protection of LGBTQI+ students but also allow LGBTQI+ students to freely express themselves without prejudice, discrimination, fear, harassment or intimidation. Muller (2000:157) stated that transformation is an aspect that all higher education institutions should focus on, particularly higher education stakeholders, who need to play a senior role in addressing the challenges faced by LGBTQI+ students both academically and socially through Section 9 of the Constitution of RSA (1996). The lack of implementation of policy frameworks such as the Social Inclusion Draft Policy Frameworks renders such policies ineffective when it comes to addressing discrimination, homophobia, inequality and harassment (Donaldson, 2015:135).

Despite South Africa’s attempt to include provisions, regulations and obligations that will ensure non-discrimination based on sexual orientation, sexuality and gender identity, South African universities are obligated to be more inclusive towards the LGBTQI+ students through laws and rules on their campuses (Cock, 2003:42). However, in today’s society, LGBTQI+ students are still undergoing discrimination, stigma, abuse and violence based on their sexuality, sexual orientation and gender identity. The hostility, discrimination, stigma and violence that LGBTQI+ students face shows an immense gap

between the ideas that are enshrined in the Constitution of RSA (1996) that call for equality and non-discrimination and the reality in which a minority group like the LGBTQI+ community lives (Reading & Rubin 2011:90).

A higher education environment is constituted by universities, TVET- and FET colleges, which are spaces where most individuals tend to discover various parts of their identities, including sexual orientation, sexuality and gender identity, and this may extend to romantic relationships (Nduna *et al.*, 2017:6). Higher education is one of the numerous small-scale aspects of society as a whole where LGBTQI+ students come to seek freedom because they often believe that higher education institutions, such as universities, TVET and FET colleges are more inclusive and accepting of them than their families or communities. However, higher education institutions are sometimes an extension of homophobic attitudes, where discrimination, stigma, abuse, hostility and violence exist in residences, on sports fields, during lectures or when seeking support services on campus (Nduna & Mavhandu-Mudzusi, 2015: online).

Residences, sporting or cultural activities, campus-based healthcare services and lectures seem to be the hub for discrimination, abuse, violence and fraught heteronormative and cisgender behaviour and attitudes (Nduna & Mavhandu-Mudzusi, 2015: online). For example, lectures can generate an antagonistic setting for learning by verbalising their homophobic slurs and remarks, which have been reported in the 'It's tough being gay.' Gay, lesbian and bisexual students' experiences of being 'at home' in a South African university residence life (Munyuki & Vincent, 2017:15). There are active and visible LGBTQI+ community organizations within higher education institutions such as the University of Cape Town, University of Johannesburg, University of Witwatersrand and the North-West University Potchefstroom Campus.

The researcher is of the opinion that despite these active LGBTQI+ organizations, few actually consist of public participation where LGBTQI+ students are asked what their challenges and needs are. Why does the North-West University Potchefstroom Campus wait for incident reports from their LGBTQI+ students and for them to come forward and disclose their grievances, to take action? Sexual orientation is not a visible attribute to point out or observe, but that should not be an excuse for South African universities or the public higher education sector; they should not struggle with or fail to implement interventions to deal with the discrimination that comes with sexual orientation, sexuality, gender identity or integrating Section 9 of the Constitution of RSA (1996) within the public

higher education sector as a policy connect. Sexual minorities like the LGBTQI+ community, particularly LGBTQI+ students, are unequally subjected to isolation, access to a support system, healthcare, acceptance, discrimination and violence, which is a reminder that such facets are generally of great importance.

### **3.4 CONCLUSION**

This chapter encompasses A Theory of Intersectionality as a theoretical framework, which has been utilised to set the foundation for this study. A Theory of Intersectionality was used to address discrimination as a constitutional element found in Section 9, Subsection 3 of the Constitution of RSA (1996) as a basis for the public higher education sector to integrate sexual orientation. This chapter fulfilled the role of conceptualising and describing a theoretical foundation for Public Administration with regards to its link to Intersectionality, with specific reference to sexual orientation, the LGBTQI+ community, discrimination and public higher education sector. The next chapter describes the research design and methodology undertaken to authenticate the collected data.

## CHAPTER FOUR

### RESEARCH DESIGN AND METHODOLOGY

*“Equality means more than passing laws. The struggle is really won in the hearts and minds of the community, where it really counts.” – Barbara Gittings (1950)*

#### 4.1 INTRODUCTION

Chapter Three sought to conceptualize sexual orientation through the use of Section 9, Subsection 3 of the Constitution of RSA (1996). It also considers Intersectionality as an applicable theory in Public Administration as well as with specific reference to the LGBTQI+ community and higher education sector. This chapter addresses research design and methodology for the study. With regards to conducting scientific research, there are questions that need to be asked, which include, the reason for conducting research (the why), the focus of the study and the unit of analysis of the research (the what), and the methods employed to undertake research (the how) (Kumar, 2014:122). This study aimed at exploring and highlighting how the public higher education needed to integrate sexual orientation as a constitutional element as its key policy feature or policy connect. In this way, the treatment and protection of the LGBTQI+ community within the public higher education environment could be institutionalised and promoted. This study explored interventions by the North-West University (NWU) Potchefstroom Campus in addressing challenges associated with their LGBTQI+ students. An overall exploration of research methodology, research design, data analysis, data collection methods and purposive sampling were used to identify the respondents and assist the researcher in answering the research questions and objectives stipulated in chapter one.

When it comes to Public Administration as a field of study, a consideration is made on how public institutions such as universities organize their structures, functions and systems to address societal challenges. In this case, one of the crucial facets of research include, determining a suitable focal point on such public institutions that will assist in collecting and analysing evidence (Munzhedzi, 2011:55). This chapter discusses research design and methodology within the context of its qualitative approach. This study was conducted within inductive reasoning as a qualitative study whereby conclusions were drawn from the specific to the general as it tests measures to resolving problems

based on responses from participants' views. The main objective of this research design is to provide a methodological thread and link for the entire study.

## **4.2 RESEARCH DESIGN AND METHODOLOGICAL PERSPECTIVE**

Research design emphasizes the rationality of research. Durrheim (2012:34) states that a research design is a vital system for action that fills in as an extension between research questions and the usage of research. Research designs are plans that direct the course of action of conditions for collection and investigation of information in a way that means to join the importance to the research purpose. Like architecture, research designs guarantee that the study achieves the purpose and that the research is concluded with available resources. Akhtar (2016:68) contends that "research design can be considered as the structure of research. Research design is the glue that holds all of the elements in a research project together. In short, it is a plan of the proposed research work". A research design is characterised as a system of methods and strategies chosen by a researcher to join different segments of research in a sensibly logical way with the goal of proficiently taking care of the research problem. The research design provides knowledge regarding how to conduct research by utilising a specific methodology (Akhtar, 2016:69).

Research methodology is considered to be a mutual term for the organised cycle of directing research. There is a wide range of philosophies utilised in various sorts of research and the term is normally reflected to incorporate research design, data collection and data analysis (Goundar, 2012:11). Research methodologies can be quantitative in nature, which can include measuring the number of times an individual activity occurs under certain circumstances, or qualitative in nature, which includes enquiring about how people experience a particular situation or intervention. Research methodologies are commonly utilised in academic research to test philosophies and assumptions. If possible, a researcher should attempt to fuse both quantitative and qualitative methodologies. However, in more cases than not, it is not possible because of time and financial constraints (Goundar, 2012:12). According to Bak (2004:25), research methodology plays a vital role in providing the reader with the researcher's intention of how the researcher will go about achieving the identified research objectives. Research methodology seeks to elaborate on the possible methods and processes that are utilised for the study. Every researcher has a list of research questions that should be assessed, and this can be done with research design (Bhat, 2019: online). There are three common types of research

designs, which include: quantitative research, qualitative research and mixed method research.

According to Kothari (2004:1), a qualitative research design refers to the use of “methods that try to describe and interpret people’s feelings and experiences in human terms rather than through quantification and measurement”. Qualitative research is more flexible, consisting of different techniques, structures and methods. The disadvantages of qualitative research include that once in a while, qualitative research tends to leave out relative understandings and places more emphasis on encounters and implications. Exploratory research aims to explore the nature of a problem, however, exploratory research does not always provide conclusive evidence. Exploratory research intends to provide the reader with a better understanding of the identified problem. When conducting exploratory research, the researcher ought to be willing to change his/her direction as a result of new knowledge and new data (Saunders, *et al.*, 2012:65). The public higher education sector’s duty to integrate sexual orientation as a policy connect: a case of the LGBTQI+ community at the North-West University as a primary interest, has driven the researcher to search for more knowledge about LGBTQI+ students and the challenges they face, particularly within public higher education institutions under the purview of Universities South Africa (USAf).

#### **4.2.1 Qualitative approach**

According to Punch (2013:2), qualitative research accumulates and analyses data in a non-numerical way, which aims to understand the meaning from the collected data and assist in helping society realize the social world through targeted populations or places. Leedy and Ormod (2001:5) define qualitative research as the knowledge that is investigated to give meaning to a programme, experiences, relationships and social practices that contribute to the ostracising of individuals or a group of people. Qualitative research consists of several methods, which include ethnography, case study, observation, interviews, grounded theory, focus groups and historical research, just to name a few (Cibangu, 2012:96). Qualitative research is able to facilitate the means in which society understands reality. Qualitative research aims to clarify the social world that we live in through developed theories and models (Morse & Field, 1996:1). A study conducted by Sithole (2015:195) used an exploratory approach in the title, ‘Challenges faced by gay, lesbian, bisexual and transgender (GLTB) students at a South African university’. This was a qualitative approach, which sought to consider issues relating to

discrimination, unequal access to resources and homophobia. Sithole (2015:155) found that 58% of the respondents in his study believed that they were treated unfairly and unequally so they would opt to not reveal their sexual orientation because they would fear poor treatment by the healthcare workers on campus. A qualitative research approach was used to conduct this study. This approach can also be seen from the data collection methods used. The data collection methods used for this study are described below:

#### **4.2.2 Data collection methods**

Data collection needs to be done in stages, with new expository advances educating the process regarding additional data collection and new data illuminating the scientific procedures. It is important for researchers to have proper access to data collection sources. The nature of a research problem under investigation and data for collection often determine the methods to be used (Kumar, 2014:170). Sapsford and Jupp (2006:3) state that data collection is a systematic process that involves collecting information carefully so that the analysing of that information delivers creditable, reliable and logical answers that will be necessary to the study and/or research. Data collection is a practice in research that allows for the gathering of information on studies of interest in such a way that the information collected assists in answering research questions, objectives and calculated outcomes (Kabir, 2016:202). When conducting research, it is imperative to understand that a researcher likely needs to collect data.

In order to achieve the objectives of this study and answer the research questions, it is important to access the right data, and to do this, appropriate data collection techniques had to be used in line with the research approach. There are two types of methods that can be used to collect information which are:

- Primary data
- Secondary data

Primary data is data that the researcher has collected first hand by using data collection methods such as interviews, questionnaires and surveys. Secondary data is collected from other people's research, such as academic papers, books, websites, research journals and newspapers (Kumar, 2014:171). The purpose of data collection is to capture information the best possible way in order for that information to allow the researcher to provide creditable and valuable answers to the research questions posed (Kabir,

2016:202). The primary data that was utilised in this study consists of semi-structured questionnaires that were sent as two sets of instruments, which include members from, Campus Pride (LGBTQI+ community organization) (see Annexure A), and the NWU staff and SRC from the Potchefstroom Campus (see Annexure B). This is a total of seven respondents from both sets of instruments. The secondary data that was utilised in this study consists of document analysis, which includes official government documentation, such as the Social Inclusion Draft Policy Framework and the White Paper 3: A programme for the Transformation of Higher Education released by the Department of Higher Education and Training. Academic articles such as a Transformation barometer for South African higher education, Queering Transformation in Higher Education, Sexual Identity and Transformation at a South African University. Publicly available documents include the North-West University Annual Report Submitted to the Department of Higher Education (2014, 2018 and 2019) and the Transformation Charter from the North-West University's official website.

For this study, three types of data instruments were used. The first two instruments that were utilised for this study consist of semi-structured questionnaires (see Annexure A and B), that were used as a tool for in-depth discussions around the sexual orientation element and how the public higher education sector has a duty to integrate this within social institutions like universities as higher education and training facilities as a policy connect. Semi-structured questionnaires allowed the researcher to investigate challenges that the LGBTQI+ students face, especially at the North-West University Potchefstroom campus and how these challenges can be alleviated by the Department of Higher Education and Training and members of the Universities South Africa (USAf) working together towards inclusivity and equality. The third instrument is a document analysis that includes official documents from the North-West University's website, and official government documents such as the Social Inclusion Draft Policy Framework and the White Paper 3: A programme for the Transformation of Higher Education released by the Department of Higher Education and Training as a unit of analysis.

Munzhedzi (2011:70) contends that "it is important that any data to be collected during the research process should be of assistance in answering the research question posed". In this study, the research question that needed data collection included how Section 9 as a constitutional provision can deal with the challenges that the LGBTQI+ community faces at the NWU Potchefstroom Campus. The data collection methods that are applied

in this study included semi-structured questionnaires and document analysis, which are discussed as follows:

#### **4.2.3 Semi-structured questionnaires**

A questionnaire is a data collection instrument that is used to collect primary data. A semi-structured questionnaire requires the researcher to collect data in a qualitative way so that the data is sensible for further interrogation in line with the problem under investigation. Furthermore, semi-structured questionnaires have a reason that is identified with research objectives, which should obviously be stated in terms of how the findings will be utilised (Roopa & Rani, 2012:273). According to Babbie (1990:377), a questionnaire is characterised as a document that consists of a series of questions that are designated to assist the researcher to collect data appropriate for data analysis. For the purpose of this study, two sets of semi-structured questionnaires were utilised and circulated to Potchefstroom Campus and Campus Pride (an LGBTQI+ organization) (see Annexure A), and members of the NWU staff and SRC (see Annexure B). The semi-structured questionnaires were used to examine sexual orientation as a constitutional element to analyse discrimination of the LGBTQI+ students of the NWU Potchefstroom Campus and the institutionalization of sexual orientation for the better treatment and protection of the LGBTQI+ community at the NWU Potchefstroom Campus. The questions developed were targeted at answering the research questions posed in chapter one (see section 1.5). The semi-structured questionnaires included aspects such as the researcher's details, a consent form that would provide confidentiality to the respondents regarding the answers that they would provide (see Annexure C). Requirements regarding ethics were adhered to, such as ethical clearance and a gatekeeper certificate, which were granted by the North-West University before commencement and distribution of the questionnaires to the respondents (see Annexure D and E).

#### **4.2.4 Document analysis**

Bowen (2017:27) contends that “document analysis is a systematic procedure for reviewing or evaluating documents – both printed and electronic (computer-based and Internet-transmitted) material”. Document analysis needs data that can be analysed and inferred in such a way that the data provides explicit knowledge and meaning (Corbin & Strauss, 1998:2). According to Smulowitz (2017:1), document analysis is a systematic process whereby the researcher evaluates the significance of the contents in the

identified documents as its primary data. This process arises over a period of time where the decision to collect documents is made and ends with the collected data being interpreted into an analysis that can be used to answer the research questions posed. For the purpose of this study, relevant documentation, such as the Social Inclusion Draft Policy Framework, White Paper 3: A programme for the Transformation of Higher Education (1997) and annual reports from the North-West University that are submitted to the Department of Higher Education (2014, 2018 & 2019) and the Transformation Charter were found vital in addressing critical areas of the study as also outlined in research questions posed in chapter one (see section 1.5).

#### **4.2.5 Data Analysis**

Data analysis occurs as an unambiguous advance in theoretically interpreting data as a whole whilst utilising clear expository strategies to change raw data into new information that depicts the study (Shamoo & Resnik, 2003:9). Different analytic methods give a method for illustration inductive inferences from information and distinguishing the sign (the phenomenon of interest) from the commotion present in data (Shamoo & Resnik, 2003:10). Data that was collected, analysed and interpreted in the fifth chapter is applied in this study as demonstrated through semi-structured questionnaires and document analysis. This was undertaken in a thematic approach based on the interpretations of collected data.

### **4.3 SELECTION OF SAMPLE METHOD AND RESEARCH AREA**

Sarantakos (2013:167) contends that “sampling is also utilised in qualitative research and is less strictly applied than in the case of quantitative research. Furthermore, sampling in qualitative research is relatively limited, is based on saturation, is not representative, involves low cost, is not time consuming, and its size is not statistically determined. It can, therefore, be inferred that in qualitative investigations, non-probability sampling is used almost without exception”. Non-probability sampling is a sampling technique where the chances of any part being chosen for a sample cannot always be determined. It is the opposite of probability sampling, where you can compute the changes. What is more, probability sampling involves a random selection, whereas non-probability sampling depends on the abstract judgement of the researcher. One advantage with non-probability sampling is that it is relatively more cost-effective, time effective and easy to use compared to non-probability sampling (Sarantakos, 2013:177). Based on non-

probability sampling and its various types of non-probability sampling, purposive sampling is applied as the sampling technique for this study. Purposive sampling is a non-probability sampling technique that was carefully chosen by the researcher based on the researcher’s judgement and in more cases than not, the respondents chosen by the researcher are experienced and knowledgeable (Babbie, 2010:193).

The sample size consisted of eleven possible respondents that were invited to participate during data collection through semi-structured questionnaires. The invited respondents were sent semi-structured questionnaires (one for Campus Pride, and one for the NWU staff and SRC) containing questions that examine practices that are considered to be denying the constitutional rights of LGBTQI+ students on campus. Furthermore, institutional and managerial interventions undertaken to address these impediments within a purview of the North-West University Potchefstroom campus were also considered. In addition, they were asked to respond to questions on their experiences regarding their view on exactly what LGBTQI+ students faced on campus as well as what the North-West University Potchefstroom campus’ management had done to alleviate the challenges faced by LGBTQI+ students.

According to Munzhedzi (2011:64), it is in the best interest of the researcher to choose a sample based on a researcher’s knowledge and judgement as that will assist in receiving the best information with the elements and purpose of the study. This sample was given semi-structured questionnaires (Annexure A and B) in order to assist the researcher to address the research questions and objectives stipulated in chapter one (see section 1.4 and 1.5). The respondents were given a week to complete the semi-structured questionnaires with an informed consent form (see Annexure C) and ethical clearance form attached (see Annexure D) for the promised confidentiality of the respondents and the legitimacy that this study deserves. Table 4.1 below provides some information regarding the target population that responded to the semi-structured questionnaires.

**Table 4-1: Purposive sampling formula**

Institution	Targeted Population	Gender	Age
NWU’s staff and SRC	4	Female: 0 Male: 4	23-43

<b>Campus Pride</b>	3	Female: 2 Male: 1	21-22
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#### **4.4 ETHICAL CONSIDERATIONS**

Ethical considerations are guided by the North-West University policies and a rigorous process is put in place to evaluate proposals and provide clearance upon compliance. Ethical considerations assist in determining the contract between acceptable and unacceptable practices on the researcher's part. Ethical considerations were important when it came to research as the researcher's findings depended on integrity, reliability and legitimacy, which were the basic ethical principles in research (Resnik, 2015: online). This study looked at the manner in which the public higher education sector could integrate sexual orientation as a constitutional provision element of Section 9 of the constitution; semi-structured questionnaires were conducted at the North-West University Potchefstroom campus. Campus Pride as the LGBTQI+ community committee at the North-West University was chosen to assist in determining the challenges of the LGBTQI+ community as a vulnerable group at the Potchefstroom campus. The researcher was obligated to ensure that the selected respondents sign a letter of consent and a letter of confidentiality as well as privacy regarding the information that the respondents provided (See Annexure C). Respect for the involved individuals and communities, beneficence, justice and privacy for the involved individuals and communities should always be on the table, especially when dealing with human beings and the sensitive issues surrounding them.

#### **4.5 DATA STORAGE**

The researcher received all the semi-structured questionnaires and uploaded them to the researcher's laptop with a secure password that only the researcher knows. Data is also stored electronically for safety for a period of five years on a password protected device in the cupboard of the School. It will be disposed of using the University provided protocols in this regard.

#### **4.6 RESEARCH MONITORING**

This is a supervised study, therefore my supervisor, Professor Kedibone Phago, was responsible for the progression of research and the quality of this study.

#### **4.7 CONFIDENTIALITY, ANONYMITY & PRIVACY**

In the informed consent form, the researcher guaranteed the confidentiality and privacy of the respondents involved. The respondents were given the opportunity to provide a pseudonym that was comfortable for them should they prefer. The respondents' pseudonym was only utilised for publishing purposes, however, the actual name of the respondent was only recorded only on the informed consent form for confidentiality and privacy purposes. There were no objections from invited respondents who wished to prohibit the researcher from using any information that they provided in the final document.

#### **4.8 DISSEMINATION & PUBLICATION**

This study was primarily undertaken to fulfil the requirements of a Masters' qualification at the North-West University. This dissertation may lead to a journal article upon completion. In both these cases, the dissemination of data was mainly for academic purposes and would be made available through various library databases, to which the University affiliates. This study was supervised by an experienced Professor in the School of Government Studies, who ensured a quality check on the necessary research protocols. Upon completion, this study was also subjected to an internal and external examination process, which was a University requirement to maintain rigour and quality assurance regarding issues of research bias.

#### **4.9 RISK LEVEL**

There was no emotional stress reported during this process of collecting data for this study. Since respondent completed semi-structured questionnaires in the comfort of their own home/office, there was no pressure of a standing-by researcher. If the respondents felt uncomfortable whilst filling in the questionnaire and felt they needed to speak to a psychologist/counsellor, the respondents were provided with the opportunity to contact thuso1777 (NWU student counselling and development centre) on 018 299 1777.

#### **4.10 CONCLUSION**

In this chapter, research design and methodology were discussed with specific reference to qualitative research methods and the selected techniques that the researcher used for this study. This chapter also provided an extensive explanation of data analysis and data collection and the methods (semi-structured questionnaires and document analysis) that were used to address the research questions that are posed in chapter one along with a sample size formula. The next chapter consists of an in-depth analysis of the data collected from the documents mentioned above and semi-structured questionnaires, where the findings and interpretations of each instrument are discussed.

## **CHAPTER FIVE**

### **DATA ANALYSIS AND RESEARCH FINDINGS**

“If I wait for someone else to validate my existence, it will mean that I’m short-changing myself.” – Zanele Muholi (2020)

#### **5.1 INTRODUCTION**

Chapter Four went to great lengths to discuss the research methodology and design, which consists of the data collection methods that are of significance to the study. The motivation for this chapter is to present the findings that were derived from the primary data that has been collected through semi-structured questionnaires and document analysis tools. The findings are based on these data collection approaches as outlined in chapter four, while data analysis is undertaken in this chapter. This chapter also seeks to outline and possibly address the problem statement based on the research questions asked in chapter one (see sections 1.3 and 1.5). The findings from each data collection method are discussed below.

#### **5.2 FINDINGS FROM THE NWU STAFF AND SRC QUESTIONNAIRE**

The semi-structured questionnaire was separated into two focused instruments directed at their appropriate respondents. In this case, one questionnaire was sent to Campus Pride, a LGBTQI+ organization and the other questionnaire was sent to the North-West University’s staff and SRC. The focus has been a LGBTQI+ student community of the North-West University’s Potchefstroom Campus. Each instrument consists of seven questions that are based on the research objectives stated in chapter one (see section 1.4). The semi-structured questionnaires (see Annexures A and B) were distributed to 11 potential respondents, and only 7 completed and returned their responses. The responses to the questions asked in the semi-structured questionnaires to answer the research objectives in chapter one (see section 1.4), are broken down into themes between the two instruments and are analysed below. These responses are anonymised to protect the identity of the responses.

### **5.2.1 Section Nine as a constitutional provision**

The respondents from the NWU staff and SRC were asked about Section 9 of the Constitution of RSA (1996) and whether, as a constitutional element, it was an adequate instrument to deal with the challenges faced by the LGBTQI+ community. Respondent C affirmed that he does not see the need for a separate policy for the LGBTQI+ community on campus. However, Respondent A, B and D believe that there is a need for a LGBTQI+ policy precisely designed to deal with the needs, rights and challenges of the LGBTQI+ community at the North-West University Potchefstroom Campus. This may lead to a decline in the discriminatory and homophobic experiences faced by the LGBTQI+ community; this attempt could assist heterosexuals in thinking in a less heteronormative way, and promote holistic acceptance. Respondent D contended that “The Constitution of RSA (1996) and legal regime, such as the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA) does align with progressive ideas on protection against homophobia, and the NWU is legally obliged to take steps to protect and advance the interests of the LGBTQI+ community. It is necessary that the NWU should take action to protect sexual minorities”.

All four respondents stated that they are aware of policies such as the NWU’s diversity statement and human rights declarations that speak to protecting and promoting individual human rights. Respondent C and D believe that the Constitution of RSA (1996) was an adequate instrument in dealing with the challenges of the LGBTQI+ community. Respondent B stated that he was grateful for the Constitution of RSA (1996); however, what looked good on paper, did not always translate into what a thriving experience for a member of the LGBTQI+ community should have been. Sexual orientation through concrete vigour needed to be a priority. Respondent A believes that the Constitution of RSA (1996) provides the LGBTQI+ community with protection, as stipulated in Section 9, Subsection 3 of the Constitution of RSA (1996). However, that was not constantly implemented in society as the LGBTQI+ community still experiences discrimination and exclusion. On its own, the Constitution of RSA (1996) was not an adequate instrument on the grounds that necessary awareness and knowledge of the LGBTQI+ community was needed.

The researcher acknowledges the fact that the Constitution of RSA (1996) is not an adequate instrument. However, the disregard for the institutionalization of sexual orientation by the North-West University needs to be seen as alarming, as mentioned in

chapter three (see section 3.3.5). Muller (2000:157) narrates that transformation is a vital facet within the public higher education sector that needs to play a role in actively addressing the challenges of the LGBTQI+ community academically and socially through constitutional provisions, such as Section 9 of the Constitution of RSA (1996). Donaldson (2015:135) expresses a similar view, that the lack of policies and the implementation of government legislation, such as the Social Inclusion Draft Policy Framework and White Paper 3: A programme for the Transformation of Higher Education, renders the latter nugatory when it comes to dealing with equality, discrimination, safety, treatment and protection of the LGBTQI+ community.

## **5.2.2 Safety of the LGBTQI+ students**

The respondents from the NWU staff and SRC were asked if they are familiar with relevant University policies directed towards the safety, treatment and protection of the NWU's LGBTQI+ students. Respondent C and D stated that they were unaware of such a policy. However, Respondent A and B stated that they were partly aware of a University policy because of the NWU Human Rights policy, which spoke to recognising the LGBTQI+ community and sexual minorities. Respondent B contended that "The NWU Human Rights Policy provides (a) a generic reference to human rights protection and (b) references the protection of staff and students irrespective of their gender, race and disability status." The members of the North-West University Human Rights Committee will be representative of the university community and will be sensitive to race, gender and disability (NWU Human Rights Policy, 2019:2). However, there is minimal to no reference to sexual orientation in NWU policies.

Respondent D stated that he did not know about the Social Inclusion Draft Policy Framework and its implementation at the Potchefstroom campus. Respondent C believes that the NWU had ensured that the Social Inclusion Draft Policy Framework had been implemented through existing policies. Respondent B was impartial as he believes that the NWU human rights policy continues to exclude sexual orientation, sexuality and gender identity and that it needed to have been addressed. Respondent A held that the Social Inclusion Draft Policy Framework had been broadly implemented but there was definitely a lack of awareness, knowledge and communication regarding the policy and its requirements. Out of four respondents, only Respondent C disagreed with the fact that there was a necessity for the Potchefstroom campus to have a LGBTQI+ friendly policy as previously mentioned in section 5.2.1.

Respondent D stated that he was unfamiliar with the current status and experiences of the LGBTQI+ community on campus. Respondent D contended that “from a constitutional law and human rights perspective, he affirms that the University needed to create a LGBTQI+ policy that consists of sensitivity training, basic legal training, reporting mechanisms, funding for queer support, institutional culture and curriculum revision as well as the ongoing historical prominence of a certain sect of Christianity at the NWU (a religious nonconformity)”. Respondent C explained that platforms should be made available to students and that students be aware of such platforms. Respondent B expressed that it all depends on what the LGBTQI+ students of the NWU wanted for themselves in a sense that they should strive to be seen, especially through the desires that they wanted to achieve for the LGBTQI+ community holistically.

Respondent A articulated that it would be treacherous to assume that we knew what the LGBTQI+ community needed. The NWU needed to comprehend the experiences and needs of the LGBTQI+ community on campus because not all of their experiences were positive. The LGBTQI+ community’s voice needed to have been heard and implementing a LGBTQI+ policy by using a bottom-up approach would get the job done; considering that the LGBTQI+ community would have addressed their challenges, rights and needs and through that, a safe space could have been created through their input and experiences. The researcher agrees with Respondent B regarding the continued exclusion of the concept of sexual orientation by the North-West University in the NWU human rights policy of 2016. This indicates a red flag, as the Social Inclusion Draft Policy Framework was released in 2014.

The NWU Human Rights policy has not changed since its promulgation in 2016. The researcher disagrees with Respondent C, regarding the Potchefstroom campus’s assurance in implementing the Social Inclusion Draft Policy Framework. Publicly available reports, such as the North-West University annual report submitted to the Department of Higher Education and Training in 2019, only mention the LGBTQI+ community once, in all three reports (see section 5.4.6); with no targeted objectives or plans regarding how the University intends to deal with the challenges, needs and rights of their LGBTQI+ students. There were policies such as the Gender-Based-Violence and Sexual Harassment policy that the North-West University had promulgated. Acknowledging the LGBTQI+ community and sexual minorities’ existence, does not take

away their traumatic and continued experiences of inequality, discrimination and homophobia. A policy needs to be established to deal with these challenges.

### **5.2.3 The institutionalization of Section Nine of the Constitution of RSA (1996)**

The respondents from the NWU staff and SRC were asked about which mechanisms could be utilised for the institutionalization of Section 9 of the Constitution of RSA (1996) within the public higher education sector. Respondent D maintained that a LGBTQI+ friendly policy that is driven by Section 9 is necessary; not one driven by an ongoing historical prominence of Christianity of the NWU, which might not recognise the LGBTQI+ community due to the guise of religion. A public institution such as the NWU should be legally obligated to take the necessary steps to safeguard and elevate their LGBTQI+ students. The LGBTQI+ community at the Potchefstroom campus should hold the NWU accountable by taking action (legal and other) and the public higher education sector itself, should hold the NWU accountable as one of its public institutions. Respondent D stated that he had seen the LGBTQI+ community flag, however, that was simply not enough.

Respondent C also maintained that the NWU ensures that there is no discrimination that occurs, particularly through existing policies, so there was no need for a separate policy; in addition, the respondent mentioned that there was a LGBTQI+ organization called Campus Pride that fell under the Student Representative Council (SRC). Respondent B emphasised that there needs to have been a consensus to discourse the challenges of the LGBTQI+ community and once that has been established, policies to rectify those grievances could occur. When establishing a LGBTQI+ policy, one should have conceded the dissimilarities within a homogeneous society. People are different and applying the same approach might not have always worked in addressing challenges faced by sexual minorities who did not identify with the doctrines of heteronormativity. Respondent A stated that there was a LGBTQI+ organization called Campus Pride and a Gender Awareness week, which could have been a basis for a LGBTQI+ policy and the inclusion of sexual orientation within NWU policies. Respondent A contends that “one of the challenges with policies were that it looked great on paper; but actual implementation was difficult. The University policies that are adopted are not always adhered to. Similarly, while LGBTQI+ individuals enjoyed protection under the Constitution of RSA (1996), reality was that high levels of discrimination and exclusion were still being experienced. South Africa was still a patriarchal and conservative and traditional values and beliefs

were held by South Africans. These include strong religious convictions opposing LGBTQI+ individuals. However, I did recognize the importance of this policy framework to promote inclusion, equality and to strengthen social justice”. Respondent A insisted that as a guardian of the LGBTQI+ organization, Campus Pride, adopting LGBTQI+ friendly policies at the NWU was imperative for all (students and staff). He continues to state that “the outflow of knowledge and ignorance may have been contributing to ineffective policies as a result of awareness and understanding needed to have been immensely invigorated. Thereafter, policies could have been a secondary framework as a means of invigorating awareness and understanding”. Respondent B believes that the existence of Campus Pride and Gender Awareness week played a crucial role in the increase of acknowledgement, awareness and understanding around the LGBTQI+ community.

### **5.3 FINDINGS FROM CAMPUS PRIDE QUESTIONNAIRE**

The second instrument consists of a semi-structured questionnaire that was sent to Campus Pride, a LGBTQI+ organization. The semi-structured questionnaire consists of seven questions that were based on the research objectives stated in chapter one (see section 1.4). The responses to the questions asked in the semi-structured questionnaire, which were to answer the research objectives in chapter one (see section 1.4), are broken down and analysed below:

#### **5.3.1 Section Nine as a constitutional provision**

The respondents from Campus Pride were asked if the students of the NWU have an understanding of sexual orientation and whether anyone (including themselves) experienced discrimination regularly because of their sexual orientation at the North-West University’s Potchefstroom Campus. All three respondents stated that they have never experienced discrimination. Respondent F said that he surrounds himself with accepting people, whereas Respondent G believes that everyone faces discrimination and being a part of the LGBTQI+ community makes one more susceptible because, as a sexual minority, they were already deprecated. Respondent E explained that she had not experienced explicit discrimination in her individual dealings on campus. However, she had suffered social exclusion by heterosexuals on campus, especially with regard to discrimination and social exclusion. Her openly queer friends had experienced discrimination and homophobia such as being passed for leadership positions in hostels

and through jeering by heterosexual males on campus. She believes that there was a lack of representation on campus, particularly in hostels, which she considers a form of discrimination.

Respondent F believes that people needed to have been more educated and not ignorant regarding sexual orientation. This statement relates to Respondent A's statement regarding the awareness, understanding and knowledge of the LGBTQI+ community. Respondent G affirms that sexual orientation is a broad concept because of its tying to gender and one needs to comprehend that concepts such as sexuality, sexual orientation and gender identity as interrelated. Respondent G's statement spoke to Jaspal's (2019:19) work discussed in chapter two, that every one of these concepts and future ones could without a doubt, have been considered as separate meanings for the reason that these concepts were socially constructed. Respondent E expressed that she was not sure, as the staff of the NWU that she had encountered, had not mentioned sexual orientation. For instance, she stated, "in my psychology classes, they discuss sexual orientation and the reasons that exist for people to deviate from heterosexuality and in my sociology classes, they discuss sexual orientation in terms of it being on a spectrum". She further contended that people on campus knew about the different sexualities. However, students do not ask questions about sexual orientation or they keep their sexual orientation to themselves due to a lack of acceptance, possible discrimination and homophobia.

### **5.3.2 Safety of the LGBTQI+ students**

The respondents from Campus Pride were asked about sexual orientation as a constitutional right and their challenges and experiences at the NWU Potchefstroom Campus. Respondent F said that as a Campus Pride executive member, students did experience negative reactions regarding their sexual orientation through arrogant questions and malicious jokes. Respondent G expressed that the LGBTQI+ students were treated like predators, in the sense that people often believed that they were attracted to everyone and would force themselves onto heterosexual students. Homophobic slurs like "sis-bhuti" were often used towards queer students. Respondent G contended that at "other times, they heard people claim to not have been homophobic, but did not want same sex couples engaging in Public Display of Affection (PDA) such as kissing and holding hands around them, as it made them uncomfortable. An action of this nature is considered a form of homophobia. Bisexual and pansexual students were also

treated like predators and as if they were sexually attracted to everyone they saw. Transgender people were considered by many students (and staff) as freaks, undecided and imposters. There had been reports where using the restroom was a painful experience because no one wants to share that space with a trans man or woman. They felt like they are in danger and that there is some sort of malicious agenda. When in actual fact, trans people were the ones in danger”.

With regards to regular complaints from LGBTQI+ students and experiencing verbal or physical discrimination because of their sexual orientation, Respondent E stated that there had been online homophobia and no physical homophobia since the COVID-19 pandemic took place. Despite the lack of physical homophobia, there was a young lady whose parents disowned her because she identified herself as a queer. Respondent G expressed that there had been verbal and physical discrimination. Respondent F claimed that the queer people that he had come across had not experienced verbal and physical discrimination. The respondents of Campus Pride were asked whether they believed that students had been discriminated against because of their affiliation to Campus Pride and all three respondents agreed that queer students and allies were discriminated against. For example, Respondent E said that one of her friends was subjected to discrimination because of her involvement and affiliation to Campus Pride despite the fact that she was heterosexual. This justifies Respondent F’s statement regarding being guilty by association, that heterosexuals would always protect their reputation and would distance themselves from you, just because of their affiliation to the LGBTQI+ community. All three respondents affirmed that they were unaware of any particular cases of assault and harassment. They were unaware of explicit incidents where the staff and SRC of the NWU Potchefstroom campus had discriminated against any LGBTQI+ student on campus. The respondents continued to state that they were unaware of any NWU relevant policy that accommodates the LGBTQI+ community and whether the Department of Higher Education and Training ensures the safety, protection and equal treatment of the LGBTQI+ community across all campuses.

### **5.3.3 The institutionalization of Section Nine of the Constitution of RSA (1996)**

The respondents from Campus Pride were asked whether Campus Pride (LGBTQI+ student organization) could play a role in influencing the creation of a LGBTQI+ friendly policy at the NWU. All three respondents agreed with the question asked. Respondent E said Campus Pride could assist in the establishment of a NWU LGBTQI+ friendly policy,

as the LGBTQI+ community on campus needs to be normalized, particularly in a heteronormative environment like the NWU. Respondent G stated that LGBTQI+ friendly policies were necessary, as it was not only Campus Pride's responsibility to create a safe space on campus for queer students. Respondent G further stated that there seems to have been some reluctance on campus, as she additionally contends that, "we felt like Campus Pride was treated like just another number and a face for diversity analytics. This is because of how we had to beg for certain things and to have the same privileges that other communities/ committees on campus had. Other existing communities in this case refer to church, politics and sports, among others". Respondent F agreed with Respondent G as she described that there was a need for LGBTQI+ friendly policies because their role as Campus Pride was to educate and provide understanding regarding the LGBTQI+ community, while striving for a safe environment with no fear or prejudice.

One of the questions asked was to comprehend whether the NWU Potchefstroom campus had effective structures to limit discrimination, based on a student's sexual orientation, and whether the Potchefstroom campus provides a safe environment for the LGBTQI+ community. Respondent E and G expressed that the NWU Potchefstroom campus have no relevant structures that are specifically designed for the LGBTQI+ community. Respondent F believes that the NWU could do better. Painting a flag on a wall is not the only solution to dealing with the challenges experienced by the LGBTQI+ community. All three respondents believed that Potchefstroom was 'relatively' safe, however, there was a need for representation for the LGBTQI+ community on campus even if it is through the means of having a queer representative under the institutional management composition, specifically Student Life. The question, "do you think it was in the interest of the North-West University Potchefstroom campus to create a safe environment for the LGBTQI+ community?" relates to question four (under the institutionalization of constitutional rights section in the Campus Pride questionnaire) (see Annexure A), which spoke to "did Campus Pride believe that the Potchefstroom campus created a safe environment?" All three respondents agreed that it was in the best interest of the NWU Potchefstroom campus to create a safe environment for their LGBTQI+ students, as Respondent G said that the NWU would not want to lose their diversity points, while Respondent E said that there would have been less suicide cases and mental health issues.

The follow up questions to the respondents were whether the public higher education sector should institutionalize strict adherence to constitutional rights and whether the Constitution of RSA (1996) provides an adequate instrument for dealing with the challenges that the LGBTQI+ community experiences. Respondent F believes that the public higher education sector should always strive to promote the LGBTQI+ community because attending University as an institution was difficult in itself. Respondent G explained that you could not advocate human rights and exclude queer people. The rights of queer people, particularly the rights of the LGBTQI+ community within the public higher education sector, should be prioritized. Respondent E averred that everyone deserves to be respected and government, as the people who “run” this country, should have made that happen. With regards to the Constitution of RSA (1996) providing an adequate instrument for the LGBTQI+ community and their challenges, all three respondents agreed that the Constitution of RSA (1996) was an adequate instrument. However, Respondent G believes that there is room for improvement, such as having stricter laws against hate speech and crimes. Respondent F on the other hand, expressed that Section 9 was outdated in terms of its promulgation in 1996 and discrimination towards anyone should be punishable by law. He further explained that “with regards to the higher education sector, some sort of action needs to have been taken by the NWU if anyone’s rights were violated because queer rights matter too”. Respondent E stated that queer people were protected constitutionally; however, the instruments used were ineffective as direct discrimination and being protected are separate entities.

#### **5.4 FINDINGS FROM DOCUMENT ANALYSIS**

As previously mentioned in chapter four (see section 4.2.2), it is required that data collection be conducted in various stages, with new expository advances educating the process regarding additional data collection and new data illuminating the scientific procedures. Official documentation, such as the Social Inclusion Draft Policy Framework of the Department of Higher Education and Training and White Paper 3: A programme for the Transformation of Higher Education (1997); and academic articles such as a Transformation barometer for South African higher education, Queering Transformation in Higher Education, Sexual Identity and Transformation at a South African University; as well as publicly available documents from the North-West University Annual Report Submitted to the Department of Higher Education (2014, 2018 and 2019) and the Transformation Charter, were analysed to produce reliable results for this study.

#### **5.4.1 The Social Inclusion Draft Policy Framework (2014)**

The Department of Higher Education and Training, with Chapter 9 institutions, such as the South African Human Rights Commission and the Commission of Gender Equality aims to guarantee the best quality of education. Education is one of the pivotal parts of society and the Department of Higher Education and Training plays a fundamental role in warranting that all South Africans received the best quality education within the higher education sector, which includes universities and TVET colleges (Social Inclusion Draft Policy Framework, 2014:10)

As time advances, the world changes, which means the inclusion of aspects that were not previously included, such as the LGBTQI+ students and their rights within the public higher education sector. The protection of LGBTQI+ students is clearly stipulated under Section 9, Subsection 3 of the Constitution of RSA (1996), which states that neither the state, nor any person may unfairly discriminate against anyone, directly or indirectly, on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

Despite the amplified cognisance surrounding LGBTQI+ rights over the past 15 years, it was still infrequent that universities and TVET colleges considered the rights and needs of their LGBTQI+ students. This shows the lack of consciousness and an active role from the public higher education sector in ensuring that LGBTQI+ students across the higher education sector were safe, equally treated and protected. The public higher education sector needed to promulgate an effective and efficient policy specifically directed to the needs of the LGBTQI+ students to combat violent and homophobic behaviour across campuses (Social Inclusion Draft Policy Framework, 2014:16).

The researcher argues that the Social Inclusion Draft Policy Framework lacks concise guidelines that deal with the current issues and challenges that LGBTQI+ students face daily in the public higher education sector. The Social Inclusion Draft Policy Framework only mentions that there is a need for a more inclusive role from universities and TVET colleges for the rights of LGBTQI+ students, however, with no action plan. This shows that there is no institutionalization of Section 9 of the Constitution of RSA (1996) and no integration of sexual orientation within the public higher education sector.

#### **5.4.2 White Paper 3: A programme for the Transformation of Higher Education (1997)**

The Department of Higher Education and Training assumes the focal function within the social, cultural and economic improvement of various cultures and societies. The test that South Africa faced was the test of changing past injustices and to transform the public higher education sector to meet the nation's needs and react to the new real-life factors. The public higher education sector instructs and prepares generations to live up to social capacities, enter scholarly callings or seek employment in areas such as science and technology, commerce and the arts. Higher education institutions, such as the North-West University Potchefstroom campus, establishes the groundwork for the advancement of society through the higher learning that they provide. This could invigorate, coordinate and activate the inventive and scholarly vitalities of multitudes of individuals that leave their campus in preparation of the corporate environment (White Paper 3: A Programme for the Transformation of Higher Education, 2017:36).

According to section 3.42 of the White Paper 3: A Programme for the Transformation of Higher Education (1997:37), the Ministry of Higher Education, Science and Innovation recommends that all higher education institutions ought to create systems that will establish a safe and secure climate that debilitates harassment or threatening conduct towards people or groups on any grounds. This is especially relevant on grounds relating to age, colour, creed, disability, gender, marital status, origin, race, language or sexual orientation. Upon analysis, it is proffered that sexual orientation was only mentioned once (under institutional culture) throughout the document. There was no sign of the LGBTQI+ community and how the ministry planned on being more inclusive within the public higher education sector in terms of creating a policy specially designed for the needs and rights of the LGBTQI+ community as well as parameters to deal with homophobia, discrimination and violence. Despite the fact that this white paper was released in 1997, the Constitution of RSA (1996) had already set out the precedence for the latter and it was the duty of the public higher education sector to act accordingly.

#### **5.4.3 A Transformation Barometer for South African Higher Education**

The public higher education sector has over 100+ higher education institutions across South Africa, including public universities, TVET colleges, universities of technology and private colleges/universities. In 2015, Blade Nzimande, who serves as the Minister of

Higher Education and Training, highlighted that there had been an adamant push from the public higher education sector for transformation and reform. The Minister's view was premised on the #FeesMustFall, the Rhodes Must Fall campaign at the University of Cape Town (UCT), the Open Stellenbosch movement at Stellenbosch University (SUN) and the transformation battles at North-West University (NWU) (Keet & Swartz, 2015:2).

In spite of the removal of statues, like the Totius statue in 2015 at the North-West University's Potchefstroom campus, and the changing of names, there were more pressing issues that relate to transformation, such as discrimination and homophobia (News24, 2015: online). There remains a necessity for radical changes surrounding the dealing with issues regarding discrimination and homophobia on campuses. The way the public higher education sector faces challenges was not the issue, rather, the way in which they deal with them (Keet & Swartz, 2015:2). No South African universities or TVET college had successfully dealt with discrimination and homophobia towards their LGBTQI+ students as LGBTQI+ students still undergo discrimination and homophobic attacks within the higher education space, as mentioned in chapter one (see section 1.2).

There had been little to no institutionalization of sexual orientation and policies that deal with the challenges that LGBTQI+ students face daily on campus, like safety, inequality and protection. The main ground-breaking effort that had occurred within the public higher education sector was the Social Inclusion Draft Policy Framework. The Social Inclusion Draft Policy Framework seeks to address any inequalities surrounding issues stipulated in Section 9 and Subsection 3 of the Constitution of RSA (1996), such as discrimination, gender and sexual orientation that have been historical disparities. The Social Inclusion Draft Policy Framework was directed towards all universities and colleges with a stance that all higher education institutions operate in a non-discriminatory and anti-racism environment; however, no game plan or direct policies have been created to target the challenges that students such LGBTQI+ students face daily.

#### **5.4.4 Sexual Identity and transformation at a South African University**

Prejudice practices relating to sexual orientation did not get much consideration and responsiveness from government before the Constitution of RSA (1996) was promulgated. However, South Africa made an effort to create policies and frameworks to warrant that all challenges relating to discrimination were addressed in every respect. For example, the National Coalition for Gay and Lesbian Equality campaigned reliably for the

backing and upkeep of the African National Congress (ANC) for incorporation of sexual orientation in the Constitution. Predisposition and disdain remained an enormous part of South African communities where LGBTQI+ acceptance was reluctant and the LGBTQI+ community had to rely on the Constitution of RSA (1996) for protection and equal treatment (Fester, 2006:102).

The Constitutional Court held the vested force and power behind making ground-breaking decisions regarding the LGBTQI+ community and their rights. However, it is necessary to remember that there were other constitutional components that were additionally formed, such as the Chapter 9 institutions, which include the Public Protector, the Human Rights Commission and the Commission for Gender Equality. These constitutional components were created to serve as watchdogs to guarantee sexual orientation and non-discrimination. Despite the establishment of the mentioned watchdogs, these constitutionally created components have demonstrated their shortfall in the ability to safeguard and adequately destroy hate crimes and gender inequalities (Hames, 2006:1315)

In light of South Africa's progressive policies and legislative advances, South Africa went on to be seen as the gay-accommodating, open-minded and sexual liberated country on the African continent. Despite these advances, the violence, homo-prejudice and homophobia towards the LGBTQI+ community still remains; this indicates that the South African culture was still profoundly conservative, man-centric and homophobic. The latter speaks to Respondent A's view on South Africa still being a conservative country (see section 5.2.3). It was critical that when government created policies, they were also likewise pertinent to the public higher education sector. The public higher education sector is central in shaping post-apartheid knowledge and identities. This sector's role explicitly focused on state transformation as the public higher education sector played a key role in post-apartheid transformation and civil society (Badat, 2003:13).

Aforementioned higher education played a key role in civil society and transformation. From 1997, the public higher education sector had overwhelmed the forming of the higher education legislative framework with policy frameworks and white papers, and through this, the public higher education sector had unequivocally communicated its anxiety regarding the hesitation that numerous higher education institutions had demonstrated towards change and expressed that the transformation ought to have been drastic and all-inclusive (National Plan for Higher Education, 2001:37). Policies such as the White

Paper 3: A Programme for the Transformation of Higher Education (1997), the Higher Education Act 101 of 1997 (1997) and the National Plan for Higher Education (2001) were generated for transformation and inclusivity purposed for the post-apartheid period in South Africa.

However, these policies adopted a simplistic approach towards the idea of sexual orientation in buying into a binary comprehension of the definitions of men and women. This is despite the reality of people who were non-binary, such as members of the LGBTQI+ community whose genders did not fall into one of the categories of men or women. Sexual orientation had barely been recognised by the public higher education sector and the minister of the Department of Higher Education and Training, Blade Nzimande, had suggested that all higher education institutions should create mechanisms that would establish a protected and secure climate that debilitates any form of discriminatory behaviour towards anyone, with specific reference to age, colour, creed, disability, gender, marital status, national origin, race, language or sexual orientation (Hames, 2006:1316).

The researcher agrees with the Minister's statement as a higher education institution is a key instrument in one's intellectual thought. Higher education institutions have a great impact on their students and their policies should reflect inclusivity, diversity and equality instead of just providing information and knowledge. Researchers such as Badat (2003:14) and Kraak, (2001:88) likewise contend that the government's distraction with the higher education's climate has prompted policy overload and policy crowding. The researcher agrees with Badat and Kraak, as all the policies and frameworks that have been released by the public higher education sector are guidelines for universities and TVET colleges. There is no plan or intention to create a solid policy that will be institutionalised by universities and TVET colleges. A policy that will need to specifically highlight and address not only the challenges, but also the needs and rights of the LGBTQI+ community.

Muller (2000:159) contends that "institutions have choices in responding to state-initiated policies and can either actively and fully implement them in both the structure and culture; or can implement them reluctantly and still allow the powerful actors to prevent them from being effective and even implement them with passive toleration and thus defeat the intention of the policy. If state-designed policies were effectively and completely executed by the higher education institution, this would have been reflected in various institutional

policies". Muller's (2000) point remains valid in that changes to the infrastructure would have occurred, such as unisex toilets for non-binary students and staff, student housing that only welcomes the LGBTQI+ community, the particular consideration of sexual orientation in all policies to make it simpler for disciplinary purposes in the event of discrimination, and the establishment of a protected and secure climate where LGBTQI+ students can unreservedly mingle given the predominance of homophobia and prejudice on campus.

#### **5.4.5 Queering transformation in Higher Education**

Transformation in the public higher education sector has focused on race and by augmentation, sexual orientation, which has been outlined by the socio-economic and political progress from apartheid to the democratic state that South Africa is today (Fourie, 1999:276). Tending to the inheritance of apartheid within the public higher education sector was extremely significant, as it was obvious that LGBTQI+ students in higher education institutions did not enjoy the varsity experience. The overall reaction from the public higher education sector has been to disregard the issues and challenges of equality, with race, gender and sexual orientation being the fundamental capacities, institutionally and academically (the Ministerial Report, 2008:45).

It is no secret that the public higher education sector in South Africa lacks information and knowledge regarding the experiences and challenges of the LGBTQI+ students' in higher education institutions. This was principally on the grounds that sexual orientation issues remained quiet and "in the closet". The silence surrounding the challenges of LGBTQI+ students was not unexpected, considering the way in which racial and gender discrimination was always highlighted (Msibi, 2013:68). Even after the abolishment of apartheid, the public higher education sector and its institutions still struggled to tackle and address issues surrounding discrimination and sexual orientation, particularly homophobia. For example, the Ministerial Report (2008: 46) stated that within the territory of sexism and homophobia, there were no higher education institutions among those inspected that could profess to have totally understood and effectively dealt with these issues.

This was worrisome, as higher education institutions such as universities and TVET colleges were obviously positioned for governance on such matters. Homophobia and discrimination had scarcely been tended to within the public higher education sector,

where inclusive policies, literature and research, academically and institutionally, was so limited. For example, Ngcobo's (2007) Masters dissertation on Difficulties faced by homosexual students at the University of Zululand: A Phenomenological Explication, established that the LGBTQI+ students on campus had experienced discrimination, homophobia and a violation of constitutional rights.

Discrimination and homophobia was hawked to not only LGBTQI+ students, but also lecturers. For example, a student newspaper at the North-West University Potchefstroom campus reported that a student on campus was ill-treated by a lecturer who contended that "homosexual people should not exist", and that she "will never agree with [the students'] repellent lifestyle [because] the Lord had a big problem with gay people, because two male dogs don't mate" (Du Preez & Roux, 2013: online). This shows the lack of national knowledge and education regarding issues that relate to discrimination, homophobia and sexual orientation. The researcher argues that the lack of information surrounding such issues showed that there was a need for a policy connect to have been created to tackle these issues, as the lack of education indicates that the transformation that the public higher education sector sought to achieve, was inadequate. The public higher education sector could create as many plans, policy frameworks and white papers as they wanted to, but the reality was that practicing the guidelines stipulated in such policy frameworks and white papers was a completely different challenge.

## **5.5 North-West University's annual reports and the Transformation Charter**

Annual reports from the North-West University that are submitted to the Department of Higher Education dated back from 2014, 2018 and 2019, as well as the Transformation Charter, were analysed. The annual reports were analysed to see the correlation between sexual orientation as a constitutional element of Section 9, Subsection 3 of the Constitution of RSA (1996) and the institutionalization of sexual orientation at the North-West University Potchefstroom Campus

### **5.5.1 North-West University annual report submitted to the Department of Higher Education (2014)**

The North-West University claimed that diversity was one of the objectives that the university aims to promote in the entirety of their structures as a multi-campus university. Vigorous discussions supporting diversity as a goal were supported by the Vice-

Chancellor, Professor Dan Kgwadi. Apart from diversity, equity was another goal that aims to guarantee that any type of discrimination be wiped out, which stems from the history of not only the country, but also the university. Progress surrounding issues such as diversity and equity stayed moderate, however, there were endeavours that had been made to enrich equity amongst staff at the North-West University (North-West University annual report submitted to the Department of Higher Education, 2014:255).

Upgrading the experiences of students for a healthy, safe and secure environment should have been a constant goal for the university, particularly for students that fell under the LGBTQI+ community. The researcher noticed that in this particular report, the LGBTQI+ community and their rights was not mentioned anywhere. This raises a “red flag”, as the White Paper 3: A Programme for the Transformation of Higher Education (1997) and the Social Inclusion Draft Policy Framework (2015) contends that “the ministry proposes that all institutions of higher education should develop mechanisms which would create a secure and safe campus environment that discourages harassment or any other hostile behaviour directed towards persons or groups on any grounds whatsoever, but particularly on grounds of age, colour, creed, disability, gender, marital status, national origin, race, language, or sexual orientation”.

It was rather peculiar that information relating to LGBTQI+ students and their rights was nowhere to be found in a report that was submitted to the Department of Higher Education and Training, when both the White Paper 3: A Programme for the Transformation of Higher Education (1997) and the Social Inclusion Draft Policy Framework (2014) were considered legislation and should be applied by all higher education institutions, such as the North-West University Potchefstroom campus.

### **5.5.2 North-West University annual report submitted to the Department of Higher Education (2018)**

The North-West University had stated that their transformation journey was an on-going process with social justice and an ethic of care as their guiding stars. When it came to inequality, there were contrasts that had been identified regarding race and gender, which influence the success rate that the university aims to reach. The institutional forum had talked about and given a response on the draft Higher Education Gender-based Violence Policy and Strategy Framework of the Department of Higher Education and Training. Because of the draft Higher Education Gender-based Violence Policy and Strategy

Framework of the Department of Higher Education and Training, the North-West University realized that they should have a policy on Gender-based Violence (GBV) (North-West University Annual Report submitted to the Department of Higher Education, 2018:36).

Upon analysis, the researcher realised that the university made an effort to try to create a policy regarding GBV because of the policy and strategy framework. There still was no mention of the LGBTQI+ community or their rights. This was concerning, as the North-West University should put in the same effort towards their LGBTQI+ students as they do with GBV. Furthermore, there was no mention of the Social Inclusion Draft Policy Framework (2014), and the university ought to aim to institutionalize or integrate sexual orientation in terms of section 7.13 of the Social Inclusion Draft Policy Framework (2014), which spoke to the protection of the LGBTQI+ community as well as Section 9 Subsection 3 of the Constitution of RSA (1996).

### **5.5.3 North-West University annual report submitted to the Department of Higher Education (2019)**

The North-West University has a health centre and student counselling and development, which provides free medical and psychological services to students, which was the fundamental goal for the multi-campus university. Other than regulating campaigns centring around awareness regarding HIV/Aids, GBV and LGBTQI+ rights, students were offered different counselling and social welfare facilities (North-West University Annual Report submitted to the Department of Higher Education, 2019:24).

The researcher distinguishes that of all three reports, only the 2019 report mentions the LGBTQI+ community and their rights. However, mentioning a community like the LGBTQI+ is not enough. There was no reference to the Social Inclusion Draft Policy Framework that was released in 2014 by the Minister of the Department of Higher Education and Training. Again, there was no mention of the integration of sexual orientation or the university attempting to launch a policy specifically designed to deal with the needs and rights of their LGBTQI+ students, or a framework that deals with LGBTQI+ students' challenges or grievances surrounding discrimination, homophobia and violence.

#### **5.5.4 The Transformation Charter**

The Charter provides that, “We, the members of the council, the management, the students and the staff of North-West University (NWU) affirm that the institution is committed to addressing the challenges posed by the democratic South Africa. A university that grows as it met the challenges of the moment and acknowledges the transformative efforts of its students and staff. We, the staff and students of the North-West University were committed to upholding the Constitution of RSA (1996) and the Higher Education Act 101 of 1997 and to performing our core business in order to meet the needs of our country. A university that believes that transformation was a process that could have been initiated and pursued in various ways.” The NWU context shows that transformation was linked to various aspects of culture, justice and the environment. We were responsible for the management of public funds that were allocated for the education, training and shaping of our students and employees (Transformation Charter, 2012: online).

The researcher discerns that the transformation charter was outdated in the sense that it does not make any reference to the LGBTQI+ community or sexual orientation as a constitutional element. Two years later, the Department of Higher Education and Training released the Social Inclusion Draft Policy Framework (2014). The Constitution of RSA (1996) demands for non-discrimination of sexual orientation and the transformation charter contradicts itself when it speaks about inclusivity and transformation, when there was no reference to integrating sexual orientation and promulgating LGBTQI+ friendly policies, programmes and frameworks. The transformation charter prerequisites the legitimatization, and more specifically, affirmation of the sexual orientation element as we live in a society that is forever changing, and institutional policies, programmes and frameworks need to align with that society.

#### **5.6 CONCLUSION**

This chapter embarked on the data analysis of this study through various data collections methods, such as semi-structured questionnaires and document analysis. The questions asked in the semi-structured questionnaires were analysed and related to the research objectives mentioned in chapter one. The Social Inclusion Draft Policy Framework, White Paper 3: A programme for the Transformation of Higher Education (1997), a transformation barometer for South African higher education, Queering Transformation in

Higher Education, Sexual Identity and Transformation at a South African University, and Annual reports from the North-West University that are submitted to the Department of Higher Education (2014, 2018 and 2019), as well as the Transformation Charter, were analysed and discussed. Based on the primary data analysis conducted in this chapter, recommendations and a conclusion for this study are provided in the next chapter.

## CHAPTER SIX

### CONCLUSION AND RECOMMENDATIONS

*“It is absolutely imperative that every human being’s freedom and human rights are respected, all over the world.” – Jóhanna Sigurðardóttir (2014)*

#### 6.1 INTRODUCTION

The previous chapter serves as the empirical chapter for this dissertation. This chapter commences with a summary of the study that has been linked with the research objectives and questions asked in chapter one (see section 1.4 and 1.5). Recommendations have been given to focus on how the public higher education sector could integrate sexual orientation as a policy connect by means of sexual orientation being a constitutional element in Section 9 of the Constitution of RSA (1996).

#### 6.2 CHAPTER SUMMARY

Chapter One operates as an introductory chapter that charted background regarding sexual orientation as a constitutional element. Sexual orientation and the public higher education sector were the point of reference to integrate sexual orientation as a policy connect within the public higher education sector. Moreover, research objectives, research questions and a theoretical statement were introduced. A specific focus on the North-West University Potchefstroom campus was maintained to determine elements such as social exclusion, isolation from other residence students, discrimination and the violence that LGBTQI+ students faced on a daily basis. This study has been significant in highlighting how public higher education needs to integrate sexual orientation on grounds of the discrimination element as its key policy feature. In this way, the treatment and protection of the LGBTQI+ community was institutionalised and promoted. The objectives of the study were addressed as follows:

- To conceptualize and describe a theoretical approach and foundation for discrimination and sexual orientation in Public Administration (see Chapter Three, section 3.3.1).
- To analyse the constitutional provision for discrimination on sexual orientation as an element of Section 9 of the Constitution (RSA) 1996 (see Chapter Two, section 2.3).

- To discuss the institutionalization of Section 9 of the Constitution (RSA) 1996 for the treatment and protection of the LGBTQI+ students in the public higher education sector (see Chapter Five, section 5.2, 5.3 and 5.4).

Furthermore, the research methodology of this study was briefly discoursed. The study followed a qualitative approach with document analysis and semi-structured questionnaires that were sanctioned by a literature review. The chapter was concluded by providing an in-depth chapter layout for the study.

Chapter Two consists of an extensive literature review regarding sexual orientation as an element of Section 9 of the Constitution of RSA (1996). The chapter focused on the conceptualization of Section 9 of the Constitution of RSA (1996), constitutional provisions and the public higher education sector. A good literature review helps the researcher avoid repeating the same findings. It also informed the researcher of this study that there was a lack of research and development pertaining to the LGBTQI+ community and creating safe spaces where equality, non-discrimination, protection and fair treatment were on the agenda in all public higher education institutions.

Chapter Three discussed the theoretical framework concerning sexual orientation as a constitutional element and its locality within public administration. The first objective, to conceptualize and describe a theoretical approaches and foundation for discrimination and sexual orientation in public administration was addressed. This chapter focused on how intersectionality justifies the integration of sexual orientation by the public higher education sector. From the discussion in this chapter, it could been seen that sexual orientation was not a visible attribute to point out or observe, but that should not have been an excuse for South African universities or the public higher education sector to have struggled with or failed to implement interventions to deal with the discrimination that came with sexual orientation, sexuality, gender identity or integrate Section 9 of the Constitution of RSA (1996) within the public higher education sector as a policy connect.

The purpose behind Chapter Four was the research methodology that was utilised to collect data and how the data was analysed. The collected data provided the researcher with a solution in solving the research questions stipulated in chapter one (see section 1.5). The research design and methodology was discussed and analysed in a qualitative landscape. The sample selection was advanced and the objective behind the research design and methodology was grasped.

Chapter Five conferred the findings and analysis found in the data collected through semi-structured questionnaires and document analysis in chapter four (section 4.2). A semi-structured questionnaire, which consisted of two instruments of seven questions, was distributed to Campus Pride, and the NWU staff and SRC. The respondents' responses were analysed in chapter five (section 5.2) and the governmental literature, academic articles and reports submitted to the Department of Higher Education and Training by the North-West University (2014, 2018 and 2019) backed the research study to amalgamate the research findings holistically. The purpose behind chapter five was to find a solution to the problem statement stated in chapter one (see section 1.3), which spoke to the need for the institutionalization of sexual orientation as a constitutional element by the public higher education sector. The following recommendations were made based on the findings and analysis conducted in chapter five:

### **6.3 RECOMMENDATIONS**

Every student is an individual with equal human rights. Homophobia or the unfounded locating of the LGBTQI+ community and heteronormativity, a social construct that conceals sexual identities, both affect the LGBTQI+ community negatively as both concepts imply that heterosexual relationships are the norm. The LGBTQI+ community as a sexual minority experience greater levels of mental health issues due to discrimination, homophobia and inequality compared to their heterosexual peers. There are a number of policy regulations and laws in place to ensure equality and non-discrimination; however, LGBTQI+ students continue to experience discrimination, homophobia and inequality within the public higher education sector. Since the White Paper 3: A programme for the Transformation of Higher Education (1997) and the Social Inclusion Draft Policy Framework (2014), there has been an insufficient policy intervention by government to address the challenges of the LGBTQI+ community. The LGBTQI+ community are sanctioned by an intersectional approach by demanding for equality, non-discrimination, a safe and secure environment, and this comes through the creation of a LGBTQI+ community organization like Campus Pride. The study recommendations are policy-orientated and suggests an approach that public higher education sector and the NWU can take in promulgating an inclusive LGBTQI+ policy. The recommendations discussed in detail below:

- The public higher education sector should start by promulgating an all-inclusive policy that is targeted at concepts such sexual orientation, discrimination and

equality. Section nine of the Constitution of RSA (1996) and other legislation should be at the forefront of compelling universities such as the NWU to ensure a safe and secure environment for LGBTQI+ students. This policy should take an intersectional approach, considering that human rights are sermonized separately, as Respondent B stated in chapter five (see section 5.2.2), that concepts like sexual orientation, gender identity and sexuality are interrelated, however, they are not the same thing. The public higher education sector as an enforcer should find a sense of balance between contradictory rights, such as sexual orientation, gender and discrimination.

### **6.3.1 Recommendations for the North-West University' Potchefstroom Campus**

- The NWU has a constitutional obligation as stated in the Constitution of RSA (1996), Social Inclusion Draft Policy Framework (2014) and the White Paper 3: A programme for the Transformation of Higher Education (1997), to make affirmative measures to create a safe and secure environment in which students, particularly where the LGBTQI+ community is concerned, can thrive and reach their ultimate potential, irrespective of their sexual orientation, gender identity, race and other various elements. This should be brought about with a LGBTQI+ policy that consists of the concepts mentioned in chapter two.
- The NWU should implement a LGBTQI+ policy that does not only utilize the Constitution as a basis, but incorporates the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA), as PEPUDA provides more concreteness when it comes to equality and non-discrimination. The policy should recognize more grounds of discrimination and/or be limited to the grounds listed under Section 9 of the Constitution (RSA). For example, a discrimination policy that permits for reporting mechanisms and disciplinary action (suspension or expulsion) against discriminatory and homophobic persons that corroborates with PEPUDA, would not only create a safe and secure environment but ensure the protection and fair treatment of the LGBTQI+ community on campus. This includes the prevention and intervention resolutions by the institution to ensure the LGBTQI+ community's safety.
- The LGBTQI+ policy at the NWU can be promulgated by Campus Pride and the NWU Human Rights Commission for a bottom-up approach, as the NWU

Management is not on the grounds like Campus Pride and the LGBTQI+ community are.

- The fact that the NWU Human Rights Commission is an online platform was problematic. There should be a physical office on campus with two LGBTQI+ representatives that specifically deal with the challenges of the LGBTQI+ community on campus. They could regulate and implement the policies and legislation from government and the NWU's LGBTQI+ policy, in order to hold them accountable too.
- The NWU Potchefstroom Campus should allow students to change their pronouns as not everyone on campus identifies as male or female. There is a variation of pronouns such as Mx, Mr and Miss This should be applied to applications for enrolment, student cards, eFundi profiles and academic transcripts.
- The NWU Potchefstroom Campus should build gender-neutral bathrooms for students that do not identify with a specific gender. Panic buttons can be installed in the gender-neutral bathrooms, to lessen the chances of sexual harassment and physical violence. This will promote diversity and inclusion as this will justify the NWU's claims about being a safe and secure environment.
- The Potchefstroom campus has a clinic; there should be a LGBTQI+ healthcare professional that is well aware of the LGBTQI+ policy (government and the NWU). The healthcare professional should have the necessary training and knowledge regarding the LGBTQI+ community. This will avoid more painful experiences for the LGBTQI+ community and their healthcare issues.
- The NWU should invest more efforts and resources in training and informing management, staff, lecturers and heterosexual students regarding the LGBTQI+ community to avoid further homophobia and discrimination. This should come out concisely through clear-cut guidelines in their LGBTQI+ policy.
- Once the NWU promulgates the LGBTQI+ policy, there should be communication surrounding the existence of the policy and its requirements. The researcher noticed that the most of the respondents did not know of any policy or structure relevant to the LGBTQI+ community on the Potchefstroom campus.

- Lastly, the NWU should safeguard that as a public higher education institution, they have the correct people in charge of the LGBTQI+ policy. The public higher education sector ought to hold the NWU as a public higher education institution accountable (NWU management, staff, lecturers and heterosexual students) for the failure and lack of diversity and transformation.

The researcher is of the opinion that solutions to the problem statement detailed in chapter one (see section 1.3), with regards to an academic investigation needing to be conducted into the constitutional provisions on the topic of sexual orientation as a constitutional element, which needs to be integrated into the public higher education sector, was clearly provided. Appropriate research objectives and questions stipulated in chapter one (see section 1.4 and 1.5) were addressed as deliberated below in section 6.4. The research objectives assisted the researcher in mounting a concise and cognizant conclusion and recommendations regarding the institutionalization of sexual orientation as a constitutional element within the public higher education sector with a specific reference to the LGBTQI+ community at the North-West University Potchefstroom Campus. The recommendations discussed above may assist the public higher education sector and the NWU Potchefstroom Campus in addressing the challenges, needs and rights of the LGBTQI+ community effectively and efficiently.

#### **6.4 CONCLUSION**

The public higher education sector has attempted to make sufficient moves in addressing sexual orientation as a constitutional element stipulated in Section 9 of the Constitution of RSA (1996) through the Social Inclusion Draft Policy Framework (2014) and the White Paper 3: A programme for the Transformation of Higher Education (1997). However, having investigated and studied all the evidence collected through various data collection methods, such as document analysis and a semi-structured questionnaire in chapter four (see section 4.3), the resulting conclusions are made:

- It is concerning that the public higher education sector has yet to promulgate and release up-to-date policies, frameworks and programmes that specifically deal with the challenges experienced by the LGBTQI+ community in higher education institutions such as the NWU. Government as an institution has also failed to push this mandate as there is no reference to the LGBTQI+ community or the institutionalization of sexual orientation in the National Development Plan 2030.

- Both the public higher education and the NWU have failed to establish a LGBTQI+ policy and this comes strongly in their deliberate exclusion of sexual orientation in existing and new policies.
- There definitely is a need for a LGBTQI+ policy within the public higher education sector, that will push higher education institutions such as the NWU to implement, regulate and evaluate their mandate for the higher education space, but empower and motivate the NWU to have their own policy to create a safe and secure environment for the LGBTQI+ community in actively dealing with their challenges.
- The NWU has no policy directed at their LGBTQI+ students. Mentioning the LGBTQI+ community in the gender-based violence and sexual harassment policies and painting the queer flag is not enough. That does nothing for the continued discrimination, homophobia and violence experiences and grievances. There needs to be a LGBTQI+ policy that has a specific mandate for the institutionalization of sexual orientation as well as reporting and disciplinary measures.

The conclusions made above are based on the evidence collected and analysed in chapter five (see section 5.2 and 5.3). The objectives of the study, to explicitly analyse the constitutional provision for discrimination on sexual orientation as an element of Section 9 of the Constitution of 1996 and to discuss the institutionalization of Section 9 of the Constitution of 1996 for the treatment and protection of the LGBTQI+ students in the public higher education sector, were all achieved. The study led to a better decipherment of sexual orientation, not only as a concept, but as a constitutional element in Section 9 of the Constitution of RSA (1996). The study provided a better understanding of the need for the institutionalization of sexual orientation within public higher education sector. This research is particularly crucial for the systematically understanding stratification by sexual orientation and to be able to address students with diverse and intersecting identities in the current and future generations. More empirical research is needed to track any subsequent trends towards the integration of sexual orientation. The conclusion of the study was shaped by these research objectives and adequate recommendations were provided above.

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## ANNEXURE A

### CAMPUS PRIDE QUESTIONNAIRE

#### Section A: Biographic Information

<b>Name:</b>	
<b>Preferred pseudo name</b>	
<b>Sex:</b>	
<b>Race:</b>	
<b>Nationality:</b>	
<b>Age:</b>	

#### Section B: Academic Information

<b>Faculty of study:</b>	
<b>Field of study:</b>	
<b>Year of study:</b>	

#### Theme 1

## **Conceptualise Sexual Orientation**

1. Do you think students and staff have a proper understanding of the concept and issues pertaining to sexual orientation?
2. Do you think that students including yourself experienced being discriminated against regularly because of your sexual orientation at the North West University's Potchefstroom Campus? Please explain shortly

## **Theme 2**

### **Conceptualise Sexual Orientation as a constitutional right**

1. What negative reactions students often experience and report to you which could be attributed to undermining your sexual orientation?
2. Do you receive regular complaints from LGBTQI+ students of experiencing of verbal or physical discrimination expression because of their sexual orientation?
3. Do you believe that students are/may be discriminated against because of their affiliation to LGBTQI+ community on campus regardless of their sexual identity? Please elaborate.
4. Are you aware of particular their cases of assault and harassment, as noted in question directed towards from students because they persons because they are a form part of the LGBTQI+ community on campus?

## **Theme 3**

### **The institutionalisation of constitutional rights**

1. What, in your opinion, is the role of LGBTIQ+ student organisations, such as Campus Pride in Potchefstroom, in influencing informing the creation of LGBTIQ+-friendly university policies for the LGBTQI+ community in the sexual minorities at the NWU university?
2. Do you believe that the university has effective structures to ensure institutional arrangements that are able to limit discriminatory practices including student's sexual orientation? Please elaborate

3. Do you think that the management of the North West University Potchefstroom Campus has relevant policies in place that accommodate the LGBTQI+ community? Please provide for your answers
4. Do you consider your campus a safe space/environment for the LGBTQI+ community? Please elaborate
5. Why, in your opinion, should the higher education sector (e.g. including universities) need to institutionalise strict adherence to constitutional rights that protect persons regardless of their including sexual orientation? How so?
6. Do you think it is in the interest of the North West University Potchefstroom campus to create a safe environment for the LGBTQI+ community? Please explain your answer
7. Do you consider the Department of Higher Education and Training as having LGBTQI+ friendly policies to ensure the safety, protection and equal treatment of the LGBTQI+ community across all campuses? Explain your response further.
8. Do you think that the North West University Potchefstroom Campus (staff, students and management) discriminates against the LGBTI+ community in terms of equal treatment between heterosexual students and homosexual students (LGBTQI+)?
9. As a member of Campus pride, do you believe that the Constitution of the Republic of South Africa, 1996 is an adequate instrument of dealing with the challenges that LGBTQI+ community experience at the North West University Potchefstroom Campus? Elaborate on your response?

## ANNEXURE B

### NWU STAFF AND SRC QUESTIONNAIRE

#### Section A: Biographical information

<b>Name:</b>	
<b>Sex:</b>	
<b>Race:</b>	
<b>Nationality:</b>	
<b>Age:</b>	

#### Section B: University responsibilities

<b>Management Position:</b>	
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#### Section C: Research questions

1. As a member of management, are there sufficient university policies or guidelines to your knowledge, that are designated towards the protection, safety and treatment of the LGBTQI+ students on campus? Please elaborate

2. The Constitution states that no one may not unfairly discriminate directly or indirectly against anyone on one or more grounds, based on their including gender, sex and sexual orientation. Has the university implemented, to your knowledge, any non-discrimination policies, designated to protecting and fairly treating the LGBTQI+ community? Please elaborate.

3. The Social Inclusion Policy Framework (2014) states the protection of the LGBTQI+ community with public higher education institutions such as universities. How can the Social Inclusion Policy Framework be implemented to address discrimination against LGBTQI+ Communities?
4. Do you think that management has properly incorporated the Department of Higher Education and Training's Social Inclusion Policy Framework regarding the LGBTQI+ communities on the Potchefstroom campus?
5. Do you as a member of management, believe that it is necessary for a university particularly the NWU to have LGBTQI+ friendly policies? Explain your response.
6. What would you do to improve the current status and experience for the LGBTQI+ students on campus?
7. Are there, to your knowledge any LGBTQI+ support systems or LGBTQI+ student areas on campus?
8. Do you believe that the Constitution of the Republic of South Africa (1996) is an adequate instrument of dealing with the challenges that LGBTQI+ community experience on university campuses? Elaborate on your response please?

## ANNEXURE C

### INFORMED CONSENT FORM



<b>BaSSREC Authorization</b>	
Prof Jacques Rothmann	Digitally signed by Prof Jacques Rothmann Date: 2021.05.28 08:56:50 +02'00'
<b>Approved 31 May 2021</b>	

### PARTICIPANT INFORMATION LEAFLET AND CONSENT FORM

#### TITLE OF THE RESEARCH PROJECT:

The duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the LGBTQI+ student community of the North West University's Potchefstroom Campus.

**ETHICS NUMBER: NWU-00624-21-A7**

**PRINCIPAL INVESTIGATOR: Lerato Radebe**

**STUDENT NUMBER: 26697262**

**CONTACT NUMBER: 0827248359**

You are being invited to take part in a research project that forms part of my research study entitled: "The duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the LGBTQI+ student community of the North West University's Potchefstroom Campus". Please take some time to read the information presented here, which will explain the details of this project. Please ask the researcher

any questions about any part of this project that you do not fully understand. It is very important that you are fully satisfied that you clearly understand what this research is about and how you could be involved. Also, your participation is **entirely voluntary** and you are free to decline to participate. If you say no, this will not affect you negatively in any way whatsoever.

You are also free to withdraw from the study at any point, even if you do agree to take part. Prior to publication of the study's results (or the point that publication is in process), you may also withdraw the data you generate. This study has been approved by the **Basic Social Sciences Research Ethics Committee (BaSSREC) of the Faculty of Humanities of the North-West University (NWU-00624-21-A7)** and will be conducted according to the ethical guidelines and principles of the international Singapore Statement on Research Integrity (2010) and the ethical guidelines of the National Health Research Ethics Council. It might be necessary for the research ethics committee members or relevant authorities to inspect the research records to make sure that we (the researchers) are conducting research in an ethical manner.

#### **What is this research study all about?**

This study will be conducted via email. As a participant, you will be invited to answer a semi-structured questionnaire and complete this informed consent form. There are 11 participants. The research objectives of this study include:

- To conceptualize and describe a theoretical approaches and foundation for discrimination and sexual orientation in Public Administration.
- To analyses the constitutional provision for discrimination on sexual orientation as an element of Section 9 of the Constitution of 1996.
- To discuss the institutionalization of Section 9 of the Constitution of 1996 for the treatment and protection of the LGBTQI+ students in the public higher education sector.

#### **Why have you been invited to participate?**

You have been invited to participate because you form part of an integral facet in achieving the research objectives and questions, i.e. being a member of *Campus Pride* (Chairperson, Vice Chairperson, Academics- and Legal-representatives), the Deputy Vice-Chancellor Teaching and Learning (DVC) of the North West University; The Registrar of the NWU; the Director of Student Life and one member of the Human Rights

Committee (NWU-affiliated); the Chairperson of the Student Representative Council; the Chairperson of Current Affairs from the North West University Potchefstroom Campus or Department of Higher Education and Training (DHET)-representative.

**What will your responsibilities be?**

- As a participant, you will be invited to answer a semi-structured questionnaire which will be emailed to you. The completion will take no more than 30 minutes of your time.
- You will be requested to sign this Informed Consent Statement before the commencement of the study, i.e. before you start completing the questionnaire.

**Will you benefit from taking part in this research?**

- The direct benefits for you as a participant will be assisting the research to answer the research questions and achieve the research objectives.
- As a participant, you will be adding to the existing body of knowledge to create awareness and bring about change regarding integrating sexual orientation within the public higher education sector.

**Are there risks involved in your taking part in this research and how will these be managed?**

The researcher does not foresee emotional stress that will be caused to the participants as this study is aimed at being informative and educational which will engage in the views and concerns of those involved to assist in the progression of the LGBTQI+ students' protection, safety and treatment. If, however, emotional discomfort is experienced, the researcher will arrange with Thuso1777 (The NWU student counselling and development Centre) on 018 299 1777. The participants will be invited to answer a semi-structured questionnaire with an informed consent attached via email. The participants will be allowed to withdraw from the study at any given point, should they feel uncomfortable with the questions asked. The participants may contact the researcher should they need any clarity or have further questions regarding the study.

**Who will have access to the data?**

- The *handling, storage, security and analysis of data* is critical in ethical considerations. I will ensure data in both hard-(printed) and soft copy (electronic) are safely locked away and password-protected in an office of the School of Government Studies, respectively. Only myself will have access to my raw data where the need arises.

At the analysis stage, as will be the case throughout, the use of coding will reinforce participants' nonidentification, hence upholding the assurance of confidentiality and anonymity.

- *Anonymity* will be ensured by the researcher assigning a fictitious name to you before the interview starts. Only this name will be used in the research process.
- *Confidentiality* will include the use of the noted pseudonyms. It involves not disclosing any information gained from an interviewee deliberately or accidentally in ways that might identify an individual.
- The particular NWU Managers' may request the *anonymization* of their actual names if necessary – *alternatively*, their actual names and designations will be noted in the reporting of the findings since it speaks to their institutional views and approaches on/to the subject matter and not their personal lives, i.e. questions are not intrusive.
- *Privacy* will be ensured by not providing an information as part of the completion of the self-administered questionnaire if you do not wish to discuss particular matters.
- The data will be *stored safely in electronic form* for a period of five years after which it will be destroyed.

**What will happen to the data?**

This is a once-off study, so the data will not be re-used. Data will also be stored electronically for safety for a period of five years with a password protected on a device in an office of the School of Government Studies. It will be disposed of after this periods using the University provided protocols in this regard.

**Will you be paid/compensated to take part in this study and are there any costs involved?**

No, you will not be paid for taking part in the study.

**How will you know about the findings?**

The general findings of the research will be shared with you by through a copy of the published dissertation.

**Is there anything else that you should know or do?**

You can contact (the *researcher*) Lerato Radebe via email: [leratoradebe96@gmail.com](mailto:leratoradebe96@gmail.com) if you have any further queries or encounter any problems. You can contact the chair of the Basic Social Sciences Research Ethics Committee (Prof Jacques Rothmann) at 018 299 1595 or [21081719@nwu.ac.za](mailto:21081719@nwu.ac.za) if you have any concerns or complaints that have not

been adequately addressed by the researcher. You will receive a copy of this information and consent form for your own records.

**Declaration by participant**

By signing below, I \_\_\_\_\_ agree to take part in a research study entitled: “The duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the LGBTQI+ student community of the North West University’s Potchefstroom Campus.”

I declare that:

- I have read and understood this information and consent form and it is written in a language with which I am fluent and comfortable.
- I have had a chance to ask questions to both the person obtaining consent, as well as the researcher (if this is a different person), and all my questions have been adequately answered.
- I understand that taking part in this study is **voluntary** and I have not been pressurised to take part.
- I understand that what I contribute (what I report/say/write/draw/produce visually) could be reproduced publically and/or quoted, but without reference to my personal identity.
- I may choose to leave the study at any time and will not be penalised or prejudiced in any way.
- I may be asked to leave the study before it has finished, if the researcher feels it is in my best interests, or if I do not follow the study plan, as agreed to.

Signed at (*place*) \_\_\_\_\_ on (*date*) \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
**Signature of participant**

\_\_\_\_\_  
**Signature of witness**

- You may contact me again Yes  No
- I would like a summary of the findings of this research Yes  No

- I would like feedback on my functioning/wellbeing as reflected in the questionnaires I completed  Yes  No

The best way to reach me is:

Name & Surname: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Email: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Cell Phone \_\_\_\_\_

Number:

In case the above details change, please contact the following person who knows me well and who does not live with me and who will help you to contact me:

Name & Surname:

\_\_\_\_\_

Phone/Cell Phone Number /Email: \_\_\_\_\_

#### **Declaration by person obtaining consent**

I (*name*) \_\_\_\_\_ declare that:

- I explained the information in this document to \_\_\_\_\_
- I encouraged him/her to ask questions and took adequate time to answer them.
- I am satisfied that he/she adequately understands all aspects of the research, as discussed above
- I did/did not use an interpreter.

Signed at (*place*) \_\_\_\_\_ on (*date*) \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
**Signature of person obtaining consent**

\_\_\_\_\_  
**Signature of witness**

#### **Declaration by researcher**

I (*name*) \_\_\_\_\_ declare that:

- I explained the information in this document to

- 
- I encouraged him/her to ask questions and took adequate time to answer them.
  - I am satisfied that he/she adequately understands all aspects of the research, as discussed above
  - I did/did not use an interpreter.

Signed at (*place*) \_\_\_\_\_ on (*date*) \_\_\_\_\_ 20 \_\_\_\_\_

---

**Signature of researcher**

---

**Signature of witness**

**ETHICS APPROVAL**



Private Bag X1290, Potchefstroom  
South Africa 2520

Tel: 018 299-1111/2222  
Fax: 018 299-4910  
Web: <http://www.nwu.ac.za>

**Senate Committee for Research Ethics**  
Tel: 018 299-4849  
Email: [nkosinathi.machine@nwu.ac.za](mailto:nkosinathi.machine@nwu.ac.za)

31 May 2021

Based on approval by the **Basic and Social Sciences Research Ethics Committee (BaSSREC)** on 25/05/2021, the Basic and Social Sciences Research Ethics Committee hereby **approves** your study as indicated below. This implies that the North-West University Senate Committee for Research Ethics (NWUSERC) grants its permission that, provided the special conditions specified below are met and pending any other authorisation that may be necessary, the study may be initiated, using the ethics number below.

**Study title: The duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the North West University’s Potchefstroom Campus.**

**Supervisor: Prof Kedibone Phago**

**Student/Principal Investigator/Research Team: Lerato Radebe (26697262)**

**Ethics number:**

N	W	U	-	0	0	6	2	4	-	2	1	-	A	7
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Institution Study Number Year Status

Status: S = Submission; R = Re-Submission; P = Provisional Authorisation; A = Authorisation

**Application Type: Single Study**

**Commencement date: 31/05/2021**

**Risk:**

<b>Minimal</b>
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**Expiry date: 31/05/2022**

**Approval of the study is initially provided for a year, after which continuation of the study is dependent on receipt and review of the annual (or as otherwise stipulated) monitoring report and the concomitant issuing of a letter of continuation.**

**Special in process conditions of the research for approval (if applicable):**

**General conditions:**

*While this ethics approval is subject to all declarations, undertakings and agreements incorporated and signed in the application form, the following general terms and conditions will apply:*

- *The study leader/supervisor (principle investigator)/researcher must report in the prescribed format to the BaSSREC:
  - *annually (or as otherwise requested) on the monitoring of the study, whereby a letter of continuation will be provided, and upon completion of the study; and*
  - *without any delay in case of any adverse event or incident (or any matter that interrupts sound ethical principles) during the course of the study.**
- *The approval applies strictly to the proposal as stipulated in the application form. Should any amendments to the proposal be deemed necessary during the course of the study, the study leader/researcher must apply for approval of these amendments at the BaSSREC, prior to implementation.*
- *Should there be any deviations from the study proposal without the necessary approval of such amendments, the ethics approval is immediately and automatically forfeited.*
- *Annually a number of studies may be randomly selected for an external audit.*
- *The date of approval indicates the first date that the study may be started.*
- *In the interest of ethical responsibility, the NWU-SCRE and BaSSREC reserves the right to:*

- *request access to any information or data at any time during the course or after completion of the study;*
- *to ask further questions, seek additional information, require further modification or monitor the conduct of your research or the informed consent process;*
- *withdraw or postpone approval if:*
  - *any unethical principles or practices of the study are revealed or suspected;*
  - *it becomes apparent that any relevant information was withheld from the BaSSREC or that information has been false or misrepresented;*
  - *submission of the annual (or otherwise stipulated) monitoring report, the required amendments, or reporting of adverse events or incidents was not done in a timely manner and accurately; and / or*
  - *new institutional rules, national legislation or international conventions deem it necessary.*

*BaSSREC can be contacted for further information or any report templates via*

□ [21081719@nwu.ac.za](mailto:21081719@nwu.ac.za) / [13128388@nwu.ac.za](mailto:13128388@nwu.ac.za).

The BaSSREC would like to remain at your service as scientist and researcher, and wishes you well with your study. Please do not hesitate to contact the BaSSREC or the NWU-SCRE for any further enquiries or requests for assistance.

This study requires NWU Gatekeeper Approval and may now be submitted to the NWU Research Support Office for further review.

Yours sincerely



Prof Jacques Rothmann

Chairperson NWU Basic Social Sciences Research Ethics Committee (BaSSREC)

Original details: (22351930) C:\Users\22351930\Desktop\ETHICS APPROVAL LETTER OF STUDY.docm 8 November 2018

File reference: 9.1.5.4.2

## GATEKEEPER APPROVAL



Private Bag X6001, Potchefstroom  
South Africa 2520

Tel: +2718 299-1111/2222

Web: <http://www.nwu.ac.za>

Research Data Gatekeeper Committee

## NWU RDGC PERMISSION GRANTED / DENIED LETTER

Based on the documentation provided by the researcher specified below, on 13/07/2021 the NWU Research Data Gatekeeper Committee (NWU-RDGC) hereby grants permission for the specific project (as indicated below) to be conducted at the North-West University (NWU):

<p><b>Project title:</b> The duty for public higher education sector to integrate sexual orientation as a policy connect: a case of the North West University's Potchefstroom Campus.</p> <p><b>Project leader:</b> Prof K. Phago <b>Researcher/Project Team:</b> L. Radebe</p> <p><b>Ethics reference no:</b> NWU-00624-21-A7 <b>NWU RDGC reference no:</b> NWU-GK-21-032</p> <p><b>Specific Conditions:</b></p> <ul style="list-style-type: none"> <li>• Due the COVID-19 pandemics the Committee would like to advise the researcher to practice the necessary caution and adhere to the National Covid-19 Guidelines when conducting research with participants.</li> </ul> <p><b>Approval date:</b> 13/07/2021      <b>Expiry date:</b> 12/07/2022</p>
---

## General Conditions of Approval:

- The NWU-RDGC will not take the responsibility to recruit research participants or to gather data on behalf of the researcher. This committee can therefore not guarantee the participation of our relevant stakeholders.
- Any changes to the research protocol within the permission period (for a maximum of 1 year) must be communicated to the NWU-RDGC. Failure to do so will lead to withdrawal of the permission.
- The NWU-RDGC should be provided with a report or document in which the results of said project are disseminated.

Please note that under no circumstances will any personal information of possible research subjects be provided to the researcher by the NWU RDGC. The NWU complies with the Promotion of Access to Information Act 2 of 2000 (PAIA) as well as the Protection of Personal Information Act 4 of 2013 (POPI). For an application to access such information please contact Ms Annamarie De Kock (018 285 2771) for the relevant enquiry form or more information on how the NWU complies with PAIA and POPI.

The NWU RDGC would like to remain at your service as scientist and researcher, and wishes you well with your project. Please do not hesitate to contact the NWU RDGC for any further enquiries or requests for assistance

Yours sincerely

Prof Marlene Verhoef  
Chairperson NWU Research Data Gatekeeper Committee

Original details: (22951930) C:\Jens\22951930\Desktop\test 2.docm  
13 November 2018

LANGUAGE EDITING CERTIFICATE



084 365 4320   
editingexcellencepotch@gmail.com 

*This is to certify that the degree,  
Master in Public Management and Governance*

*of*

*Lerato Radebe*

*has been edited by*

*Valerie Viljoen*

*of*

*Editing Excellence*

*This Masters dissertation has been edited, excluding Reference list.*

*Date: 30 March 2022*



SATI INDIVIDUAL MEMBER  
MEMBER NO. 1003396