

News and Views

South African Intersex Activism: Caster Semenya's Impact and Import

*Amanda Lock Swarr with
Sally Gross and Liesl Theron*

IN AUGUST 2009, South African track star Caster Semenya won a gold medal in the 800 meter World Championship in Athletics, but her victory occurred in the midst of controversy and was marred by it. Semenya was subjected to genetic, gynecological, psychological, and endocrine "gender verification" testing to determine her eligibility to compete as a woman and was reportedly found to be intersexed. The triumph of this talented athlete occurred in the midst of a maelstrom of outrage over the purported racism of both her rivals and the International Association of Athletics Federations as well as affronts to the eighteen-year-old's privacy and dignity.

Dispute over Semenya's treatment initiated global discussions about the raced and subjective boundaries of gender, political misconduct, the plight of intersexed athletes, and more. Left out of these discussions are their impacts on intersex and gender nonconforming communities in South Africa. Here we examine how debates surrounding Semenya have affected the two most prominent organizations focused on these issues in South Africa, Intersex South Africa and Gender DynamiX. We argue that Semanya's case paradoxically facilitates important education about intersexuality and potential gains in legal rights, while also fostering violence and discrimination.

Intersex South Africa was founded in 2000 by Sally Gross, inspired by the work of the Intersex Society of North America in the late 1990s and by Gross's anti-apartheid activism and opposition to the Israeli occupation of the West Bank. Goals for the expansion of Intersex South Africa include offering advice and psychological support to its members, educational outreach in schools and training, and legal advocacy. In Gross's words,

The foci and goals of Intersex South Africa are multi-faceted. A major aspect has been quite simply to establish a presence and a source of information. The Web site has been critical in this, providing both information and contact details. When we had an active project coordinator, workshops for strategic groups—LGBT allies, social workers, gay and lesbian Muslims, groups in the townships and the like—loomed large. So did the establishment of links in the world of the media and the offering of comment on issues as they arose through the media.

All of this speaks and spoke to a core need: to put the issue of intersex on the conceptual maps of people who influence and educate others and to put information about intersex "out there"—deep ignorance, in the gender community no less than anywhere else, being a major contributor to the stigmatization and sense of miasma surrounding intersex in South Africa. Making intersex visible is fundamental to bringing an end to stigmatization.

Gender DynamiX, founded in 2005 by Liesl Theron, is the first and currently the only registered organization on the African continent working on transgender issues. Theron describes it as a "human rights organization, promoting freedom of expression of gender identity, focusing on transgender, transsexual, and gender non-conforming identities." Issues addressed by the organization include gender-based discrimination in legal, medical, and social arenas (ranging from the inaccessibility of homeless shelters to job discrimination). In addition to public advocacy, Gender DynamiX staff work with trans and intersexed individuals, helping them change identity documents and combat medical discrimination. In Theron's view, the most important issues affecting intersexed South Africans are "the vast amount of ignorance and lack of understanding" that intersexed people face.

These two organizations have publicly responded to the debate surrounding Caster Semenya. In recent months, Gross has written extensively about her own intersexuality and publicized legal changes affecting those who are intersexed in South Africa. Perhaps the most important of these pieces was "Intersex and the Law," published in the *South African Mail and Guardian*; in this article, Gross argues for awareness of the Judicial Matters Amendment Act of 2005, which theoretically guarantees protections on the basis of intersexuality but is largely unknown. As Gross explains:

[The article] isn't about Caster Semenya at all, really, but the Caster Semenya saga offered me the opportunity to write and to place it. The purpose of the article is performative: to make the amendment to the Promotion of Equality Act, which was slipped into the statute book by stealth, and its implications, known. My anxiety is that, because it slipped in under the radar screens, it would have been likely to have been ignored in litigation up until now, and it needed to be publicized to give it "teeth." Unless I am much mistaken, the appearance of the article in the *Mail and Guardian* at this time makes it impossible for jurists, litigators, and legislators to ignore it and its implications now, and the implications are in fact substantial.

For its part, Gender Dynamix released two media statements raising issues of comparable concern. The first, written in concert with the Saartjie Baartman Center before the results of gender testing were revealed, situates the treatment of Semenya in relation to broader gender-based violence and murder of those who transgress gender norms. It expresses fears for Semenya's life in the context of gender-based violence, particularly increasing numbers of rapes and murders of black lesbians who transgress gender expectations. The 2008 gang rape and murder of South African lesbian soccer star Eudy Simelane is mentioned as a prominent point of comparison highlighting the violent hatred that accompanies gender non-conformity. The second press release elucidates the statistical commonality of intersexuality and asserts Semenya's basic rights to privacy and to be respected in her gender expression as a woman. This document publicizes medical information about intersexuality and asserts that "Caster's sex is 1 in 500 for South Africa." Both press releases from

Gender DynamiX, and Gross's writings, provided important opportunities to educate the public on gender expression and broader discrimination as a means to advocate for intersex rights.

Intersex South Africa and Gender DynamiX have each seen the debates about Semenya as having complex impacts. On the positive side, both organizations have documented increased interest in intersexuality. Theron notes, "I think this was the first time that we as a country—every person on the streets—spoke about and grappled with gender." When Semenya's case was first publicized, Internet hits on Gender DynamiX's Web site tripled. Relatedly, Gross affirms, "in direct consequence of the Caster Semenya saga, South Africans in general and the South African government in particular were forced to realize that there are in fact many intersexed people in South Africa and to acknowledge that there is a human rights issue. The saga rendered the issue of intersex far more visible than it had been before."

Unfortunately, this visibility also revealed problematic ideas about intersexuality. Most accounts of Semenya's treatment in Northern contexts objectify her and ignore the realities of South African intersexed people's lives, while South African leaders, such as Julius Malema of the African National Congress's Youth League, have claimed that intersexuality simply doesn't exist. Intersex activists confront these and other contradictions of visibility and freedoms. Theron points out:

In South Africa, we do have very pertinent trans and intersex rights, by means of the Constitution on its broadest meaning as well as specific legislation such as Act 49 of 2003 [which allows for legal sex changes to birth certificates. These legal possibilities are] juxtapose[d] against politicians, government officials, [and] service providers [who express] public denial of the existence of intersex and transgender.

The opposition Theron describes is unsettling, at best; as Gross puts it, "It's somewhat disconcerting to be told that one does not exist!" This concurrence of important theoretical legal rights with public denial of the mere existence of intersexuality leads to painful and violent consequences for intersexed South Africans. But it also provides important possibilities for activists to follow-up on what they perceive as legal potential for change.

Efforts to realize gender-based legal protections are integrally con-

nected to South African histories and politics. Campaigns of Gender DynamiX and Intersex South Africa directly address broader anti-oppressive contexts for intersex rights in their writings and daily work. Gross explains:

What does perhaps make for a uniquely South African contribution is not so much the ignorance and the discrimination but rather the possibilities opened by the impact of the struggle for liberation in South Africa. Something one learns through involvement in struggle over many years is that liberation is, like Jesus' garment, a seamless whole. Struggle against class-based oppression, against racial oppression, and against forms of oppression rooted in sex and gender, cannot really be teased completely apart; and, in a fundamental sense, liberation is not complete when any of these forms of oppression persists. The regulative ideal of a non-racial and non-sexist democratic South Africa rooted both in the ANC's Freedom Charter and in the Bill of Rights of South Africa's post-apartheid constitution affords significant strategic space for work in support and defence of the fundamental human rights of the intersexed in South Africa and elsewhere.

The fact that intersex was not considered when the Bill of Rights was gestated and drafted was not because of any wish to discriminate. The contrary was true—the intention was to make the Bill of Rights as comprehensive as possible in its scope. Intersex fell through the cracks because of ignorance—it was quite simply not marked on people's conceptual maps, as it were. Placing it firmly on people's conceptual maps and making it part of everyday awareness is of crucial importance because, in the context of South Africa's liberation struggle and canon of human rights law and legal culture . . . the liberation struggle creates significant openings for active protection of the rights of the intersexed. Given an awareness of the intersexed, the liberation history and culture creates a moral obligation to take the issue up and to ensure that law and practice afford the intersexed adequate recognition and protection in the context of a culture of rights and not of pathologization. In view of the holistic nature of liberation, failure to do so would be tantamount to betrayal of the spirit of the struggle against apartheid itself.

Extending Gross's ideas demonstrates that Semenya's case, including her public objectification, rests on this crucial intersectional framework.

Intersex South Africa and Gender DynamiX argue that intersex rights—including laws securing changes to identity documents—are inconsistently applied and must be actualized for all South Africans. Both strive to maintain that the effects of history, politics, religion, sexuality, gender, race, and class are interdependent in their organizational efforts.

In the wake of attention to Semenya, public visibility functions as a critical component in both activists' agendas. Gross and Theron want to make sure that the increased visibility of and sensitivity to intersexuality will not abate in coming months and years. Gross surmises:

In a curious way, the sudden visibility of intersex as an issue because of the Caster Semenya saga highlights the invisibility of the vast majority of intersexed South Africans in the past and their continued invisibility despite the media focus on the issue. The case of Caster Semenya personally raises questions about the way intersex is handled in many places in rural South Africa, where it is perhaps ignored at best. However, it also offers an opportunity for opening up a range of issues—*stabane*, for example, which is a term that refers in its primary sense to those born with ambiguous genitalia, although it has been appropriated as a term of denigration referring to lesbians and gays.

Issues particular to South African intersexuality—including the application of the term *stabane*, accusations of intersexuality as more common among black South Africans than whites, and racist and classist histories of medical diagnoses and treatment—explicitly weave race, class, sexuality, and gender together and form a critical foundation for Semenya's current exploitation.

Collaboration on issues of gender identification and sexual orientation as well as on broader questions of discrimination has already been initiated on local and global scales. While the goals for activists Theron, Gross, and the members of Gender DynamiX and Intersex South Africa, are multiple and complex, so is the potential for positive change for intersexed South Africans. The work of these two organizations not only demonstrates South African specificities of intersexuality, it also points to broader lessons to be gleaned concerning transnational struggles for freedom from oppression.

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