

The analysis of the current legislation (Turković, 2006), as well as the analysis of media coverage of issues related to HIV, indicate that there are uncertainties about the application of legal measures for the protection of patients who have been denied their rights. There also appears to be a low level of knowledge regarding the legal system among this social group and their support network. The Analysis of the Applicable Legislation proposes the adoption of a comprehensive anti-discriminatory law, modification of certain sub-ordinary legislation which are not in compliance with international recommendations, the implementation of education programmes for representatives of the government and judiciary on the protection of the rights of vulnerable groups (women, intravenous drug users, men having sex with men), and building the permanent provision of support to individuals requesting legal protection.

Another challenge is determining how to send a message when publishing information about HIV, while at the same time protecting the rights and freedoms of patients living with HIV who may feel the negative repercussions from the increased media attention.

3.13.12 Policy Implications

The social exclusion of people living with HIV is primarily characterized by the overall lack of research and clear data. The experience of people living with HIV attests to the societal ambivalence where the behaviour of community and institutions may appear protective in one instance and stigmatising in the other.

With regards to the above, the UN Theme Group on HIV in cooperation with CAHIV and the Human Rights Centre are planning to publish in 2007 a report on human rights and the social status of people living with HIV. This report would document cases of discrimination, problems HIV patients have encountered in realizing their rights in the healthcare and social system, and personal stories from people living with HIV. The report will help define the greatest and the most frequent problems encountered by patients living with HIV, help find solutions, and facilitate the monitoring of human rights and the quality of life of people living with HIV in Croatia.

3.14 Sexual Minorities as a Vulnerable Social Group

Box 20: Personal Experience

N. first decided to visit a well-known psychiatrist of an older generation. She concluded that she needed expert help - somebody who could help her find a solution or at least explain to her what was happening. She was too confused, worried and tense to handle what had happened on her own. The meeting with the psychiatrist lasted for less than ten minutes. Upon her arrival, N. asked if it was possible to schedule her appointments later in the afternoon, because she could not come during the morning on account of her work. When the psychiatrist asked her how she managed to make it that day, N. said that she had asked her boss for a morning off. Trying to be funny, the psychiatrist made the following comment: "Well, your boss must be gay." N. fell silent; then she got up, thanked the psychiatrist and left the room. It was her intention to talk to him about what had happened to her a few weeks before when, for the first time in her life, she fell in love with a woman who, after spending a night with her, decided to ignore her. (From the author's counselling practice).

3.14.1 Human Rights

In 1977, homosexual activity was de-criminalized in Croatia and several attempts were made during the 1980s to sensitise the public to this social group. The best-known example of this public awareness campaign was a radio show, *Frigidna utičnica* (The Frigid Plug), which aired for some time on Omladinski radio 101. Despite these efforts, for most of the public the phenomenon of homosexuality remained largely invisible, although it was frequently present in insults, stereotypical jokes and prejudices (Štulhofer and Francetić, 1996). During the second half of the 1990s, efforts were made by feminist groups to enhance the understanding of lesbianism and to provide support to lesbian women, which led to the creation of the first lesbian association, *Lori* in 2000.¹⁵¹ *Lori* became

¹⁵¹ The first attempt at organising lesbians was connected with the so-called Lila inicijativa (The Purple Initiative), which appeared in 1989.

a registered organization in Rijeka, and in 2002, after five years of its activities,¹⁵² a second organization, *Kontra*, was registered in Zagreb. Also in 2002, *Iskorak* was registered as an NGO dedicated to promoting the rights of non-heterosexual individuals; the majority of its members were and remain young gay men.¹⁵³ That same year, the coordination of LGBT (Lesbian, Gay, Bisexual and Transgender) associations was formed in Croatia, and the first *Gay Pride* parade was organized.

The emerging NGOs dedicated to representing the rights of sexual minorities¹⁵⁴ have had a considerable impact on the social realities of this social group. Through the activities and anti-discriminatory discourse of civil society, homosexuality has been given a public face. The *new visibility* of homosexuality has shed light on a number of issues that were previously marginalized as part of a discriminatory culture against people with a different sexual orientation. An environment of contempt, rejection, direct and indirect discrimination, harassment and violence against this social group has been exposed as a social problem primarily through the activities of youth-oriented homosexual associations.¹⁵⁵ Numerous media appearances and testimonies given by experts, politicians, and public figures interpreted the increased visibility of homosexuality in Croatian society as an epidemic provoked by homosexual lobbying. Following this disturbing trend, the LGBT activists sent a public warning regarding the reproduction of homophobia through the authoritative promotion of non-scientific attitudes, prejudices, a manipulation of traditional Croatian values, and religious moral dogmas. Demands related to the legal recognition of same-sex relationships have clearly shown the extent of inequality, voicing a whole series of rights denied to homosexual partners as opposed to married couples (Juras and Grđan, 2006).

From 2003 to 2005, discrimination based on sexual orientation was recognized in a number of new laws and amendments.¹⁵⁶ The crowning achievement of this legislative reform came in 2003 with the adoption of the Same-Sex Union Act. Although the Act is a positive step towards full equality of same-sex couples, it is only a formal recognition of the possibility of same-sex partnerships. It does not include the possibility of registration and, consequently, the realization of economic, medical and parental rights. The limitations embedded within the act may be a reflection of the divide between increasing liberal policies, and a slightly more conservative public opinion.

Although the attitude of the public to homosexuality is less restrictive and more permissive today than it was 30 years ago,¹⁵⁷ Croatian citizens are still divided on the issue of homosexuality. During a survey conducted in 2003, a staggering 70.3% of people stated that they believed sexual relationships between adults of the same sex are “wrong” while 14.1% of the interviewees held an opposite opinion. Fortunately, however, a much smaller percentage, only 15.4%, agreed with the statement that homosexuals “are no better than criminals” and that they “should be severely punished” while 64.4% did not agree with the statement (Štulhofer and Brajdić Vuković, 2004). In another national survey, 50% of citizens stated that they would not accept a homosexual as a friend, and 47% stated the opposite. Only 39% of those interviewed said that they would recognize the right of a homosexual couple to a marital union, with 55% opposing it (Carana, 2002).

According to the results of the *European Values Survey* of 1999,¹⁵⁸ Croatia’s level of homophobia is above average. Of the Croatians interviewed, 53% did not want a homosexual person as a neighbour, whereas an average of only 34% respondents in other European

¹⁵² Including setting up the first lesbian SOS phone line and an informal counseling service.

¹⁵³ In the first half of the nineties, LIGMA (Lesbians and Gay Men in Action), as the first homosexual association in Croatia, was registered. It was active in 1993 and 1994.

¹⁵⁴ Despite several attempts, no association of transsexuals currently exists in Croatia. The rights of transgender individuals are represented by *Ženska soba* (Women’s Room/), an NGO founded in 2002.

¹⁵⁵ In the report on social openness in Croatia, sexual minorities are indicated (by hundred surveyed experts from various fields) as the minority facing the greatest degree of discrimination (Goldstein, 2005: 60). The same conclusion was made a year later (Bagić and Kesić, 2006)

¹⁵⁶ Gender Equality Act; Croatian Radio Television Act; Electronic Media Act; Labour Act; Act on Scientific Activity and Higher Education; amendments to the Criminal Act of 2004 and 2006; and the Civil Servants Act. For details compare Bagić and Kesić, 2006.

¹⁵⁷ While in 1971 78% of girls and 76% of boys, secondary school students, regarded homosexuality unacceptable, in 2005 the percentages were 34% and 67%, respectively (Štulhofer et al., 2006).

¹⁵⁸ The research included 32 European countries (including Turkey), and was conducted on probabilistic national samples.

countries felt this way (Baloban, 2005: 264). Furthermore, 68% of Croatians interviewed believed that homosexuality cannot be justified under any circumstances, while the percentage was nearly half that (or 39%) in the rest of Europe (Baloban, 2005: 309). The only countries which indicated a higher level of homophobia than Croatia were Latvia, Lithuania, Hungary, Romania and Turkey (Baloban, 2005: 172).

In political discourse, objections to granting equal rights to homosexuals are closely connected to references to the traditional national identity, just as an individual's or a community's level of religiosity (irrespective of the age and education) is often a good predictor of negative attitudes towards homosexual relationships (Štulhofer and Brajdić Vuković, 2004). In view of the prominent public role and influence of the Church in the formation of moral values (Škrabalo and Jurić, 2005), the religious interpretation of homosexuality has an undoubtedly strong effect on the vulnerability of sexual minorities. Although the Church does not officially reject people who have an inclination towards those of the same sex (considered to be a matter of personal choice) and does not support discrimination against them, it still views homosexual *activity* to be unnatural and sinful.¹⁵⁹ Many church groups interpret the fight of homosexuals for equal rights to be a sign of a deep moral crisis, and a new threat to the family, "the most basic social institution."

Human rights violations against the members of sexual minorities tend to relate to a denial of rights related to marriage, violations of dignity and physical integrity¹⁶⁰ (harassment and abuse in public places), and discrimination in the workplace.¹⁶¹ Currently, same-sex couples only receive rights protection after their relationship has concluded (if they can prove that they lived together for three years or more). Retroactively they can receive the right to support and the right to the division of their common estate. By comparison, heterosexual couples gain over 60 rights once their marriage has concluded, and 29 rights can be exercised by persons in extramarital union (Bagić and Kesić, 2006).

There are many personal testimonies about the humiliation and violence that homosexual individuals are exposed to because of their sexual preferences, however,

reliable data on this phenomena is lacking. In 2002, a legal team employed by the *Iskorak* and *Kontra* associations documented cases of 25 physical assaults on homosexuals, which is dramatically different from the data gathered in the first national study on violence against sexual minorities. According to the national survey conducted on a random sample of 200 sexual minority members, 14.4% of interviewees had experienced physical violence over a period of 36 months. More than 56% had been exposed to insults and/or threats (Pikić and Jugović, 2006). More than half had a friend or partner who had been the victim of (physical) violence because of his/her sexual orientation. Both the violence and harassment most frequently happened in open public places and the perpetrators were usually unknown to the victim.

Cases of police misconduct towards sexual minorities also lacks documentation. However, according to several testimonies about the provocation and humiliation of transsexuals, a recent survey suggests that the unwillingness to report violence could be the result of inappropriate police behaviour towards the victims. One-fifth (22%) of those who experienced violence because of their sexual orientation reported it to the police, but for one in four this resulted in further embarrassment (Pikić and Jugović, 2006).

Box 21: An Incident

Early in the morning on March 4, 2006, a group of at least four young men entered a closed party in *Santos*, a Zagreb club, which was organized by an association promoting the rights of homosexuals. The young men attacked individuals attending the party injuring eight people. The police managed to arrest two of the attackers and laid on misdemeanour charges. *Iskorak* and *Kontra*, the associations that promote the rights of homosexuals, described the attack as a hate crime and filed a complaint. However, after conducting a criminal investigation as a result of public pressure and an intervention by the Gender Equality Ombudsman, the Zagreb Police portrayed the entire incident as a "typical bar fight" (Grđjan, 2006).

¹⁵⁹ For an identical, elaborated and biblically argued standpoint of the Protestant Church, compare the Report of The Evangelical Alliance (UK) Commission on Unity and Truth among Evangelicals (ACUTE, 2005).

¹⁶⁰ As demonstrated by the threats, stone throwing and tear-gasing on the first gay pride parade in Zagreb in June 2002. All parades held until now were secured by a large number of policemen (sometimes comparable to the number of participants) in full riot gear.

¹⁶¹ This does not exhaust the whole range of violations of human and civil rights of the members of sexual minorities. It should be pointed out that transsexual persons who do not undergo surgery can not change their sex in personal documents, as opposed to those who have made surgical transition.

3.14.2 Access to Healthcare

In principle, sexual minorities have the same access to health and educational institutions as all other citizens. Still, in certain cases their participation and/or use of services is more difficult due to a lack of understanding, intolerance or direct humiliation and abuse.

In the case of medical examinations, the members of sexual minorities often encounter "hetero-normative" expectations on the part of their doctors, which may have a negative impact on the quality of their diagnoses. This is especially true in urological, gynaecological and dermatovenerological practice. A similar problem appears in the field of psychiatry (see *Box 20*), where certain experts, mostly psychodynamically-oriented members of the older generation, continue to regard homosexuality as a mental disorder.

Due to current legislative regulation (Act on the Protection of Patients' Rights, 2004), a same-sex couple cannot make decisions for their partners when they are unable to give (or deny) consent to a medical procedure, the way a married couple would. Hospital practices often go as far as to deny them access to the medical documentation of their partner. Recently, there have been efforts aimed at reducing the risk of HIV among gay men in Zagreb.

3.14.3 Access to Education

The participation and success of young people with a different sexual orientation is difficult because of the absence of materials and sexual education programmes in the education system that could sensitise students to differences and promote tolerance. There are a number of personal experiences and testimonies of students being bullied because they are suspected of being homosexual or simply do not fit the gender norm (e.g., an "effeminate" young man and a "masculine" young woman). For example, in Zagreb a 15

year old boy was psychologically tormented (he was laughed at and isolated) and physically assaulted.¹⁶² Teachers and school administration do not always respond adequately to such cases.

3.14.4 Access to Employment and Employment Services

It seems that the low number of complaints against direct and indirect discrimination in the work place is a consequence of many homosexual individuals feeling forced to conceal their orientation from their colleagues and superiors. 'Coming out' is extremely rare, tends to only happen in the case of people constantly in the public eye, and for whom the risk of professional discrimination is minimized by their media stardom.

Officially recorded cases of direct and indirect discrimination, especially in seeking employment or at the work place, are rare. The report prepared by the Gender Equality Ombudsman in 2005 records only seven complaints of discrimination based on sexual orientation (Bagić and Kesić, 2006). Judging from the findings of a recently conducted qualitative research (UNDP Croatia, 2006), and taking into consideration the fact that coming out is extremely rare in Croatia's professional circles, it would appear that the low number of recorded cases of discrimination does not necessarily mean a low number of incidences. In light of this, the important question becomes to what extent is the exclusion of these individuals the consequence of the perceived risks of being openly homosexual. According to a 2005 study involving 202 companies, one-third (32.7%) of those in charge of making business decisions would not hire a person who was openly homosexual. In another study, almost one-quarter (23%) of approximately one hundred psychological experts responded affirmatively to the question whether the "coming out" of a colleague would result in "harassment at work" (Ženska soba /Women's Room/ and LORI, 2006b).

¹⁶² In late 2005, the management of the home took a series of measures with the purpose of protecting the adolescent, including an invited topical lecture on young people's sexuality.

3.14.5 Access to Housing and Basic Infrastructure

According to some individual testimonies, homosexuals encounter problems in renting apartments, especially when they start living with their partners.¹⁶³ Same-sex couples often attract neighbours' interest, which sometimes results in the cancellation of leases due to the prejudices of the owner. Finding a place to live is also difficult because landlords often insist on leasing only to married couples, who are perceived as reliable tenants. Considering that the present law does not permit same sex marriages, these couples cannot get family loans which might allow them to move into their own residence.

3.14.6 Social Ties

Regardless of the problems concerning the process of 'coming out', which can be socially costly (loss of friends and sometimes even parents' support), existing research shows that homosexual and bisexuals lead relatively rich, sometimes alternative, social lives.¹⁶⁴ At the moment there are four NGOs (Kontra, Iskorak, LORI, and Women's Room) that promote the rights of sexual minorities, as well as a number of smaller groups/associations that are active in publishing related materials and in giving psychological assistance. In addition, there is a regional network - South Eastern European Queer Network - that provides wider coordination and support. NGO activities are reflected in a number of legal and political initiatives, and artistic, cultural and expert manifestations,¹⁶⁵ smaller research projects and the annual gay pride parade. Places where the members of sexual

minorities meet and socialize are still few in number, but they are well organised. These are web portals,¹⁶⁷ clubs in Zagreb and Rijeka, gay saunas and a number of informal meeting places throughout Croatia.

For younger generations, close circles of friends generally consist of people with a variety of sexual orientations (UNDP Croatia, 2006b). Considering that in public places sexual minorities are not able to express emotional closeness for fear of reprisal, networks of friends become an extremely important source of social support. Although it seems that homosexuals do not tell their heterosexual friends everything (especially if the friends are of the same gender; UNDP Croatia, 2006b), such friends are most probably an equally important source of support as their non-heterosexual friends. The way in which parents react to the fact that their children are different has an incredible impact on the quality of life for sexual minorities.

No data on the participation of the members of sexual minorities in volunteer, ecological, cultural or recreational associations is currently available. However, it seems plausible to assume that the level of their participation is comparable to that of the general population with the exception of civil political engagement, where there is increased involvement of sexual minorities (especially the younger generation) promoting GLBT rights.

3.14.6 Key Challenges

There are several dimensions which generate the social vulnerability of sexual minorities. The first one is the present legal restrictions on the human and

¹⁶³ Only 19% of persons of non-standard sexual orientation polled in the recent research live with their female or male partner (Pikić and Jugović, 2006.). All respondents reported living in three big towns. Considering that the sample was relatively small and non-random, the information should be regarded only as an illustration of the possible situation.

¹⁶⁴ There is very little information about the position of transsexual persons. According to some statements, they might be exposed to a higher risk of social isolation, which is why they frequently consider leaving the country.

¹⁶⁵ Queer Zagreb festival, Transgressing Gender Conference (2005.), deNORMATIV (www.denormativ.hr), Miks (www.udruga-miks.hr), and lectures and workshops in MaMa.

¹⁶⁶ www.gay.hr, www.cro-lesbians.com, www.inqueerzicija.hr.

¹⁶⁷ UNDP (2006.). "Research on social exclusion in Croatia: Groups with increased risk of social exclusion - focus groups". UNDP, Zagreb, Croatia.

civil rights of sexual minorities which has a negative impact on the quality of their life. The stigma and the discrimination, which are connected with the denial of certain rights, play a significant role in the increased level of mental problems within this social group. Another dimension is the exposure of sexual minorities to mental and physical abuse; an increased risk of victimization at public places, which causes feelings of insecurity and is responsible for potentially (auto)destructive mental mechanisms (Pikić and Jugović, 2006).¹⁶⁸ The wide-spread intolerance and homophobia in the general public is closely connected with this, which is reflected in an environment where discrimination and abuse often pass with latent approval. For sexual minorities, legislative reforms and public sensitisation are key social imperatives.

3.14.7 Policy Implications

The position (and consequently the vulnerability) of sexual minorities in Croatia can and should be improved through a combination of legal and educational measures. Amendments to the existing Same-sex Union Act enabling the registration of same sex couples and ensuring equal rights regarding marriage and parenthood, should be adopted as a priority.¹⁶⁹ To aid this process, it would be helpful to organize a coordinated information campaign amongst MPs and the leaders of parliamentary parties.¹⁷⁰ The recent introduction of hate crimes into the Criminal Act is an important legislative improvement. However, so far, the scope of the provision is quite limited, with

hate crimes only recognized if they result in the criminal act of murder (the hatred being an aggravating circumstance). Even so, this is still an important first step in drawing attention to the violence committed against sexual minorities. This process needs to be continued by applying the qualification of a hate crime to other punishable actions (e.g., physical harm, sexual violence, etc.) in order to further deter violence against this social group.

The need for information dissemination and education is a considerably more complex and versatile task. Programmes that promote understanding and tolerance towards sexual diversity in various segments of the population need to be developed, implemented and evaluated. Information and educational efforts should include youth (especially school-aged children and minors), their parents, experts in specific areas (the judiciary, the police, social workers, health care professionals – especially in the area of mental health – and the educational system), as well as the general population. In schools, sensitisation could be achieved by the planned introduction of health education, which will include modules on human sexuality and the prevention of violence. The sensitisation of experts, with the purpose of making them more aware of the possible “hetero-normative” constraints of their practice, as well as informing them about the specific needs of sexual minorities, should be organized in cooperation with professional organizations and civil society. Finally, sensitising the general public will require the dedicated engagement of the electronic media, especially the public TV.

¹⁶⁸ More than 40% of subjects surveyed in the first study on violence against persons of non-standard sexual orientation in Croatia considered suicide at least once (Pikić and Jugović, 2006.).

¹⁶⁹ Whether the right to adopt children will find its place amongst these rights should be left to an argued expert and public discussion. The realisation of full equality of sexual minorities should be viewed as a process which must take into account the values and judgments present in the public. Needless to say, these values need to be viewed as temporary and changeable.

¹⁷⁰ Perhaps even direct suggestions of the European Union.

¹⁷¹ Recently, an advocacy program related to counselling LGBTIQ individuals was started by an NGO. Also, American Psychological Association's guidelines for working with LGB individuals and The Harry Benjamin International Gender Dysphoria Association's Standards of Care for Gender Identity Disorders were translated (Ženska soba, 2006; http://www.zenskasoba.hr/public_html/index.php?option=content&task=view&id=50&Itemid=51).