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Forms of Discrimination of LGBT People in Ghana, Uganda, Russia and Norway

A report by ISFiT Research Group
1/2017

Anna Bil-Jaruzelska, Sigurd M. Nordli Oppegaard,
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Preface

This report is written and based on research conducted by the Research Group of the International Student Festival in Trondheim 2017 (ISFiT 2017). ISFiT is the world's largest thematic student festival with the vision "to create a better future for young people in the world"¹. The festival has been held biennially since 1990, and each time invited hundreds of students from all over the world to Trondheim for ten days of workshops, dialogue, cultural arrangements, and more². The theme of ISFiT 2017 is "Discrimination, why?", with the aim of gathering "students from different backgrounds and with different voices, to a dialogue where premises are different from what you are used to, and where you have to acquire perspectives and values you have never before been exposed to"³.

Before each festival, the Dialogue Group – another group of ISFiT volunteers – arrange a ten days long seminar at a cabin in Røros, outside Trondheim. The Dialogue Group invites participants to discuss a specific issue chosen by the group. Dialogue is a method for constructive communication utilized to examine and try to solve conflicts through a process of listening to and learning from each other, with the aim of introducing new perspectives and thus change one's perception of the conflict⁴. The seminar at Røros is led by both ISFiT volunteers and external experts and professional mediators. The goal is for the participants to meet on neutral ground and get to know each other, share views, experiences and discuss conceivable solutions. After the festival is over, the participants are encouraged to continue the work in their home communities⁵. The theme of the Dialogue project of ISFiT 2017 is discrimination of LGBT people in Ghana, Uganda and Russia. In January 2017, participants from these countries will come to Norway to discuss these issues.

We have chosen to write a report examining the same topics and issues discussed at the Dialogue seminar. Discrimination of LGBT people in Ghana, Uganda and Russia is a complex topic which illustrates various issues and challenges LGBT people in these countries face. In the report, we have decided to include an analysis of the discrimination of LGBT people in Norway as well. We find this important because it illustrates that discrimination of LGBT people not only takes place in non-Western countries but that these practices take different forms in different historical, cultural and political contexts.

¹ ISFiT, 2016b.

² Ibid.

³ ISFiT, 2016a.

⁴ Nansen Fredssenter, 2017.

⁵ ISFiT, 2016b.

Our research project provides us with an excellent opportunity for the exchange of knowledge and perspectives with other ISFiT-volunteers who are working with the same theme as us, but in a more practical, hands-on way. Furthermore, since the Dialogue Group invites participants to Norway and Trondheim for the seminar, it is possible for us to meet and conduct in-depth interviews with these people. In the following months we will transcribe and analyze the interviews with Dialogue participants, and write a second report mapping their experiences with discrimination. The aim of the second report is to provide personal perspectives and describe the lived experiences with these issues. Our aim is to understand the discriminatory practices observed, where they originate and their relationship to the social and political context.

Our descriptions and analysis are not the only correct and conclusive representations of the situation of LGBT people in these countries, and there are certainly other observations and interpretations that can potentially be made. We are aware that we are writing from a particular social position, in one particular country, at one particular time in history with its own particular preconceived notions. This is also the case for each of the chapters in this report. They are written by different people from different disciplines, and will thus focus and elaborate on different aspects of the research object. The material we have based this report on is not exhaustive. We have not had access to data covering all aspects concerning the situation of LGBT people in Uganda, Ghana, Russia and Norway, and the same type of data has not been available for all countries. Furthermore, the respective writers have made a selection based on what they find interesting and important. However, we consider this the strength of this report. By offering our perspectives on the situation of LGBT people in the countries of analysis, we hope to offer some new insights and frames of understanding.

Acknowledgements

We thank the ISFiT board for the opportunity to write this report, and for believing in us. Writing this report has been a very rewarding and challenging experience for us. The Dialogue Group have inspired us and been great collaborators throughout this process. We would also like to thank other groups in ISFiT for their help and facilitation, in particular the Idea Exchange section. They have been of immense inspiration and support. We would like to thank Hildegunn Christiansen (Head of Idea Exchange) for her continuous support and encouragement. We would also like to thank Norman Anderssen from the University in Bergen, Arnfinn H. Midtbøen from the Institute for Social Research, and Deniz Akin and Stine Helena Bang Svendsen from NTNU for helpful directions and encouragement in the beginning of the project. Additional thanks to Levi Røstad Kvitland are also in order for his help in guiding the process along the way.

Lastly, we want to acknowledge the organizations that have put in a lot of effort in documenting the situation of LGBT people around the world. Their work has been essential for this project.

We hope you find our report interesting!

ISFiT Research Group,

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Trondheim, Norway.

1.0 Introduction

1.1 Discrimination as a concept

Discrimination can be understood in many different ways. The way we understand discrimination has consequences for the forms of discrimination we find. Since we are writing a report on the forms of discrimination of LGBT people, it is important that we are conscious of the interpretation we have from the outset.

Discrimination of LGBT people takes place all over the world, ranging from countries that practice criminalization and imprisonment to countries where there are no laws against homosexual behavior and where LGBT people enjoy civil liberties. This being said, discrimination may still happen in different forms.

Our aim is to investigate the situation of LGBT people in Ghana, Uganda, Russia and Norway. We do this by analyzing secondary data, mostly in form of various reports, journal articles, books, and news articles, and put the findings in a historical perspective. Since we do not have primary data sources available for our study, we see our main contribution as a contextualization of the discriminatory practices documented by others.

1.2 Terms and concepts

We understand and operationalize discrimination as *the systematic unequal treatment of a specific population – in this case, LGBT people – based on their characteristics or perceived properties*. This describes regular and systemic practices, where a group of people sharing certain characteristics – innate or acquired – is treated differently. We also include groups that others perceive as having certain properties, that face differential treatment because of these perceptions. This does not mean that they have to be treated worse than other groups. So-called affirmative actions are according to this definition a type of discrimination. This is because – and this is important to note – that when one group gets advantages, another gets disadvantages, and vice versa.

Our definition of discrimination as the systematic unequal treatment of a specific population based on their characteristics or perceived properties allows us to study discriminatory practices in an open but rigorous way, by preventing us from doing the common mistake by always seeing discrimination as something inherently bad, and thus imposing one's own or socially contingent moral and ideological preconceptions onto the object of analysis. Rather, this definition enables us to see discrimination as practices emerging in concrete political, social and historical contexts. What a culture defines as legitimate and illegitimate

discrimination is contingent on a myriad of factors. We thus utilize a descriptive definition of discrimination to prevent culturally and morally contingent prejudices to decide what “counts” as discrimination.

As a consequence of the definition we utilize, we do not understand discrimination as “bad” in itself. Discrimination is a concept enabling us to describe and analyze the *consequences* of practices understood as discriminatory. Thus, the consequences of discriminatory practices may be characterized as bad in their specific historical, cultural and political context visualized by the concept “discrimination”.

“LGBT” is usually understood as an umbrella term for lesbian, gay, bisexual and transgender. In this report, we have made the term broader by including those who do not identify themselves as lesbian, gay, bisexual or transgender, but nonetheless practice their sexuality in non-heterosexual ways. It is thus a more inclusive term, denoting the same as “queer”. We chose to use the term LGBT because it is more common and thus easier for many of our readers to understand. However, it is important to remember that we do not use the LGBT in the usual way, as an umbrella term for identities. We use the term LGBT as a category unifying all forms of non-heteronormative and non-cisnormative expressions, identifications and practices.

When our description and analysis concerns a specific identity, expression or practice, we will specify what we are referring to. However, since this report is based on secondary sources, we cannot always know specifically what the sources refer to, and thus we are forced to use the term LGBT.

1.3 Research problem and research questions

In this report, we will examine the following research questions:

- 1) What forms of discrimination of LGBT people are exercised in Ghana, Uganda, Russia, and Norway today?
- 2) What actors, institutions, programs, etc. produce, participate in and enable these forms of discrimination? Why do these types of discrimination emerge and persist?
- 3) What are the consequences of the forms of discrimination of LGBT people for the victims of these practices?

1.4 Forms of discrimination

Through the lens of these research questions, we will study the discrimination of LGBT people in Ghana, Uganda, Russia, and Norway as product of specific political, social and historical factors. Further, we separate between discriminatory practices and discriminatory legal status, to investigate the relationship between the two.

By “forms of discrimination”, we denote not the content of the discrimination, but the structure of the practices or legal objects and the function of these within their specific context. This concept helps us understand the discrimination of LGBT people in their local environment without having to reduce the explanations to single factors or limit our analysis to a thorough description of examples. A form of discrimination can be described as the answer to these questions: “What is the discriminatory practice composed of, and what are its consequences?” It allows us to see different discriminatory practices on the same level and investigate how these practices are part of a larger entity connected through their consequences. By analyzing the forms of discrimination, we are able to do a more abstract analysis, focusing on the discrimination of LGBT people as a social phenomenon within a political context as well as a phenomenon assembled by different practices, beliefs, power structures, etcetera.

1.5 Structure of the report

We begin this report with an account of the methodological framework and our empirical material. The countries investigated and analyzed are discussed in the following order: Ghana, Uganda, Russia and Norway. Then, we summarize our analysis of the forms of discrimination identified in the different countries as answers to the aforementioned research questions.

2.0 Methodology and data collection methods

The research was conducted during the fall and winter of 2016. It is a comparative study of the forms of discrimination of LGBT people in Ghana, Uganda, Russia and Norway based on secondary data.

We have collected empirical material from legal documents, reports, research papers, books and news sites. Reports from groups such as International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), Russian LGBT Network, Amnesty International, Human Rights Watch (HRW), and Sexual Minorities Uganda (SMUG) have been important materials in our description and analysis of the discrimination of LGBT people. The material collected has been found using literature searches and gathered from the bibliographies of other material. Because our aim and topic of this report is to examine the forms of discrimination of LGBT people, we have focused on sources addressing this issue. It is important to acknowledge the fact that the sources used in this report mainly focus on the discrimination of LGBT people. This might result in a bias simply because of this particular emphasis. We might miss out on historical development, places or arenas where LGBT people are safe, and positive debates going on in the respective countries and societies. On the other hand, we have tried to examine the issues as holistically as possible. We have utilized a wide horizon when getting both an overview of the topic and concrete examples of discrimination.

3.0 Ghana

3.1 Background

This chapter will provide an overview over topics important to understanding the discrimination of LGBT people in Ghana. It starts with a brief introduction to pre-colonial times, and is followed by an overview over relevant laws. The chapter will end with a presentation of religion and culture, two matters most often used by Ghanaians to justify their homophobic sentiments.

3.1.1 Pre-colonial Ghana

There is a general agreement among researchers that homosexual practices existed in Africa before foreign influence from Europeans and Arabs⁶. Native writings on sexuality in Africa in general, and Ghana in particular, do exist, but none or almost nothing until the late nineteenth century due to lack of native writing systems. Unfortunately, the little that does exist is not particularly descriptive or informative⁷. Most of what we know of the sexuality prior to European influence is written by European individuals, or people who were a part of a system which drastically changed the "original" culture⁸. The implications of the sexual practices of the Arabs is yet to be explored.⁹ This makes it hard to determine in what degree the observed culture is already influenced by other cultures at the time of the observations.

Despite uncertainty concerning stories about sexuality in pre-colonial Ghana and how influenced the culture already was when observations on the matter took place, it is widely known that homosexuality existed in Africa before foreign influence, although many Africans still believe that homosexuality is un-African¹⁰. Even though there is an absence of native writing on sexuality in pre-colonial Ghana, there are some reports. One example of earlier culture where homosexuality was unproblematic is a belief among the people of Fanti, an historic group of states in south of present-day Ghana¹¹, that those with "heavy souls" desired women, and those with "light souls" desired men, without any connection to their biological sex¹².

⁶ Quist-Adade, Bates, Wathanafa, 2014: 20.

⁷ Ibid.

⁸ Murray & Roscoe, 1998: 23.

⁹ Murray & Roscoe, 1998: 29.

¹⁰ Quist-Adade et al., 2014: 19–20.

¹¹ Ghana Web, 2017.

¹² Murray & Roscoe, 1998: 91.

Based on fieldwork in the Gold Coast (present day Ghana), there is an unconfirmed report stating that “[l]esbian affairs were virtually universal among unmarried Akan women, sometimes continuing after marriage. Whenever possible, the women purchased extra-large beds to accommodate group sex sessions involving perhaps half-a-dozen women”¹³.

A third example of LGBT people in Ghana is observations from the early 1970s of the Nzema (Nzima) people, where the “wife” and “husband” were differentiated because of age, not gender. Men, and sometimes women, married each other, and the marriage acted out the same way as a marriage between a man and a woman¹⁴.

3.1.2 Anti-sodomy laws under the British colonial rule

Out of 76 countries that still criminalize homosexuality, 42 of them are former British colonies. In order to fully comprehend why so many countries still criminalize homosexuality, it is important to examine origins of such laws¹⁵. During the colonial period, so-called “anti-sodomy” laws were imposed on all British colonies, Ghana being no exception. Virtually no jurisdiction which at some point during that period was ruled by Britain escaped the widespread influence of its criminal law and of the anti-sodomy offense which was a big part of that law¹⁶. This section provides a brief overview of the history of “anti-sodomy” laws, and highlights some points which are particularly relevant to the issue of discrimination of LGBT people.

If one wants to understand the origins of “anti-sodomy” laws, the Bible is a good starting point, as it served as the basis of medieval law-making on the subject¹⁷. In 14th and 15th century Britain, the Bible was “taken as authoritative guidance for setting the law of the land”¹⁸. The two times the Bible mentions same-sex intercourse most explicitly are Leviticus 18:22 (“Do not have sexual relations with a man as one does with a woman; that is detestable”) and 20:13 (“If a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death; their blood will be on their own heads”). Unnatural acts are also mentioned in Romans 1:26-28, urging that men and women should not give in to unnatural lusts and have intercourse with one another¹⁹. While there are as many interpretations of the Scriptures as there are readers, most interpreters have read the

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Hepple, 2012: 52.

¹⁶ Kirby, 2011: 5.

¹⁷ Hepple, 2012: 53 .

¹⁸ Ibid.

¹⁹ Hepple, 2012: 52.

aforementioned passages as implying very negative views of “sodomy”. These interpretations have consequently been put by the Christian rulers into Canonical and common law which developed the doctrine²⁰. When these laws were codified, “sodomy” was not considered something one could consent to, thus “anti-sodomy” laws were not designed to take consent into account when delivering sentence. Consequently, all “sodomy” was considered rape²¹.

The common and Canonical laws against “sodomy” were first codified during the reign of Henry VIII (1509-47)²². After Henry VIII severed the link between the English church and Rome, the common law crimes were revised in order to provide for the trial of previously ecclesiastical crimes in the secular courts²³. A statute of 1533, known as The Buggery Act, provided for the crime of sodomy, under the description of the “detestable and abominable Vice of Buggery committed with mankind of beast”²⁴. The offense was punishable by death. Even though the Buggery Act was repealed during the reign of Mary I, it was reenacted by the Parliament in the reign of Elizabeth I in 1563²⁵. Many text writers of the English law denounced sodomy in all its forms, often using very harsh language. One of the strongest commentaries came from Edward Coke who stated:

Buggery is detestable, and abominable sin, amongst Christians not to be named. ... [It is] committed by carnal knowledge against the ordinance of the Creator and order of nature, by mankind with mankind, or with brute beast, or by womankind with brute beast.²⁶

This statutory offense survived in England until 1861, with the last recorded execution for “buggery” taking place in England in 1836²⁷. In the 19th century section 61 of the Offences Against the Person Act 1861 replaced the death penalty for buggery with a prison sentence of 10 years. The gay population pressed for this reform using the utilitarian ideas of Jeremy Bentham, who argued that homosexuality does not weaken “men, society or the marriage of

²⁰ Ibid.

²¹ Ibid.

²² Hepple, 2012: 53.

²³ Kirby, 2011: 4.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Coke et al., 1817.

²⁷ Kirby, 2011: 4.

women”²⁸. This liberalization of attitudes, however, did not extend to the colonies²⁹. The European codifiers continued to see it as their responsibility to correct and Christianize the “native” populations and customs³⁰. Even though codifications differed slightly in different colonies, every one of them introduced a clause against “sodomy” which was seen as a uniform feature of British imperial rule³¹. Generally, the former British colonies kept the prohibition of “sodomy” after decolonization³². Again, Ghana was no exception, and homosexuality in the country is to this day criminalized. The following sections will present an overview of the legal framework relating to homosexual practices which applies in Ghana today.

3.1.3 The situation today

After a brief presentation of the historical background pertaining to the topic in the previous chapter, the following chapter will show how the situation of LGBT people looks today.

3.1.3.1 The legal framework

The following sections will provide an overview over the legal framework relevant to the LGBT issues in Ghana.

3.1.3.1.1 The constitution

The Ghanaian constitution states that every individual should be entitled to the fundamental human rights and freedoms “whatever his race, place of origin, political opinion, colour, religion, creed or gender” (Chapter 5, 12(2)). Sexuality or gender identity are not mentioned

Other relevant provisions include the inviolability of a person’s dignity (Ch. 5, 15(1)), freedom from “torture or other cruel, inhuman or degrading treatment or punishment” or “any other condition that detracts or is likely to detract from his dignity and worth as a human being” (Ch. 5, 15(2)(a) and (b)), equality before the law (Ch.5, 17(1)), freedom of speech and expression (Ch. 5, 21(1)(a)), freedom of thought, conscience and belief (Ch. 5, 21(1)(b)) and freedom of association (Ch. 5, 21(1)(e)).

²⁸ Bentham, 1978.

²⁹ Hepple, 2012: 53.

³⁰ Human Rights Watch, 2008.

³¹ Hepple, 2012:54.

³² Ibid.

3.1.3.1.2 Codified laws

The Ghanaian Criminal code of 1960, Act 29, amended in 2003, outlaws “unnatural carnal knowledge”. Chapter 6, Section 104 (“Unnatural Carnal Knowledge”) reads as follows:

(1) Whoever has unnatural carnal knowledge—

(a) of any person of the age of sixteen years or over without his consent shall be guilty of a first degree felony and shall be liable on conviction to imprisonment for a term of not less than five years and not more than twenty-five years; or

(b) of any person of sixteen years or over with his consent is guilty of a misdemeanour; or

(c) of any animal is guilty of a misdemeanour.

(2) Unnatural carnal knowledge is sexual intercourse with a person in an unnatural manner or with an animal³³.

As stated in Section 296 (4) of the Criminal Procedural Code, a misdemeanour can be punished with up to three years in prison³⁴.

According to ILGA, only same-sex activity between men is criminalized, while same-sex activity between women is legal³⁵.

The Constitution Review Commission

The Constitution Review Commission (CRC) was set up in 2010 to consult with Ghanaians on the 1992 Constitution and possible changes that should be made to the document³⁶. Regarding the rights of sexual minorities in the CRC, “the sole dimension of the issue of gay rights is whether or not the Constitution should give recognition to lesbian and gay rights in Ghana”³⁷. While the Commission received a few submissions from people who wanted the Constitution to recognize the rights of homosexuals, the overwhelming majority of the submissions called for not recognizing such rights by the Constitution. The arguments used in the submissions against recognizing lesbian and gay rights include that homosexuality prevents procreation without which the society can become extinct, that being homosexual, culturally, is an abomination and alien to Ghanaian culture, that even animals do not engage in homosexual

³³ Ghanaian Criminal Code, 2003.

³⁴ Ghanaian Criminal Procedural Code, 1960.

³⁵ ILGA, 2015: 55.

³⁶ Constitution Review Commission, 2011: 2.

³⁷ Ibid.654.

practices, that Ghana should not copy blindly from foreign countries, and last but not least, that homosexuality is against the laws of nature, against the laws of God, and will not bring development to the society³⁸. The arguments for recognizing lesbian and gay rights were that a man should have the freedom to live with his fellow man if that is what pleases him, and that some people are born homosexuals and should be allowed to express their sexual orientation³⁹.

The Commission found that during the consultations, the overwhelming majority of submissions it received was in favor of not recognizing “the right to sexual orientation for homosexuals”⁴⁰. It was decided that despite the fact that gay and lesbian issues have taken center stage in Ghana, it would be “neither necessary nor advisable” for the CRC to try to deal with such complicated issue at that time. It found that it was very likely that the proposal to give some recognition to same-sex relations in Ghana at that stage would be condemned by a large section of the population, mainly on religious and cultural grounds⁴¹.

The Commission also asserted that human rights of Ghanaians are situated in the African Charter on Human and People’s Rights, which provides in the preamble that human rights take into consideration the virtues of historical tradition and values of African civilization. The Charter also states that individuals who seek their human rights to be protected also have the responsibility to protect the social and cultural values of the society. The CRC argued that homosexuality can be considered an example of a situation where “the desire of an individual to have sex with a person of the same sex should not be recognized as long as the practice fails to sit with the socio-cultural values of the society in which the individual finds himself”⁴². The final conclusion of the CRC was that there is no compelling reason for the Commission to deal with the issue in the present context. It recommended that the legality or otherwise of homosexuality should be decided by the Supreme Court if the matter comes before the Court⁴³.

3.1.3.1.3 Interpretation of the law

Because sexual intercourse with a person in an unnatural manner is not defined more precisely in the Criminal Code, there has been a considerable debate regarding whether this legislation

³⁸ Constitution Review Commission, 2011: 655.

³⁹ Ibid.

⁴⁰ Constitution Review Commission, 2011: 656.

⁴¹ Ibid.

⁴² Constitution Review Commission, 2011: 656–657.

⁴³ Ibid.

can be used to prosecute consenting adults for same-sex activity⁴⁴. In 2010, Ernest Kofi Abochie, a law lecturer at the Kwame Nkrumah University of Science and Technology, said that the Ghanaian Criminal Code does not interpret clearly what homosexuality means, and he believes that makes it virtually impossible for the act of homosexuality to be considered criminal⁴⁶. Similarly, Nana Oye Lithur, a human rights lawyer, stated that Ghana's laws and Criminal Code are silent on homosexuality, and regardless of the President's abhorrence of homosexuality and Ghana's cultural and social stigma against it, "gays do not infringe on any legal or constitutional provisions while exercising their sexual preference"⁴⁷. Martin Amidu, Attorney General and Minister of Justice, stated that the laws of Ghana "only frowned on homosexuality when it involved a minor or when one partner was forced into a sexual act", explaining that "when two consenting male adults had sex with each other in the privacy of their rooms, such a situation could not be described as illegal"⁴⁸. William Manful, a human rights advocate, a member of the Ghanaian Foreign Service and former Head of the Protocol for the Ghana High Commission in London, argued that even though "existing codes in the country's criminal legal system identifies unnatural sexual practices as acts of misdemeanor the constitution which is the supreme law of the land remains silent on the matter"⁴⁹. He further commented that the debate will continue until a clearly defined legal position that will guide the society's treatment of gays and lesbians is adopted⁵⁰.

In contrast with the aforementioned views, Gertrude Aikins, the director of public prosecutions, indicated in 2011 that people caught engaging in homosexual activities could be liable to prosecution, arguing that "unnatural carnal knowledge" refers to sexual intercourse between men⁵¹. In 2013 Marietta Oppong, Ghanaian Justice Minister-designate, stated categorically that she believes Ghana's constitution does not protect the rights of homosexuals to have legal same-sex relations, emphasizing that "unnatural carnal knowledge" is a criminal offense⁵². Around the same time, Information Minister Mahama Ayariga stated unequivocally

⁴⁴ U. S. Department of State, 2015b.

⁴⁵ Freedom House, 2015.

⁴⁶ Ghana Web, 2010a.

⁴⁷ GhanaWeb, 2011a.

⁴⁸ Okertchiri, 2012.

⁴⁹ Manful, 2011.

⁵⁰ Ibid.

⁵¹ Ghana Web, 2011b.

⁵² Pinfold, 2013.

that the laws of Ghana are very clear on homosexuality: they appall and criminalize homosexuality, and there is “no dispute about that”⁵³.

As this section has shown, however, there clearly is a dispute around the interpretation of the Ghanaian laws and the constitution’s stance on homosexuality. Nonetheless, despite the ongoing legal debate, the general belief and interpretation is that homosexuality is illegal in Ghana⁵⁴.

3.1.3.1.4 Application of the law

According to the United States Department of State⁵⁵ and Freedom House⁵⁶, there were no reports that the legislation had been used to prosecute consenting adults for same-sex activity in 2014. However, there are several sources reporting that the arrests of sexual minorities have happened in recent years, even though they are not common.

In 2015, the police at Amasaman in the Ga West municipality in the Greater Accra Region arrested two men engaged in homosexuality on a school compound⁵⁷. Also in 2015, two high school students accused of engaging in homosexual activity were arrested⁵⁸. In 2012, police in Walewale arrested a 21 year old man on suspicion of being homosexual and recruiting other youth to be homosexual⁵⁹. Also in 2012, a man was reportedly picked up by police for having a condom and being in the company of a man.⁶⁰ In 2011, three men were arrested for allegedly engaging in homosexual practice, and were charged of having unnatural carnal knowledge⁶¹.

As this section has shown, in practice, arrests for homosexual acts in Ghana are rare. However, the effects of homosexuality being criminalized are widespread and dire, and extend far beyond the legal sphere. Criminalization of homosexual activities has a detrimental effect on sexual minorities not only within the legal sphere, but also, equally importantly, on the social sphere. When the state identifies individuals practicing same-sex relations as criminals, it creates a state-sponsored climate of homophobia which is passed to members of society who

⁵³ Ibid.

⁵⁴ ILGA, 2015: 55.

⁵⁵ United States Department of State 2015b.

⁵⁶ Freedom House, 2015.

⁵⁷ Nyarko, 2015.

⁵⁸ Gadugah, 2015.

⁵⁹ Home Office, 2016: 16.

⁶⁰ Immigration and Refugee Board of Canada, 2012.

⁶¹ Xinhua News Agency, 2011.

then feel it gives them the right to discriminate and harass sexual minorities, an issue which will be explored in more detail in chapters on forms of discrimination.

3.1.3.2 Societal attitudes

Public opinion about homosexuality varies considerably around the world⁶². While same-sex marriage is permitted in various countries in the West, homosexuality is illegal in most African countries⁶³. In addition to being illegal in most countries in Africa, homosexuality is also viewed very negatively by the societies. According to Pew Research Center⁶⁴, 96% of Ghana's population believes that society should not accept homosexuality. To try to understand the very negative social attitudes towards homosexuality in Ghana, one ought to have a look at the role of religion and culture, two issues most often cited as reasons and justifications for people's negative view on homosexuality. The culture section will not be a detailed account of culture in the country, but it will focus on the so-called African – un-African debate which is often raised in the context of LGBT rights discussions.

3.1.3.2.1 Religion

Ghana is a very religious nation⁶⁵. Religion has played a big role in Ghana's development, and it influences daily life of Ghanaians to a high degree⁶⁶. The importance of religious identity in Ghana is high, with a majority of Ghanaians considering their religious identity very important for their self-perception⁶⁷. Religion has become a potent social force in every facet of Ghanaian life, from occupation, health and education to family life and economic activities, and it is the main framework through which the average Ghanaian interprets daily life, various phenomena in life, and even the future⁶⁸.

Religious people and institutions are often agents of advocacy, innovation, community empowerment and social justice movements⁶⁹. However, such positive aspects of religion are

⁶² Adameczyk & Pitt, 2009: 338.

⁶³ Ibid.

⁶⁴ Pew Research Center, 2013.

⁶⁵ Siewobr, 2015.

⁶⁶ Ibid.

⁶⁷ Langer, 2010: 13–14.

⁶⁸ Fredua-Kwarteng, 2006.

⁶⁹ Ibid.

relatively rare in Ghana⁷⁰, and in the country, religious groups have been at the forefront of the fight against homosexuality⁷¹.

According to the CIA World Factbook, the religious makeup of Ghana's population is 71.2% Christian, 17.6% Muslim, 5.2% traditional, 0.8% other, and 5.2% none⁷². The Bible and the Koran are often invoked as justification for the very negative attitudes people have towards homosexuals⁷³, and religion is one of the reasons most often cited by Ghanaians who believe that homosexuality should not be socially acceptable. Personal religious affiliations and beliefs are typically seen as strong indicators of attitudes about sexuality⁷⁴. Various studies also maintain that those who exhibit negative attitudes towards homosexuality are more likely to be religious and attend church frequently, as well as follow conservative religious dogma and ideology⁷⁵. According to a Ghanaian newspaper *The Informer*, 82% of Ghanaian citizens “abhor homosexuality” due to religious affiliation⁷⁶.

Many religions have a tendency to categorize homosexual behaviors as unnatural, ungodly, or impure⁷⁷. Because of this framing, active religious involvement and exposure to religious literature, as well as frequent interaction with other believers, are likely to encourage anti-homosexual attitudes⁷⁸. Since religion has such a strong place in everyday life of Ghanaians and to a high degree shapes their worldview, it can be seen as a very significant factor contributing to the negative social attitudes towards homosexuality being widespread in the country.

3.1.3.2.2 Culture

Ghana follows in the footsteps of numerous other African countries in seeing homosexuality as alien to Ghanaian culture, and a western neo-imperial imposition. However, despite this popular belief, homosexuality has existed and has been practiced in Ghana, as has been shown in chapter 4.1.1.

When it comes to homosexuality in Ghana and other African countries, there has been a constant discussions about whether homosexuality was brought to Africa by the European

⁷⁰ Ibid.

⁷¹ Okertchiri, 2012.

⁷² CIA, 2016.

⁷³ Manaful, 2011.

⁷⁴ Adamczyk & Pitt, 2009: 339.

⁷⁵ Norman et al., 2016: 13.

⁷⁶ Gray, 2012.

⁷⁷ Adamczyk & Pitt, 2009: 339.

⁷⁸ Ibid.

colonists or Arab slave traders, or if it is something that always has been a part of African culture⁷⁹. Some European colonists believed that African men were the most primitive of men, and therefore had to be heterosexual, due to the belief that the “primitive man” was supposed to be close to, and ruled by, nature⁸⁰. Thus, they did not believe that homosexuality existed in Africa at all. Today, the belief that homosexuality is a “Western” imposition is widespread among Ghanaians. According to this argument, homosexuality should be deterred to preserve the traditional African culture and values⁸¹. These beliefs are used to justify very negative attitudes towards homosexuality⁸².

Even though no conclusive evidence has ended this debate, there are several indications that homosexuality existed in Africa before “Western” and “Eastern” influence. In addition to the examples in the chapter on pre-colonial Ghana, other indications are found in the language. There exist terms for homosexual practices which are non-Indo-European and non-Semitic, which indicate the existence of homosexual practices in Ghana before influences from other cultures⁸³. Based on these claims, researchers have made the argument that the colonist in fact did not bring homosexuality with them to Africa, but rather – through Christianity – anti-LGBT sentiments⁸⁴, which today constitute the foundation of the negative attitudes towards LGBT people in Ghana.

3.2 Analysis: forms of discrimination

In this chapter, the forms of discrimination we have identified as prevalent in Ghana, namely discriminatory rhetorics, limitation of civil society, violence and harassment and, last but not least, exclusion, will be presented and discussed.

3.2.1 Discriminatory rhetorics in the public space

The following sections will look at rhetorics used by politicians and religious leaders, and how LGBT people are talked about in the media, as well the consequences this type of rhetorics can have.

⁷⁹ Murray & Roscoe, 1998: 9.

⁸⁰ Ibid.

⁸¹ Michaelson, 2014.

⁸² Ibid.

⁸³ Murray & Roscoe, 1998: 17.

⁸⁴ Murray & Roscoe, 1998: 12.

3.2.1.1 Politicians

Anti-LGBT rhetoric from prominent Ghanaian politicians is rampant in the country⁸⁵. Debates on gay rights intermittently ebb and flow in Ghana with various topical local or international issues related to homosexuality which can impinge on the country⁸⁶. This chapter will look at the rhetoric politicians employ when talking about LGBT issues, using the three most intense periods of debates on homosexuality in Ghana to provide a clear and chronological structure. First it will look at the debate in 2006, in relation to the LGBT conference that was allegedly supposed to take place in the country. Then the debate was renewed when David Cameron threatened to cut off aid to the country if the rights of sexual minorities were not respected and when 8000 homosexuals registered with health NGOs in the country's west. Last but not least statement and arguments made by politicians, of which there were many after the US Supreme Court ruling to legalize gay marriage, will be presented.

2006: the alleged LGBT conference

When the media started reporting on the alleged LGBT conference that was supposed to take place in Ghana (which will be discussed in more detail in chapter 4.2.2.1), the government was quick to ban it. Information Minister Kwamena Bartels said that since homosexuality was illegal in Ghana, the conference was not permitted⁸⁷. He added that the government “does not condone any such activity which violently offends the culture, morality and heritage of the entire people of Ghana”, and warned that disciplinary action would be taken if anyone was found to have contravened the law⁸⁸.

2011: 8.000 homosexuals register with a health NGO, UK threatens to cut off aid

In 2011 two issues sparked a renewed debate on homosexuality in Ghana, and many politicians were very explicit when making their views on the issue known publicly.

In May 2011, the media reported that 8.000 homosexuals registered with a health NGO in the country's west⁸⁹. Shortly after, the minister of Ghana's Western Region, Paul Evans Aidoo, publicly described homosexuality as “detestable and abominable”⁹⁰. He further called

⁸⁵ Human Rights Campaign Foundation & Human Rights First, 2014: 10.

⁸⁶ Vibe Ghana, 2013.

⁸⁷ BBC News, 2006.

⁸⁸ Ibid.

⁸⁹ Global Gayz, 2011.

⁹⁰ Ibid.

for increased security in the region, as well as the arrest of all homosexuals. Many other politicians and leaders followed suit, strongly condemning homosexuality⁹¹.

According to Freedom House, the rhetoric used by members of government and religious leaders in Ghana created a perilous environment for sexual minorities⁹². As already mentioned, Paul Evan Aidoo condemned homosexuality publicly on many occasions. Among others, he called for landlords to report people suspected to be homosexual to the police⁹³. A parliament member, David Tetteth Assuming, warned in 2011 that the homosexual community in the country may soon be at the receiving end of mounting public anger in the form of physical attacks and outright death, if homosexuals do not stop engaging in what he calls their “evil deeds”⁹⁴. Assuming added that issues of human rights cannot justify homosexual practices, which could incur the wrath of God on a “God-fearing nation” like Ghana. “Being a God-fearing nation and a God-fearing people, let us not joke with this issue and let us not talk about any issue of human rights. This is uncultured, anti-Ghanaian and if care is not taken, these people will face a very tough time in future” he noted⁹⁵. Assuming also called on the police to be more proactive in raiding suspected homosexual joints⁹⁶.

More heat to the debate about LGBT people was added in November 2011, after the UK Prime Minister David Cameron stated that his country will cut aid to countries that do not respect gay rights⁹⁷. In response to that threat, John Atta Mills, Ghana’s president at that time, said that he will never legalize homosexuality, and that the UK cannot impose its values on Ghana. Atta Mills further stated that Mr. Cameron was entitled to his views, but that did not give him the right to “direct to [sic] other sovereign nations as to what they should do”⁹⁸. He also added that Ghana’s societal norms are different from those in the UK, and he as president would “never initiate or support any attempt to legalize homosexuality in Ghana”⁹⁹. The president’s communications chief, Koku Anyidoho, told the BBC that the government in Ghana would not compromise its morals for money. “If that aid is going to be tied to things

⁹¹ Ibid.

⁹² Freedom House, 2011.

⁹³ Ibid.

⁹⁴ Ghana Web, 2011c.

⁹⁵ Ibid.

⁹⁶ GlobalGayz, 2011.

⁹⁷ BBC News, 2011.

⁹⁸ Ibid.

⁹⁹ Ibid.

that will destroy the moral fibre of society, do you really want that?” he asked during the BBC’s Focus on Africa program¹⁰⁰.

While the late president Atta Mills was unequivocal in his opposition to legalizing homosexuality, President Mahama was criticized for not taking a strong stance on the issue¹⁰¹. The president’s stated position on the issue was the following: “I believe that laws must prevail. For instance, people must not be beaten or killed because of their sexual orientation, but in my country there is a strong cultural hostility towards it”¹⁰².

2015: The US Supreme Court legalizes same-sex marriage

After the US Supreme Court legalized same-sex marriages, many Ghanaian politicians have commented on the situation, although not to the same extent as the religious leaders in the country. Akwasi Addae Odike, founder and leader of the United Progressive Party, stated he feared that Ghana’s continuous borrowing from foreign countries may end up luring the country to legalize same-sex marriage¹⁰³. He indicated that the government has allowed foreign countries to manage the affairs of the country indirectly, because Ghana has not been able to make good use of the country’s natural resources. He said that if care was not taken, “Ghana will end up accepting what we have never thought of since they are against our religious principles”¹⁰⁴. A Ghanaian multi-ethnic grass-root think-tank association EL-Vatt sent an open letter to the President, urging him to step out and communicate his thoughts “on the ruling that is being considered as unbiblical, unchristian, and the worst of all, an affront to African culture”¹⁰⁵. The letter also stated that the organization has also “gotten wind” of the fact that a large number of Ghanaians are stating that politicians who support homosexuality should not be elected because that would “incur the wrath of God upon the nation”¹⁰⁶.

3.2.1.2 Religious leaders

Religious groups have been at the forefront of the fight against homosexuality¹⁰⁷, and both Christian and Muslim religious leaders seem to be leading the fight. There are numerous

¹⁰⁰ Ibid.

¹⁰¹ GBC, 2015.

¹⁰² Human Dignity Trust, 2015.

¹⁰³ GhanaWeb, 2015a.

¹⁰⁴ Ibid.

¹⁰⁵ Vanderpuye, 2015.

¹⁰⁶ Ibid.

¹⁰⁷ Okertchiri, 2012.

examples of statements made by religious leaders who unequivocally condemn homosexuality, and encourage both the government and everyday Ghanaians to actively fight against it.

Rev. Isaac Owusu Bempah, leader of Glorious Word Ministry International, warned President Mahama that Ghana would face the risk of incurring God's wrath if the country decriminalized homosexual activities, adding that all countries that have accepted gay rights have been cursed by God, and the president should thus not tolerate any attempts to push any gay rights agenda in the country¹⁰⁸. He further asked the president to ensure that the country does not bow to foreign pressure, or else Ghana will be cursed¹⁰⁹. Using similar rhetoric, one of Ghana's leading clerics, the head of Ghana's Presbyterian Church Emmanuel Martey, stated that gay people are "Satan's deadly agenda", and they are plotting to destroy the country by infiltrating the government¹¹⁰.

According to Archbishop Charles Palmer-Buckle of Archdiocese of Accra, because the church believes that human beings are property of a larger society, and people must contribute to the common good of the society, homosexuality is "turning sex inward and making it not fruitful". Consequently, what homosexuality brings about is contrary to the common good of society, so the church has always considered homosexuality morally and intrinsically disordered¹¹¹.

The National Association of Charismatic and Christian Churches (NACC) congratulated the government on the banning of the 2006 alleged LGBT conference, stating that banning the conference reflected the voice of the vast number of Ghanaians¹¹². A statement signed by the Reverend Steve Mensah, Chairman of the NACC, said that the church saw homosexuality and lesbianism as a social vice that is an affront to the moral and cultural values of Ghana. Lesbianism and homosexuality are, according to the issued statement, sexual perversions that Ghana should not tolerate. The statement also quoted the scripture in Romans Chapter One which states God's displeasure of same sex practices. The Christian Council of Ghana, the umbrella organization of various Christian denominations in Ghana, also condemned the activities and operations of homosexuals and lesbians unequivocally at a press conference¹¹³. The Christian Council of Ghana also urged the government not to legalize

¹⁰⁸ GhanaWeb, 2015b.

¹⁰⁹ Ibid.

¹¹⁰ Littauer, 2013.

¹¹¹ Tornyi, 2015a.

¹¹² Sallar, 2011.

¹¹³ Ibid.

homosexuality, and some pastors threatened to tell their congregations to vote against any party that would endorse such measure¹¹⁴.

Muslim leaders in Ghana have also been speaking out against homosexuality. The National Chief Imam, Sheikh Dr. Osmanu Nuhu Sharubutu, “called on all and sundry to desist from accepting homosexual practices which might attract and bring destruction to the nation”¹¹⁵. According to Sharubutu, Ghana is on track for creating a better society, living standards and quality of lives devoid of poverty, but only if Ghanaians reject the “undignified and immoral act that is not even practiced by animals in the jungle”¹¹⁶. Sheikh Sharubutu also stated that Islam forbids homosexuality and regards it as a great sin, for which people who practice such acts in a society under Islamic law would be severely punished. He also touched upon the issue of foreign cultural infiltration, stating that “inasmuch as we strive in our quest for perpetual peace and development to attain heights in developmental projects, we should not allow or tolerate the infiltrations of foreign cultures into our sacred societies”¹¹⁷. Sheikh Osman Nuhu Sharubutu, like various Christian faith leaders, congratulated the government for banning the alleged LGBT conference. In his statement regarding the conference, he called on religious bodies in Ghana to support the government on its ban because of the moral and spiritual values of Ghanaians. The statement also drew attention to the Koran and the Bible on their abhorrence of “immoral tendencies”, and called on all Imams and the clergy to fight what it termed “an alien practice in Africa”¹¹⁸. The Coalition of Muslim Organizations in Ghana (COMOG) called for the Parliament to introduce the “Prohibition of Homosexuality and Lesbianism Bill”, under which homosexuals would be imprisoned without the option of a fine. COMOG bemoaned homosexuality and called for a collective effort from religious groups and the government to fight against it¹¹⁹.

After the US Supreme Court’s decision to legalize gay marriage in 2015, many religious leaders have strongly condemned it. The General Secretary of the Christian Council of Ghana (CCG), Rev. Dr. Kwabena Opuni-Frimpong, described same sex marriage as unbiblical, unchristian and un-African, further stating that the practice should be resisted and condemned by all Christians and well-meaning Ghanaians¹²⁰. His arguments are that even though the

¹¹⁴ Okertchiri, 2012.

¹¹⁵ Vibe Ghana, 2011.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Sallar, 2011.

¹¹⁹ Okertchiri, 2012.

¹²⁰ GhanaWeb, 2015c.

practice is legal in some countries, Ghana “should not compromise on its cultural and moral values”, and Ghanaians should “resist any temptation and influence from any country or individuals to legalize same sex marriage”¹²¹. Rev. Jeremiah Boakye Ansah, a renowned Ghanaian pastor, stated on a TV show that as people committed to Biblical truth, it would be a tragic error if the leaders of the country legalized gay marriage, “or even just endorsed the act of homosexuality”, further adding that “any president or leader of this country who will suggest or even think of legalizing gay marriage is an agent of the devil”¹²². Rev. Justice Kodua, during the same show, also condemned both homosexuality and gay marriage, using the Bible as justification for his views. Both pastors urged “each and every Ghanaian to start the anti-gay marriage campaign now”, at the same time urging media to use their platform to create awareness against “demonic act of legalizing gay marriage in the country”¹²³.

The presiding Bishop of the Methodist Church in Ghana, the Most Reverend Titus K. Awotwi Pratt, stated categorically that the Methodist Church in Ghana will never accept the practice of same sex marriage. Speaking during a high-profile sermon, he stressed that “gayism and lesbianism are not our culture and it shall never be the culture of Ghanaians... it’s evil, ungodly and abomination that caused God to destroy Sodom and Gomorrah and accepting it is as asking God to unleash terror on us”¹²⁴.

While the majority of the religious leaders are very blunt and straightforward in their condemnation of homosexuality, there are some voices advocating for compassion for the homosexual individuals. Archbishop Charles Palmer-Buckle of Archdiocese of Accra, while he is vehemently opposed to marriage equality, stated during a Vatican press conference in 2015 that some countries needed time to “deal with” homosexuality and other issues “from our own cultural perspectives”¹²⁵. In the same statement, he also criticized violations of human rights of homosexuals, and argued that the reason why homosexuality had become prominent in the media is that homosexuals have been discriminated and dehumanized. He also stated that the Church should respect homosexuals, but not the practice of homosexuality.

The fight the religious leaders in Ghana are leading also goes beyond the realm of public rhetoric. In 2010, the Muslim community, with support from other religious groups and “concerned citizens”, organized the first ever anti-gay demonstration in Ghana¹²⁶. According

¹²¹ Ibid.

¹²² Osarfo, 2015.

¹²³ Ibid.

¹²⁴ Goaso, 2015.

¹²⁵ Lavers, 2015.

¹²⁶ GhanaWeb, 2010b.

to the leader of the protesters, Saeed Hamid, the demonstration's aim was to draw the government's attention to the conduct of sexual minorities in the country¹²⁷.

3.2.1.3 The media

Representation of homosexuality in Ghanaian media is not a holistic one, and negative stereotypes of homosexuality are prevalent¹²⁸. Content analysis research conducted between 2008-2011 found that 52% of the media representations of homosexuality in Ghana held negative views, 40% positive views, and 7% held both positive and negative views on homosexuality¹²⁹. While the amount of positive depictions of homosexuality was fairly steady throughout those years, we can observe a continual decrease in the amount of negative views, something that might partially be explained by the political pressure being placed upon Ghanaian leaders¹³⁰. However, despite the downward trend in the amount of negative views towards homosexuality, negative depictions continue to prevail¹³¹.

Until 2006, homosexuality was hardly discussed in the country. In 2006, media reports on a supposedly planned gay and lesbian conference, which will be discussed in more detail in the following chapter, sparked a nationwide debate on homosexuality, and an “unprecedented atmosphere of hatred for homosexuals”¹³². Before this, the topic of homosexuality was not a big issue within the public discourse¹³³. However, once the news about the alleged conference had reached the population, numerous responses, most of them negative, started coming from various segments of society. Newspapers, radio and TV shows became obsessed with the topic. The sentiment was very negative, in some cases violent, and many LGBT leaders even received death threats¹³⁴. The media focused heavily on the international nature of the conference, which according to the government, was meant to bring gays and lesbians from all over the world to Ghana, and according to OutRights Action International, this focus might have served to play into nationalist sentiments and reinforce the notion that homosexuality is alien to Ghana's culture¹³⁵. The alleged conference created tensions and repercussions from the social, religious, cultural and political factors, which all worked to repress same-sex discourse in the

¹²⁷ Ibid.

¹²⁸ Quist-Adade et al., 2014.

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Essien & Saheed, 2009: 122.

¹³³ Sallar, 2011.

¹³⁴ OutRight International, 2006b.

¹³⁵ Ibid.

country¹³⁶. The new wave of homophobic expression that followed was a manifestation of the clash between what is seen as African and un-African social and sexual behavior. The government and religious institutions framed the issue as a part of sexual colonialism, or in other words "Western" imposition on Ghanaians. The opponents of homosexuality, by using the print and electronic media as a means of intimidation, managed to contain homosexuals and those who support them¹³⁷. In the aftermath of the debate the Ghanaian media were criticized internationally for homophobic propaganda and exacerbating the controversy¹³⁸.

In 2011, a state-owned newspaper Daily Graphic wrote that 8000 homosexuals had registered with health organizations in the Western Region. The news was followed by public condemnation of homosexuality by politicians and religious leaders, with the Minister of the Western Region, Paul Evans Aidoo, calling for the arrest of all homosexuals, and describing homosexuality as detestable and abominable. This incited a climate of fear which, according to NGOs, prevented homosexuals from accessing health services¹³⁹.

In 2012, the press published allegations that the new vice president, Paa Kwesi Amisah-Arthur, was a homosexual. Even though Amisah-Arthur denied the rumors, the allegations created a moral panic in the country¹⁴⁰. The allegations were published widely in the Ghanaian press, with anti-gay opinion op-eds designed to whip up a moral panic about homosexuality¹⁴¹. Several newspapers ran the story, with many religious leaders commenting on the dangers of homosexuality to the country, stirring up anti-gay sentiments across the country¹⁴².

A renewed heated debate on homosexuality took place in Ghana after the United States Supreme Court legalized same-sex marriage in the United States in 2015. Most of the voices that could be heard in the media condemned and/or ridiculed the Supreme Court ruling¹⁴³, examples of which have been given in the two previous chapters. An international evangelist, Rev. Samuel Kisseadoo, stated that outpouring of disgust at the concept of gay marriage is exactly the right way to go, ending his statement with an assertion that "homosexuals will not go to heaven"¹⁴⁴

¹³⁶ Essien & Saheed, 2009: 122.

¹³⁷ Ibid.

¹³⁸ Essien & Saheed, 2009: 133.

¹³⁹ Finnish Immigration Service, 2015: 60.

¹⁴⁰ Ibid.

¹⁴¹ Littauer, 2012.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ Appiah, 2015.

The media is a powerful tool in influencing how people see the world, and the media's negative portrayal of sexual minorities can be very destructive¹⁴⁵. There is a negative stigma attached to homosexuality in the Ghanaian media, and terms such as “plague”, “epidemic” and “blasphemous” are often to be seen and heard in relation to sexual minorities. Such rhetoric is very damaging, as it presents the entire LGBT community as a group of sick and sinful people¹⁴⁶. Presenting them this way implies that LGBT people should be eradicated, or at least cured from the “disease” of homosexuality¹⁴⁷. The power of words should not be underestimated, and employing such loaded language contributes to further discrimination and negative attitudes towards sexual minorities.

3.2.1.4 The consequences of public rhetoric

While it is difficult to draw very clear-cut cause and effect conclusions, there is little doubt that the words people of authority use mean something, influence the public opinion and often legitimize violent actions. Homophobic statements made by politicians and religious leaders, the prevalence of homophobia in the media, as well as public support by the politicians and the religious leaders for the criminalization of same-sex relations contribute to the perpetuation of societal prejudices against LGBT individuals. It can also be argued that homophobic statements, which the previous sections have provided plenty of examples of encourage more hate speech, hate crimes and discrimination by both state and non-state actors. A report by African Men for Sexual Health and Rights (AMSHeR) notes that the involvement “of religious leaders in promoting hate and homophobia within the society as well as in the media recently has also incited people to attack known LGBT people in their homes and meeting places”¹⁴⁸.

3.2.2 Violence and harassment

Violence and harassment are prevalent forms of discrimination in Ghana, and LGBT individuals are often victims of violence and harassment at the hands of both various state and non-state actors. The following sections will present and discuss cases of violence and harassment LGBT individuals in Ghana face.

¹⁴⁵ Quist-Adade et al., 2014.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ AMSHeR, 2013.

3.2.2.1 State actors

According to the United States Department of State, there were no reports in 2015¹⁴⁹, 2014¹⁵⁰, 2013¹⁵¹ of police or government violence against LGBT people. Nonetheless, there are numerous cases where LGBT individuals have been discriminated against and harassed by state actors, most notably the police, or by individuals where the police turns a blind eye on their actions, or simply arrest the victims of the crimes¹⁵².

A report by the International Lesbian and Gay Human Rights Commission (ILGHRC) from 2011 pointed to physical violence and “gay bashing” which occurs “at the hands of, or with the collusion of, the police or other agents of the state”¹⁵³. The report also wrote about an environment of impunity where the rights of LGBT people are “widely and routinely violated”¹⁵⁴. It stated that homosexuals are regularly subject to harassment and extortion, and often either at the hands of, or with the collusion of, the police or other agents of the state¹⁵⁵.

A report by the United States Department of State from 2014 concluded that while there were no reported cases of police or government violence against LGBT people in 2014, the “stigma, intimidation, and the attitude of the police toward LGBT persons were likely factors in preventing victims from reporting incidents of abuse”¹⁵⁶. The report further stated that even though such practices are prohibited by both the constitution and the law, there were credible reports of cases where the police “beat and otherwise abused suspects, prisoners, and other citizens”¹⁵⁷.

In addition to the cases where state actors are responsible for the violence and harassment of LGBT people, another significant problem, which can also be considered a form of discrimination against LGBT people, is the lack of protection of the rights of LGBT by the police. In their 2012 report, the Immigration and Refugee Board of Canada noted that police in Ghana are unlikely to assist homosexual victims of assault, and they are “generally unresponsive” to claims of assault on homosexual individuals¹⁵⁸. A representative of Center for Popular Education and Human Rights (CEPEHRG) said that he was personally assaulted

¹⁴⁹ U.S. Department of State, 2015a: 19.

¹⁵⁰ U.S. Department of State, 2014: 22.

¹⁵¹ U.S. Department of State, 2013: 22.

¹⁵² Ghana Aids Commission, 2015:121.

¹⁵³ Home Office, 2016: 15.

¹⁵⁴ Home Office, 2016: 16.

¹⁵⁵ Ibid.

¹⁵⁶ Home Office, 2016: 15.

¹⁵⁷ Ibid.

¹⁵⁸ Immigration and Refugee Board of Canada, 2012.

because of his sexual orientation in the market in Accra. The perpetrators took all of his belongings and took him to the police. The police did not investigate the robbery and the assault, and told the perpetrators to leave despite the fact that they still had the victim's belongings¹⁵⁹.

The 2014 USSD report observed that there were reports where police were reluctant to investigate claims of violence or assault against LGBT individuals¹⁶⁰. According to the Human Rights Advocacy Center (HRAC), gay men in prison were regularly subject to sexual and other physical abuse, and the government took no known action to either investigate or punish the people responsible for the abuses¹⁶¹.

3.2.2.2 Non-state actors

According to Amnesty International's and Freedom House's reports from 2013, violence against the LGBT community was prevalent, and the persecution of sexual minorities escalating¹⁶². There are many examples of LGBT individuals in the country being subject to acts of violence based on their real or perceived sexual orientation and gender identity.

A young man Maiga Larry and his family were subject to violence after the man was accused of introducing homosexuality to the teenagers in his community. He was subsequently hunted by the people in his community. Malam Shaibu, a local Islamic cleric, said they would burn the boy to death because "Islam abhors homosexuality"¹⁶³. Shehu Munkaila Iddrisu, who led the manhunt, told the Daily Guide newspaper they would "burn or bury him alive to serve as a deterrent to others who may entertain any thoughts of engaging in homosexuality"¹⁶⁴. The group ended up setting a motorbike that allegedly belonged to Maiga on fire, and they severely beat his family members¹⁶⁵.

In 2012, a group of young men from the Ga-Mashie Youth for Change, armed with, among others, canes, broken bottles and stones, attacked a birthday party in the Jamestown neighborhood of Accra celebrating lesbian woman¹⁶⁶. According to Hillary, a 27 year old homosexual man using the alias to protect his identity, the group beat some of the women that

¹⁵⁹ Ibid.

¹⁶⁰ Home Office, 2016.

¹⁶¹ Ibid.

¹⁶² Solace Brothers Foundation et al., 2009: 4.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Migneault, 2012.

were not able to run, took their phones and money, and stripped them naked. Hillary and his friend took refuge with a local NGO. Various sources reported that after the raid at the party, attacks against LGBT people in Accra continued¹⁶⁷. According to a representative of CEPEHRG, the perpetrators went house to house looking for LGBT people, chaining them up and beating them. The source added that the lesbians were sexually and physically assaulted, and were ordered to leave the community or “face the consequences”¹⁶⁸. The Ga-Mashie Youth for Change, the group responsible for the attack, claimed the gathering was really a lesbian wedding, and the group invaded the place “with the intention of stopping them but did not want to hurt anyone or beat them”¹⁶⁹. Daniel Ettey, coordinator of the group, added that they wanted to show how they feel about homosexuality¹⁷⁰. The attack was reported to the police. However, the police did nothing to protect the people who were attacked. In fact, the only individuals arrested were some of those attending the party¹⁷¹. After the event, the Ga-Mashie Youth for Change sent a petition to the police commander of James Town to go on a demonstration against “sodomy and lesbianism” in the community. “With the recent trends of sodomy and lesbianism eating into the moral fiber of the Ga Mashie community, we the youth for change in the community wish to create awareness of immorality of such acts and demonstrate peacefully against such acts throughout the Principal Street of the Ga-Mashie community”¹⁷², reads part of the petition.

In 2013, the NGO African Men for Sexual Health and Rights reported that a group of young men in the Lapaz district of Accra violently attacked many people in the rented apartments because of the sexual orientation of the victims¹⁷³.

A large group of women suspected of being lesbians were attacked at a party in the Teshie area in the Greater Accra region¹⁷⁴. The attackers thought the party was an engagement ceremony for two lesbians. One of the victims said the group of attackers threw “stones and faeces” at them. The youth of Teshie who were responsible for the attacks have not faced any consequences, and vowed to continue with the attacks “until homosexuality is completely eliminated from the area”¹⁷⁵.

¹⁶⁷ Immigration and Refugee Board of Canada, 2012.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Solace Brothers Foundation et al., 2009: 5.

¹⁷² Migneault, 2012.

¹⁷³ Solace Brothers Foundation et al., 2009: 5.

¹⁷⁴ Torny, 2015b.

¹⁷⁵ Ibid.

A report by the International Lesbian and Gay Human Rights Commission (ILGHRC) from 2011 wrote about the environment where LGBT people are often subject to harassment and extortion, both by the state actors and individuals¹⁷⁶. Focusing on the blackmail of gay and bisexual men, the report registered that blackmail can be committed by strangers, acquaintances, employers, colleagues, friends or even family - virtually anyone who might have access to information that another person wants to keep secret. In a few cases, blackmailers or extortionists approached their victims without there being any prior relationship between the two parties. When strangers did not know a great deal about the victim, they often used extortion rather than blackmail to get money, property, sex, or services from them¹⁷⁷. In many cases it is believed that the police are paid to accompany blackmailers when they are collecting their payment from their victims, threatening to prosecute them if the blackmailers do not get their payment.

3.2.3 Limitations of civil society, freedom of expression and assembly

The constitution and the law provide for the freedoms of peaceful assembly and association, and according, to the United States Department of State¹⁷⁸, the government generally respects these rights. Permits are not required for meetings or demonstrations, and NGOs are generally able to operate freely¹⁷⁹. This assessment, however, does not seem to hold when one looks at the situation of LGBT people.

In Ghana, both LGBT individuals and LGBT rights advocates are subject to hostility and even violent attacks¹⁸⁰. In 2013, Opoku Ware Secondary High School and Wesley Girls Senior High School expelled students because of their sexual identity. Nineteen students from Opoku Ware were expelled for practicing homosexuality and allegedly recruiting other students to practice same-sex acts. Soon after, 43 girls were dismissed from Wesley school for engaging in “lesbianism”¹⁸¹. The director of the Center for Popular Education and Human Rights (CEPEHRG), Mac-Darling Cobbinah, condemned the actions of the school authorities, stating that expelling students from school will have disastrous effects on their future. According to Cobbinah, young people who have not completed their education could end up on the streets and sooner or later be pushed into a life of crime. During the same year, Ghana’s

¹⁷⁶ Cobbinah, 2011: 60.

¹⁷⁷ Ibid.

¹⁷⁸ U.S. Department of State, 2015a.

¹⁷⁹ Freedom House, 2011.

¹⁸⁰ Solace Brothers Foundation et al., 2009: 8.

¹⁸¹ Ibid.

Education Ministry reportedly vowed to apply severe punishments to any student caught engaging in “homosexual or lesbianism activities”¹⁸².

LGBT-rights advocates and teachers who teach about sexual health are also met with similar hostility and discrimination¹⁸³. For example, in 2012 a group of schoolboys from the Volta Region attacked an educator from an NGO who was about to teach a workshop on sexual health. He was attacked while carrying education materials about safe sex, including condoms and pamphlets. Instead of charging the perpetrators of the attack, the police detained the educator¹⁸⁴. This shows that not only LGBT people, but also those who are associated with them in various ways face discrimination and even violence.

3.2.3.1 Case study: the 2006 alleged LGBT conference

In September 2006, the government banned a gay and lesbian conference which reportedly was supposed to take place in the Accra International Conference Centre and at a venue in the city of Koforidua.

In response to this news, information Minister Kwamena Bartel stated that since homosexuality is illegal in Ghana, such gatherings will also not be permitted¹⁸⁵. He further stated that the government “does not condone any such activity which violently offends the culture, morality and heritage of the entire people of Ghana”, and warned that disciplinary action would be taken if anyone was found to have contravened the law¹⁸⁶. Mr. Bartels issued an unequivocal statement where he laid out the government's position, stating that the government “would like to make it absolutely clear that it shall not permit the proposed conference anywhere in Ghana”¹⁸⁷.

Various sources have suggested that the conference was a fabrication, and the government issued a ban on it to send a warning to the LGBT community in Ghana. It was never clear who was the organizer of the alleged conference. The LGBT community in Ghana usually operates underground, in fear of persecution, and because of the social stigma associated with homosexuality. As a result, some organizations did not even want to discuss the situation and the government ban. The Gay and Lesbian Association of Ghana (GALAG) issued a statement saying that it has never discussed, nor organized, an international LGBT

¹⁸² Finnish Immigration Service, 2015: 56.

¹⁸³ Solace Brothers Foundation et al., 2009: 8.

¹⁸⁴ Ibid.

¹⁸⁵ BBC News, 2006.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

conference in Ghana, claiming that the conference “appears to have been the brainchild of someone’s vivid imagination”¹⁸⁸. Managers of the International Conference Centre, where the conference was allegedly supposed to take place, have also denied that such conference was due to take place at the premises¹⁸⁹.

The LGBT community in Ghana has been a target of a campaign of homophobia in the media, abetted by homophobic declarations from the government¹⁹⁰. The anti-gay campaign began when the media started reporting on the conference, which created a firestorm of protests. According to Prince Kweku MacDonald, the executive president of GALAG, government’s declarations created, as they were most likely meant to, a climate of fear among the LGBT community in Ghana¹⁹¹. “For them to come out to condemn the false conference and go on to condemn the practice of homosexuality in Ghana made it very difficult for gay people to meet these days. The LGBT community in Ghana does not really feel safe to hold meetings and organize parties”¹⁹². Prince Kweku MacDonald was actually forced to leave Ghana after receiving numerous threatening phone calls and physical threats both from the community where he lived and from the religious groups in Ghana¹⁹³. One day he woke up to find the office vehicle vandalized with writing “burn it up”. According to MacDonald, people would walk behind his house and yell things like “now we know you are behind all this and we will put you where you deserve to be in this society”. MacDonald felt it would be safest for him to leave the country, before some physical harm was actually done to him¹⁹⁴.

The International Gay and Lesbian Human Rights Commission (IGLHRC) issued a statement condemning the homophobic media campaign and the government’s ban, which it called “a red herring, introduced by an unknown source to galvanize resentment against Ghana’s increasingly visible gay and lesbian community”¹⁹⁵. Further, the focus on the international nature of the conference which, according to the government, would have brought gays and lesbians from all over the world to Ghana, seemed to be designed to play into nationalist sentiments and reinforce notions of homosexuality being un-African¹⁹⁶.

¹⁸⁸ OutRight International, 2006a.

¹⁸⁹ BBC News, 2006.

¹⁹⁰ Refugee Review Tribunal Australia, 2008.

¹⁹¹ Ibid.

¹⁹² Ibid.

¹⁹³ Ireland, 2006a.

¹⁹⁴ Ibid.

¹⁹⁵ Ireland, 2006b.

¹⁹⁶ OutRight International, 2006b.

Regardless of whether or not the conference was actually scheduled to take place, or whether it in fact was a “brainchild of someone’s vivid imagination”, the issue sparked a huge public debate about homosexuality in Ghana. After the media started reporting about the planned conference, protests were launched from religious leaders, politicians, and ordinary Ghanaians, and as mentioned above, the vast majority of the reactions were very negative. Thus, the “conference that never was” has set the raging and passionate debate on homosexuality in Ghana¹⁹⁷.

While the response of the government and religious institutions, as well as media coverage which was mostly negative, clearly appealed to the homophobic sentiment of the Ghanaian public¹⁹⁸, the government’s reaction was a clear infringement of the fundamental freedoms of speech, assembly and association enshrined in the Ghanaian constitution, and the rhetorics employed by both politicians and religious leaders, painting homosexuality in a very negative light, created a climate of fear and further contributed to the discrimination of sexual minorities.

3.2.4 Exclusion

Discrimination based on sexual orientation leads to exclusion of LGBT people from various arenas. Exclusion is a term capturing structural manifestations of stigma in institutional settings, which reduces the access of LGBT people to participation and to equal treatment in various social institutions such as schools, the criminal justice system, families, health care and many other arenas¹⁹⁹. Exclusion shapes the lived experiences of people, and in Ghana LGBT people face exclusion in many aspects of their lives.

When people fear persecution or harm at the hands of the state, they are practically excluded from seeking or obtaining protection from the authorities²⁰⁰, and those who decide to seek help face further exclusion. Many of the judges in Ghana who would normally handle LGBT rights are homophobic, and even though there are human rights lawyers supporting LGBT rights, it is generally very difficult for LGBT people to get support from other lawyers²⁰¹.

¹⁹⁷ Sallar, 2011.

¹⁹⁸ Essien & Aderinto, 2009: 129.

¹⁹⁹ Badgett, 2014: 7.

²⁰⁰ Home Office, 2016: 7.

²⁰¹ Matthews, 2016.

LGBT people can also be evicted because of their sexual orientation, which means that they also face exclusion in the housing market²⁰². The very few places where LGBT in Ghana can socialize face discrimination from landlords once the landlords realize they are renting to LGBT people. There were several blackmail cases and many unlawful evictions of LGBT people, but those are usually not reported because they fear being “outed”²⁰³. LGBT people are also often excluded from the education system, and even students who do not disclose their sexuality may be teased or beaten at schools²⁰⁴. In 2013, Opoku Ware Secondary High School and Wesley Girls Senior High School expelled students because of their sexual identity²⁰⁵. During the same year, Ghana’s Education Ministry reportedly vowed to apply severe punishments to any student caught engaging in “homosexual or lesbianism activities”²⁰⁶, showing that exclusion in education system is a significant problem.

Societal hostility, which often results in exclusion, towards LGBT people has also been well documented throughout this report. 79% of people in Ghana would not want a homosexual person as their neighbor²⁰⁷, and as shown in many examples earlier, LGBT people are often excluded from participation in their communities, often through violent means. When people cannot live openly as LGBT without well-founded fear of harassment and violence, they naturally feel excluded from a number of social settings. The negative and often violent political rhetoric, negative portrayals of LGBT people in the media, exclusion from education, housing market, social arenas and health care deprive LGBT people of many opportunities. When LGBT people are being portrayed as a group that, if socially accepted, will lead to the fall of the country and all its culture and values stand for, they become virtually excluded from participation in the society.

3.2.4.1 Case study of exclusion: Discrimination in health care

LGBT people in developing countries often face a double setback from both lack of resources and discrimination in accessing health care, and Ghana is no different in this respect²⁰⁸. There are numerous examples of LGBT individuals being refused treatment by health care providers

²⁰² Home Office, 2016: 30.

²⁰³ Finnish Immigration Service, 2015: 60-61.

²⁰⁴ Home Office, 2016: 30.

²⁰⁵ Solace Brothers Foundation et al., 2009: 8.

²⁰⁶ Finnish Immigration Service, 2015: 56.

²⁰⁷ Home Office, 2016: 30.

²⁰⁸ ArriveNet, 2015.

“if their illness or other factors lead to suspicion of their sexual orientation”²⁰⁹. Further, in order to get treatment for AIDS, homosexuals may be required to reveal their partner²¹⁰, which, given the consequences this might have for them and their families, discourages many from seeking medical help.

In 2011, the Ghana AIDS Commission published a National Strategic Plan which identified men who have sex with men (MSM) as one of the four most-at-risk populations, and emphasized the importance of equal access to health care and the reduction of social stigma towards MSM²¹¹. According to USAID, 25% of Ghanaian MSM were HIV-positive in 2006, and according to the WHO, since the beginning of the epidemic in the early 1980s, MSM have been disproportionately affected by HIV²¹². According to WHO, discrimination MSM face in the society causes the individuals to delay or avoid seeking HIV-related information, services and care²¹³. According to a newer report by UNAIDS from 2015, HIV prevalence is still high among MSM in Ghana, and there are still many challenges to changing this situation²¹⁴. LGBT individuals, especially MSM, have difficulties accessing HIV prevention services “due to stigma and discrimination, social hostility, fear of losing jobs and families and even verbal and physical violence”²¹⁵. The high level of stigma and discrimination against LGBT people, especially MSM in their communities, home, mainstream media and certain health centers undermines the work of the national HIV response²¹⁶.

John Dramani Mahama, in his plenary speech at the UN 2011 High-Level Meeting on AIDS, said that it was vital to include MSM in Ghana’s strategy to fight HIV/AIDS, and he also acknowledged that cultural hostility to members of this group makes them unwilling to disclose their sexual orientation²¹⁷. While a statement like this might be considered a step in the right direction, it pales in comparison with numerous discriminatory statements made by various other politicians and religious leaders.

In 2011, Ghana AIDS Commission issued a statement about the situation of MSM in Ghana, emphasizing that “it is important that all hands are on deck to reduce the number of young people who are lured into MSM”, and called on “all religious leaders, traditional

²⁰⁹ Ibid.

²¹⁰ Stewart, 2012.

²¹¹ Finnish Immigration Service, 2015: 64.

²¹² Goba Gayz, 2011.

²¹³ Ibid.

²¹⁴ Ghana Aids Commission, 2015: 40.

²¹⁵ Ibid.

²¹⁶ Goba Gayz, 2011.

²¹⁷ Ibid.

authorities, educationists, parents and NGOs working with young people to get involved in educating males on the dangers of being involved in sex with other men”²¹⁸.

After media reports in 2011 that 8000 homosexuals registered with health NGOs in the country’s west, the minister of Ghana’s Western Region, Paul Evans Aidoo, publicly described homosexuality as “detestable and abominable”, and called for increased security in the region as well as the arrest of all homosexuals²¹⁹. This type of condemnation of homosexuality by religious and political leaders and Ghana not only contributes to further discrimination of LGBT people, but also creates an atmosphere of fear which prevents MSM from accessing vital health services²²⁰. According to MacDarling Cobbinah from CEPEHRG, far fewer MSM are accessing safe sex education and support programs run by his organization to prevent the spread of HIV as a result of this condemnation. People who were coming to HIV education programs stopped coming out of fear of being arrested²²¹.

3.3 Summary and discussion: forms of discrimination in Ghana

The discrimination of LGBT people in Ghana we have found, takes these forms: The limitation of civil society, violence by state and non-state actors, and exclusion in many spheres of life. All of these forms of discrimination are reinforced and legitimized by the rhetoric politicians and religious leaders are using, and the negative portrayals of LGBT people in the Ghanaian media. This last concluding section is meant to provide a brief summary, but most importantly show how all of them are connected and mutually reinforcing.

The LGBT community in Ghana has been the target of a campaign of homophobia in the media, abetted by homophobic declarations and strong anti-LGBT rhetoric from prominent politicians and religious leaders. When discussing homosexuality and other LGBT issues, the aforementioned actors often used word such as “detestable” and “abominable”, and argue that LGBT practices violently offends the culture, morality and heritage of the entire people of Ghana. By labeling such practices as un-African, this type of rhetorics establishes and reinforces ideas about what the Ghanaian society is, and where LGBT people are identified as a threat. This legitimizes and enables further stigmatization of LGBT people through the discourse of “us” versus “them”, commonly used by African leaders: LGBT people are

²¹⁸ Finnish Immigration Service, 2015: 64.

²¹⁹ Gobal Gayz, 2011.

²²⁰ Ibid.

²²¹ Ibid.

described as “the other”, not fully human, let alone full citizens who are entitled to the same rights and privileges afforded to other groups of people.

In Ghana, statements relating to LGBT issues that can be heard most frequently in the public space are those condoning and thus legitimizing negative attitudes and discrimination, but every now and then, we also see statements that explicitly call for arresting LGBT people. Other public statements take the form of a “warning”, implying that LGBT people are justifiable targets of violence if Ghanaians do not wish to see their country, culture, traditions and ways of life change drastically for the worse. For example, when David Tetteth Assuming warned that the homosexual community in the country may soon be at the receiving end of mounting public anger in the form of physical attacks and outright death if homosexuals did not stop engaging in what he calls their “evil deeds”, he was not explicitly calling for violent attacks of LGBT people, but his statements still implied that it would be something understandable and even justifiable.

Religious leaders, both Christian and Muslim, have been even more straightforward in the condemnation of homosexuality, incurring God’s wrath if Ghana decriminalized homosexual activities, and adding that all countries that have accepted LGBT rights have been cursed by God. This fuels the anti-LGBT sentiments in the already very religious Ghanaian population. The religions’ labelling of LGBT practices as unnatural, ungodly and impure, reinforced by violent and hateful rhetorics by religious leaders, are important factors contributing to very negative social attitudes, discrimination of and often violence towards LGBT people in Ghana.

We argue that the language people of authority use influence the public opinion and functions as legitimization, and sometimes encouragement of, violent actions. This contributes to further discrimination of LGBT people in Ghana, and creates an environment of fear for the LGBT people. Homophobic statements made by politicians and religious leaders, the prevalence of homophobia in the media, as well as public support by the politicians and the religious leaders for the criminalization of same-sex relations contribute to the perpetuation of societal prejudices against LGBT individuals, and encourage more hate speech, hate crimes and discrimination by both state and non-state actors. In many cases, those who commit violence against LGBT use the same arguments and language as the public officials and religious leaders to justify their actions. An example of this is a situation where an angry mob, with a local Islamic cleric in charge, said that they wanted to burn a homosexual man from their community because Islam abhors homosexuality.

This type of condemnation of homosexuality by religious and political leaders is an important factor in the creation of an atmosphere of fear for LGBT people, which restricts their access to sufficient sex education programs, prevents MSM and other LGBT people from accessing the health services adjusted to their needs, because LGBT people are being refused treatment by health care providers if they suspect their illness is a result of a non-heteronormative sexual orientation. Especially the access to HIV prevention services has proved difficult due to the stigma, social hostility, fear of losing jobs and families and even verbal and physical violence towards LGBT people.

In general, we argue that the public statements made by the politicians and religious leaders in Ghana reinforce already existing and widespread anti-LGBT sentiments and prejudices in the Ghanaian population, which together establish a perilous environment for LGBT people. The rhetorics they utilize enables discrimination and violence, by discursively establishing LGBT people as a group that is a threat to Ghanaian society, culture and traditions, and a legitimate target of discrimination and violence.

Violence against LGBT people is widespread in the country. There are numerous cases where LGBT individuals have been harassed and violently attacked by state actors, most notably the police; and by individuals where the police often turns a blind eye on their actions, or simply arrest the victims of the crimes. This form of discrimination can be characterized as active violence and the lack of protection from violence.

Cases of violent acts and “gay bashing” exercised by or in collusion with the police or other agents of the state have been documented in Ghana. These reports represent an environment of impunity, where the physical integrity of LGBT people routinely is violated. LGBT rights advocates and teachers who lecture about sexual health are also met with similar hostility and discrimination. There is also a good reason to believe that such situations happen more frequently than it is reported, as the stigma, intimidation, and the attitude of the police toward LGBT people are preventing the victims from reporting incidents of abuse.

4.0 Uganda

Uganda became a hotspot in the international discussion of LGBT rights when a member of parliament introduced the Anti-Homosexuality Act in 2009²²². The bill proposed that a person could be put to death for “aggravated homosexuality”. In addition, the bill would make it obligatory for people to turn homosexuals in to the police, if they should happen to “discover” them²²³. Close to a million people signed a petition worldwide condemning the bill, and political and religious leaders in the West spoke out against it. There were even fears of a looming gay genocide in Uganda²²⁴. In 2014, a survey showed that 96% of Ugandans believe that society should not accept homosexuality. The so called Anti-Homosexuality Act, which outlaws homosexuality, clearly has large popular support in Uganda, and this in turn is likely to influence politicians. The Anti-Homosexuality Act was first introduced and signed in 2009, passed in 2014 and subsequently annulled the same year²²⁵. However, president Museveni has stated that it might be reintroduced. Nevertheless, existing laws already criminalize homosexuality in Uganda. Taking all of this into account, a picture emerges of a country where LGBT people have a difficult life. In the following, we will explore the situation for LGBT people in Uganda and possible causes for the discrimination they experience.

4.1 Background

This chapter will provide an overview over topics important to understanding the discrimination of LGBT people in Uganda. It starts with historical accounts, before going into traditional cultural values and lastly contemporary politics.

4.1.1 History of Uganda

Homosexuality is framed as a distinctly un-African phenomenon in the discourse that seeks to justify discriminatory laws against LGBT people. It is argued that homosexuality is not only rare in Africa, but that it is an imposition from decadent Western societies²²⁶. History, however, shows that this argument lacks validity. This historical background will try to illuminate how sexuality has been understood in Uganda, and how this has shaped contemporary Uganda.

First of all, it is important to note that the country called Uganda today is a colonial construct. The geographical area now forming the present day Uganda consisted of

²²² Epprecht, 2013.

²²³ Cheney, 2012.

²²⁴ Englander, 2011.

²²⁵ Rudrum, S. et al., 2017.

²²⁶ Pew Research Center, 2013.

independent kingdoms and decentralized communities before it became colonized²²⁷. African cultivators and herders made their way to Uganda as early as the fourth century B.C²²⁸, most likely Bantu-speaking people who would gradually come to populate much of sub-Saharan Africa. They brought knowledge of agriculture and iron technology, which allowed them to clear land and feed the ever growing populations²²⁹. The Bantu-speaking agriculturalists evolved into a society and a government of clan chiefs. At around 1000 AD larger states began to take form, some of them with populations of over one million people. Buganda became the most powerful state, situated on the western shore of Lake Victoria.

Trade increased throughout the 18th century. Meanwhile, not only goods and guns reached Uganda, but also foreign visitors. The British explorer, Henry Morton Stanley, met the king of Buganda, Kabaka Mutesa I, and found him to be receptive to the ideas of Christianity. Stanley then wrote a letter to London, requesting missionaries to be sent to Uganda. This marked the start of the oncoming colonization of “the pearl of Africa”²³⁰.

4.1.2 History of sexual minorities in Uganda

The notion that homosexuality is un-African has been disproved by historical and anthropological accounts^{231, 232}. Traditional stories, songs, dances, body markings and names show the diversity of African sexualities. However, these systems of knowledge have been denigrated in mainstream research, as they have been classified as oral traditions and thus perceived as less valid than written histories²³³. The earliest written records were done by colonial explorers and missionaries who traversed the continents in the middle of the 19th century. African bodies were used as imperial arguments to reinforce the idea of Africa being a savage, dark continent²³⁴.

Practices that correspond to today’s homosexual practices were institutionalized and accepted in some precolonial African communities²³⁵. In Buganda, for example, one of the former kingdoms in Uganda, homosexuality allegedly was practiced without any criminal punishment. In fact, the Bugandan King himself was involved in homosexual acts with his

²²⁷ Jjuuko et al., 2013.

²²⁸ Sampson, 2016.

²²⁹ Ibid.

²³⁰ Ibid.

²³¹ Ibid.

²³² Tamale, 2011.

²³³ Ibid.

²³⁴ Ibid.

²³⁵ Jjuuko et al., 2013.

pages²³⁶. His pages, often young boys, suddenly found his tendencies unacceptable after they had been introduced to Christianity by the colonists²³⁷. This practice seemed to not have bothered them before Christianity arrived in Uganda. The evidence seems to suggest that it was the historical processes of colonization and missionization that consistently altered African sexual practices²³⁸.

Linguistic studies also cast light on the history of LGBT in Uganda. The Bugandan word “kulya ebisiyaga”, referring to homosexual practices among men, was in use long before colonial times²³⁹. Amongst the Nilotic Lango group in Uganda, men who assumed an alternative gender status were known as “mukodo dako”. This group of men was treated as women, and were allowed to marry other men²⁴⁰. The long history of diverse African peoples engaging in same sex relations is very clear²⁴¹. Homosexuality in the areas now known as Uganda was neither fully condoned nor totally suppressed²⁴².

As a way of summarizing, it seems that the colonists did not import homosexuality as a new quality in African life. In fact, it can be argued that they brought with them an intolerance of homosexuality²⁴³. The fact that the current anti-homosexuality laws in Uganda originate from the British colonial laws supports this argument.

Uganda was declared a British protectorate in 1894. Formally, eight years later, through Section 15(2) of the Order in Council 1902, the laws of the United Kingdom became applicable in Uganda, tackling what was described as “unnatural offenses”²⁴⁴. In June 1950, only 12 years before the Ugandan independence, the colonial administration introduced the 1950 Penal Code. This legislation was based on similar legislation which was already in place in other British colonies, and replaced earlier provisions. This law is the source of the current so-called “unnatural offences laws” in Uganda²⁴⁵.

The British had several motivations that guided their new jurisdictions in Uganda. For one, they wanted to instill British morality into the new populace under their governance. However, the British colonialists were also afraid of moral infection from the native

²³⁶ Faupel, 2007.

²³⁷ Ibid.

²³⁸ Ahlberg, 1994.

²³⁹ Jjuuko et al., 2013.

²⁴⁰ Molnos, 1973.

²⁴¹ Amory, 1997.

²⁴² Tamale, 2003.

²⁴³ Jjuuko et al., 2013.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

environment. The British explorers saw homosexuality as widespread amongst the people of their new territories, and were anxious about their possible corrupting influence²⁴⁶.

After independence the Ugandan government renamed the Penal Code Act 1950 to the “Penal Code Act Cap 106”. The law has been amended numerous times, but the act has remained largely the same as what is constituted today²⁴⁷. This culminated in the introduction of the Anti-Homosexuality Act of 2009.

4.1.3 Gender, family and love in contemporary Uganda

To understand the discrimination of LGBT people in Uganda, it is important to understand the prevailing heteronormativity in the Ugandan society. It assumes that heterosexuality is the only sexual orientation or only norm, and states that sexual and marital relations are most fitting between people of opposite sexes. The following section is largely based on Otiso’s book *Culture and customs of Uganda*, published in 2006. The main argument in the book is that gender plays a very important role in the Ugandan social organization, and to a large degree determines a person’s place in the society.

Lineage is important to Ugandans because it determines individual identity in the clan-based system²⁴⁸. Lineage, and consequently inheritance of property, is also determined in terms of the clan you belong to. The clan is essential to the individual’s sense of belonging and social standing, and thus being rejected by your clan is seen as a severe punishment by many in Uganda²⁴⁹. The Baganda people, for instance, take their last name not from their father, but from their clan.

Marriage is one of the most important social traditions in Uganda. Because Ugandan ethnic groups emphasize community to such a high degree, marriage becomes central in binding clans, families and lineages together²⁵⁰. The extended families of the bride and groom have always played a big part in ensuring the survival of the marriage. Divorce is generally very uncommon in Uganda. Marriage gives both the man and woman high status, and accordingly, unmarried people are given little regard and respect in the society. Traditionally, polygamous men were more highly esteemed than monogamous men²⁵¹.

Marriage in Uganda, however, has undergone changes due to various socioeconomic

²⁴⁶ Ibid.

²⁴⁷ Jjuuko et al., 2013.

²⁴⁸ Otiso, 2016.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

and cultural changes happening in the country. Increased urbanization and globalization have led to the clan system losing some of its relevance in the Ugandan culture²⁵². Urban areas are seeing more examples of western marriage practices, as well as western courtship. However, ethnicity, religion, parental consent and social class still determine customs of courtship and marriage in modern Uganda to a large degree²⁵³.

In family life, the gender roles are traditionally very distinct²⁵⁴. Women take care of the house and domestic chores such as cleaning, food production and child rearing. The men function as breadwinners and it is the men that own most of the country's productive resources, especially land. Consequently, most of the social and economic decisions of the families are made by men. In traditional societies men would contribute to the household by animal husbandry, hunting or fishing, but now most men contribute by bringing cash home from their wage labor.

While modernization has led to more gender inequality in the division of labor, women still have less access to education and productive resources, and they are scarcely represented at the highest level of decision making and governance. This is also reflected at the family level where men make critical decisions, often without consulting their wives.

Heterosexual courtship is usually initiated by the man or the would-be couple's parents. In some communities, premarital sex which led to pregnancy was punishable by the girl's death, as virginity was deeply valued. There was little indication that a boy would meet the same fate.²⁵⁵ Other communities would force the couple to marry, and enforce a hefty 30-cow fine on the boy. During courtship, it is very important to gather background information on the prospective groom or bride's family. Traditional Ugandan families value hard-working and responsible spouses. Great care is taken to avoid marrying into families with histories of laziness, witchcraft or other socially unacceptable behaviors²⁵⁶. Interestingly, the concept of love is defined as the young person's ability to fulfill socially defined gender roles. This then renders love that defies heteronormativity impossible as they do not fulfill these societal expectations.

Another challenge for traditional values in Uganda is the internet technology which allegedly floods the minds of youth with foreign cultural ideas like pornography. Uganda has

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ Ibid.

²⁵⁵ Ibid.

²⁵⁶ Ibid.

been undergoing a rapid cultural change, without the benefit of time to adjust. Homosexual behavior is an example of social change in Uganda that can be perceived as threatening to the equilibrium of Ugandan culture and society²⁵⁷.

5.1.4 National identity and modernity

Colonial history still plays a large part in the discourse and policies in Uganda²⁵⁸. The discrimination of LGBT people must be understood historically, keeping in mind that the laws prohibiting homosexuality in Uganda were introduced by the British. Nevertheless, homosexuality in Uganda is often understood in a neo-colonial perspective. Neo-colonialism is a term coined by the Ghanaian politician Kwame Nkrumah. In *Neo-Colonialism, the Last Stage of Imperialism*, he wrote: “In place of colonialism, as the main instrument of imperialism, we have today neo-colonialism . . . [which] like colonialism, is an attempt to export the social conflicts of the capitalist countries”²⁵⁹.

This is also the dominant understanding in Uganda, where homosexuality is seen as a western imposition and an attack on traditional African values and identity.²⁶⁰ This, however, can be best described as a postcolonial amnesia. As has been accounted for earlier, homosexuality was a part of Ugandan culture before the colonialists arrived. Denouncing homosexuality can be understood as a way of claiming power over the western world. From this perspective when Africans claim that homosexuality is un-African, they are pointing to politics of postcolonial identity. This national identity is fragile and in need of support. Attacking minority groups has been a historically effective way of creating unity in states.²⁶¹ The colonial history gives the struggle for national identity greater depth and tenacity, and for that reason rejecting what is claimed to be an imposition from the West grants power within the African context. The Ugandan state thus has retreated to “tradition” to defend discrimination against homosexuals²⁶².

Homosexuality can be seen as a manifestation and product of modernity and globalization, which threatens Ugandan traditions and religious values. According to Foucault, the term “homosexual” was not commonly used to describe a person until the late nineteenth

²⁵⁷ Ibid.

²⁵⁸ Cheney, 2012.

²⁵⁹ Nkrumah, 1966.

²⁶⁰ Cheney, 2012.

²⁶¹ Gallagher & Cairns, 2011.

²⁶² Cheney, 2012.

century.²⁶³ For example, people in Africa can be surprised by the concept of two men in a committed relationship, but still fondly remember boarding school bonding rituals that involved same-sex intimate contact. However, they might themselves not define it as sexual contact or consider it a challenge to their heterosexual identities²⁶⁴. The cultural and economic globalization has introduced the homosexual social identity as a rather uniform sexual identity. Thus, the social identity of homosexuality may in some ways be rightly understood as a western invention and export.

4.1.5 Family values and reproduction

In 2014, 96% of Ugandans said that they were against homosexuality²⁶⁵. This overwhelming majority view can be linked to the large concern with population and fertility in Ugandan society²⁶⁶. In contrast to the homophobia Western LGBT people confront, the social pressure on Africans who desire same-sex relations is not so much concerned with their masculinity or femininity or their mental health, but primarily with their production of children, especially eligible heirs²⁶⁷. A field study conducted in Uganda in 2009, showed that fertility often is seen as a barometer of social stability. Ugandan women have one of the highest birth rates in the world (6,77 children on average per women)²⁶⁸. Steady birth rates seem to indicate to many that the future will be secured through social and sexual reproduction. Another important aspect is the maintenance of a conventional image of married life. As mentioned earlier in this text, love is understood as the person's ability to fulfil socially defined gender roles. Loving relations that differ from Ugandan heteronormativity are undesirable because they do not fulfil these cultural expectations of marriage and reproduction. Marriage is an important institution and central for women's ability to secure financial support from their husbands. It is not unlikely that many women see acceptance of homosexual relations as a threat to their ability to use their fertility to secure financial stability through sexual relationships with men. The notion of "men starting to marry men" may jeopardize women's precarious role in a rapidly modernizing, but economically strained society.

²⁶³ Foucault, 1990.

²⁶⁴ Cheney, 2012.

²⁶⁵ Pew Research Center, 2013.

²⁶⁶ Cheney, 2012.

²⁶⁷ Ibid

²⁶⁸ Ibid.

4.1.6 Uganda as proxy for international politics: US evangelism

Today we are seeing a new wave of Western missionaries coming to Uganda. This time, however, they are taking advantage of the popularity of the Evangelical movement and cultural conservatism in Africa to support their own anti-homosexuality agenda²⁶⁹. In 2009 several American evangelicals spoke at a three-day seminar called “Seminar on Exposing the Homosexual Agenda” in Kampala. Shortly after, the Anti-Homosexuality Act of 2009 was introduced. Reports indicate that conservative U.S. political groups have put African religious and political leaders on the payroll to prevent the spread of homosexuality. These strategies point towards an increased effort to globalize the U.S. culture wars. Indeed, neo-conservative evangelicals in the U.S. have been making concerted efforts to create ties with African leaders in order to influence local cultural attitudes as well as legislation in Africa²⁷⁰. By showing to “results” in Africa, it might be possible to prop up the values of the religious right in the United States. First Lady Janet Museveni, a self-proclaimed “born again” Christian, personally went to Washington to persuade U.S. lawmakers to fund Uganda’s abstinence and faithfulness programs with the cost of 1 billion US dollars²⁷¹.

The intertwining of different interests, and the international aspect of the Ugandan discourse on the politics of gender and sexuality, can be described by another example. The Ugandan professor Sylvia Tamale was congratulated by a friend after she had publicly supported homosexuals in the media. The friend told Tamale that she was on her way to become a millionaire. The friend later explained that she had assumed that Tamale’s support of LGBT rights would mean that she would be supported financially by LGBT rights organizations in the West²⁷². There is clear international support for both sides, and Uganda has almost become a proxy war for the LGBT cause.

The interplay between religion and human rights abuses is complicated and persisting²⁷³. While religion can be used as an argument for social justice, religious justifications have often been instrumental in fomenting prejudice against sexual minorities. Leaders in Uganda have rhetorical power when they exploit the sensitive issue of neo-colonialism and claim that homosexuality is part of a “Western agenda”. It is an interesting paradox that homosexuality is framed as neo-colonial imposition in Uganda, and the

²⁶⁹ Ibid.

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Tamale, 2007: 17-29.

²⁷³ Cheney, 2012.

intervention of powerful U.S religious conservatives is not. Neo-colonialism has been defined as an attempt to export the social conflicts of the capitalist countries²⁷⁴. The foreign influence of U.S evangelicals in Uganda fits this description well.

4.2 Analysis

The following chapters will present examples of discrimination towards LGBT people in Uganda. In this analysis section, discrimination will be addressed from two different perspectives: The forms and functions of discrimination.

4.2.1 Media

Research has shed light on the interplay between the anti-homosexuality bill from 2009 and media coverage²⁷⁵. Media has direct discriminatory potential in that it can “out” homosexuals, and suggest violent strategies for dealing with these “deviant social forces”. The most prominent example was the outing of the gay rights activist David Kato, who had been listed among a group of 100 suspected homosexuals in the country by the Rolling Stone tabloid newspaper²⁷⁶. He was killed a few months later. Kato was found with head wounds in his home and died from his injuries on the way to the hospital. The Rolling Stone’s editor, Giles Muhame, stated that Kato had been a victim of his own “evil” actions, and that he had “brought death upon himself” and that he had been “a shame to this country”²⁷⁷. The police issued a statement claiming that David Kato’s death was not related to his campaigns for gay rights in Uganda²⁷⁸.

The media also plays a role as a discursively discriminatory actor, which can be defined as discrimination carried out through the use of language²⁷⁹. Researchers analyzed two daily newspapers in Uganda, the government-owned New Vision and the privately owned The Daily Monitor. A content analysis was made of 115 items between October and December 2009. The coverage of both newspapers showed similar amounts of negative other-presentation and proposals that point toward unfavorable non-linguistic treatment, which means direct discrimination in the real world. Furthermore, neither of the newspapers included the voices of homosexual individuals in their coverage. This means that they had no say, or no rhetorical

²⁷⁴ Nkrumah, 1966.

²⁷⁵ Strand, 2012.

²⁷⁶ Finnish Immigration Service, 2015.

²⁷⁷ Ibid.

²⁷⁸ Ibid.

²⁷⁹ Strand, 2012.

ownership of issues or policies that greatly impact their own lives²⁸⁰. However, it was evident that the privately owned media had a higher degree of press freedom, and willingness to include frames that include discrimination of homosexuals, as well as criticism of the anti-homosexuality bill. To change public opinion and the social climate, a non-legal battle is needed, and parts of the media might provide a platform. Naturally the discriminatory social environment manifests itself and is reproduced and reflected in Ugandan print media, but there is also evidence that there is space for a different framing. There might be possibilities for a different framing of the bill and homosexuality, as well as willingness to challenge some of the Ugandan societal norms²⁸¹.

4.2.2 Access to education

The Ugandan educational system has been described as a bearer of patriarchal values²⁸². There is a male dominance in the school leadership, and the majority of pupils are male. This hegemonic masculinity is widening the gap between males and females, and furthering a discourse of incompetence for females. A person's self-esteem is connected to their sexual identity and behavior. It creates psychological stress, and a negative cycle for those who feel they differ from the masculinity values in schools²⁸³.

The government of Uganda is failing to eliminate discrimination against LGBT people in the field of education²⁸⁴. Cases have been reported where education is outright denied to youth and adults perceived to be homosexual, lesbian, bisexual or transgender. Naturally the discrimination threatens the wellbeing of students and influences their school performance. As a consequence, future career goals and social mobility are threatened. When LGBT people fear harassment or expulsion in the educational system, their right to education can never be realized.

In recent years there have also been fears that school might serve as likely sites for "recruitment" of homosexuals²⁸⁵. The Ugandan Minister of ethics stated in 2007 that schools should not be allowed to pursue an agenda of indoctrinating children to homosexuality. In 2008, the Minister of Education announced an investigation into homosexuality in schools,

²⁸⁰ Ibid.

²⁸¹ Ibid.

²⁸² Mirembe & Davies, 2001.

²⁸³ Ibid.

²⁸⁴ CEDAW, 2010.

²⁸⁵ Boyd, 2013.

fearing they had become “breeding grounds for the vice”²⁸⁶.

The educational system in Uganda can be said to have a sense of compulsory heterosexuality, in terms of an overarching control and resistance to non-heterosexual sexualities and non-cisnormative gender expressions²⁸⁷. There has been reported homophobic comments and remarks during sex education lessons. Also, the school administration has threatened to punish those who were perceived as different. These incidents can be seen as means of censoring possible homosexual practice by the pupils. A teacher reported how pupils ostracized a boy who was found to be having homosexual relations. This boy eventually had to leave school²⁸⁸. Other interviews with school authorities reported cases of exclusion of boys from school, because of alleged homosexuality²⁸⁹. There were very few reports about homosexual practices amongst the girls, other than in the form of whispers and rumors about it.

Since colonial times, socialization has been transferred from family and clans to the school system²⁹⁰. Youth now spend a large amount of time away from their parents and grandparents. Otiso (2006) claims that the school system does not work well, because it teaches skills and behavior irrelevant to local needs in smaller towns, and the amount of adult role models is limited²⁹¹. It is claimed that the system is fraught with cases of sexual exploitation, where nearly half of the sexually active girls are being forced to have sexual intercourse with teachers or older boys²⁹².

In conclusion, heterosexuality is the norm, and the state asserts its understanding of gender and sexuality. Thus the educational system serves to enhance the power imbalance between genders and sexual identities in Uganda²⁹³.

4.2.3 Violence

In the wake of the initial passing of the Anti-Homosexuality Act in 2014, there was an increase in LGBT sentiment in Uganda. The proposed bill has given permission to a culture of extreme and violent homophobia where both state and non-state actors are involved²⁹⁴. Physical and

²⁸⁶ Ibid.

²⁸⁷ Mirembe & Davies, 2001.

²⁸⁸ Ibid.

²⁸⁹ Ibid.

²⁹⁰ Ibid.

²⁹¹ Otiso, 2006.

²⁹² Ibid.

²⁹³ Mirembe & Davies, 2001.

²⁹⁴ Beyers, 2016.

sexual violence by state actors, community members, neighbors, and acquaintances seems to be a part of the lived reality of LGBT persons in Uganda.

Up until 2014 there has been a gradual increase of harassment and assault on LGBT communities²⁹⁵. The 162 cases reported since 20th December 2013, therefore, represent an increase of between 750% and 1900% on previous years²⁹⁶. This increase can probably only be explained by the passage of the Anti-Homosexuality Act in 2014, and the virulently homophobic atmosphere this has engendered in Uganda.

Most cases of assault occur against LGBT individuals whose identities are outwardly “visible”²⁹⁷. This means that visibility, and danger, is highest for those who do not conform to the strict social and gender “norms” of Uganda in their outward appearance. Assaults are often rooted in “gender policing” by fellow citizens, in which some feel the need to violently impose or enforce gender norms, taking the law in their own hands²⁹⁸. In many cases, these actors feel they have “moral authority” to assault LGBT people, and the police does not take retributive measures towards these actions²⁹⁹.

The passing of the anti-homosexuality law and the general hostile environment in Uganda towards LGBT people also lead to psychosocial problems, and eventually violence towards the self³⁰⁰. Reports vary as to the number of attempted suicides, but one report claimed that at least 17 LGBT Ugandans have attempted to commit suicide, with the majority of those being under the age of 25³⁰¹. In February, 2014, there were eight suicide attempts within a two week period alone. There were four cases of suicide involving LGBTI people reported to the LGBT organization SMUG (Sexual Minorities Uganda) in the period up to 1st May 2014. One involved a 17-year-old boy who killed himself on 3rd April by swallowing rat poison and overdosing on pills³⁰².

4.2.4 Loss of employment

While there is no quantitative data on the topic, likely because of lack of reporting by the state, the following cases may serve to illustrate what the consequences of being gay can be in Uganda, in terms of loss of employment. One case notes that on 12th of May 2014 the business

²⁹⁵ SMUG, 2015.

²⁹⁶ Ibid.

²⁹⁷ Ibid.

²⁹⁸ Ibid.

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ Ibid.

³⁰² Ibid.

community in Mbarara evicted a gay man from his market stall³⁰³. On 30th September 2014, another man was dismissed and denied 4 months of salary after being accused of being gay. This denied this man of the basic right to work³⁰⁴. Finally, a gay man who was employed by a family member was terminated on 12th May 2014, after it was revealed that he was gay³⁰⁵.

4.2.5 Evictions

A report from 2015 documented evictions because of real or perceived gender orientation or gender identity³⁰⁶. The report documents 20 cases of evictions. Furthermore, the report claims that these are but a drop in the ocean compared to what the reality is on the ground³⁰⁷. In Uganda, landlords or neighbors on various occasions demanded that members of the LGBT community leave their apartments, or altogether vacate their premises. Landlords issued immediate eviction orders, regardless of agreements, contracts or balances of paid-up rent. Many individuals who were evicted reported of rowdy groups of people supporting the landlords. There were also cases of landlords working with neighbors and mobs, who threw property out of the house. LGBT individuals were advised to obtain housing elsewhere and preferably leave the village as well³⁰⁸.

4.3 Putting the pieces together: Forms of discrimination

The different cases of discrimination of LGBT people will now be sorted into forms of discrimination. Forms of discriminations are a way of understanding different discriminatory practices by abstracting to an analytic level, highlighting macro-level consequences of these particular practices and structures.

4.3.1 Social exclusion

The different examples of discrimination mentioned above can be described as social exclusion of LGBT people. One definition of social exclusion is the following:

[S]ocial exclusion may be understood as an accumulation of confluent processes with successive ruptures arising from the heart of the economy, politics and society, which gradually distances and places persons, groups, communities and territories in a

³⁰³ The Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015.

³⁰⁴ Ibid.

³⁰⁵ Ibid.

³⁰⁶ Ibid.

³⁰⁷ Ibid.

³⁰⁸ Ibid.

position of inferiority in relation to centres of power, resources and prevailing values³⁰⁹.

Differential treatment based on sexuality or gender leads to the exclusion of LGBT people from various social arenas and opportunities. For instance, violence, assaults, negative portrayal in the media, school exclusions, evictions and loss of employment are forms of exclusion and loss of opportunity. The fact that angry mobs were cheering on for the landlords who issued evictions paints a clear picture of social exclusion. Exclusion is a form of discrimination that leads to otherness. Otherness refers to how a society manages collective ideas about who gets to belong to “our group” and which types of people are seen as different – the outsiders or “the others”. The others who are victims of discrimination become excluded from services and opportunities that the “main group” has access to. In the case of Uganda, social exclusion means living under constant danger of violent assaults, and being denied education, housing and work. Consequently, LGBT people are further distanced from the centers of power and resources. This leaves them with few chances to influence prevailing values and leading discourses in Uganda.

4.3.2 Lack of knowledge as indirect discrimination

Another form of discrimination is lack of knowledge. Media, religious leaders and educators perpetuate a false image of LGBT people in Uganda. This in turn leads to politicians and citizens in Uganda holding views on homosexuality that are not supported by historical facts. A common false proposition is the idea that homosexuality is a western invention that is exported to Uganda. The same goes for the notion that homosexuality can spread, or that it can be indoctrinated in school children. This creates fear and prejudice, and quite understandably so, if one believes it. But there is a logical fallacy here, because it is highly unlikely that “all” Ugandans, or any significant number, would “become gay”. Statistics show that, throughout the world homosexuals make up less than 10 percent of the population³¹⁰. Even where gays have been allowed to marry legally there has been no marked increase³¹¹. Furthermore, it is very difficult to find evidence that birth rates have been strongly affected by the advent of gay rights³¹².

Ugandan media nevertheless mirrors these false cultural ideas on LGBT people.

³⁰⁹ Estivill, 2003.

³¹⁰ Robison, 2002.

³¹¹ Cheney, 2012.

³¹² Ibid.

Homosexuals are outed by name, and LGBT people are defined as “others”. It should be noted that there have been a few balanced articles, where the grievances and arguments of LGBT people were presented³¹³. However, the general lack of knowledge is a form of discrimination that is indirect. It is dangerous because defining someone as a threat to society can legitimize and enable stigmatization and violence. It can give individuals moral authority to take matters into their own hands.

A recent example from 2010 comes from the Ugandan pastor Martin Ssempe, who showed extremely graphic gay pornography in his church to incite violence anti-homosexual sentiment³¹⁴. This incident was documented in the video “Eat Da Poo Poo” that has millions of hits on YouTube. Ssempe has become a very popular and powerful public figure in Uganda. This shows the influence of media and disinformation, that eventually leads to moral outrage. Gilbert Herdt writes: *“When great sexual fears drive media to broadcast and exaggerate fears beyond their local source, these panics have the effect of messaging the feared moral decay through social and political tactics or media into everyday speech and habits.”*³¹⁵ Lack of knowledge, or false understandings, create moral panic. And this can again be used deliberately by different actors like the church and state. Homosexuality is at odds with an idea of the traditional African family as well as Christian values, and thus becomes a moral issue. This has been reported in Uganda in the wake of the anti-homosexuality bill in Uganda³¹⁶. Findings in social psychology show that turning matters into a moral question makes people more likely to have intuitively strong convictions or feeling on the issue³¹⁷. If this gets into full force, rational explanations lose their influence, and the floodgates are opened for ostracism, hate crimes, stigmatization, and violence³¹⁸.

4.4 Discrimination, why?

Physical and sexual violence by state actors, community members, neighbors, and acquaintances seem to be a part of the lived reality of LGBT persons in Uganda. How do we understand it? Generally, the Ugandan state has crafted homosexuality as a threat to national survival, and homosexuality has been linked to social problems, national identity and neo-colonialism. The claim that homosexuality is un-African can be falsified by looking into

³¹³ Strand, 2012.

³¹⁴ Ibid.

³¹⁵ Herdt, 2008.

³¹⁶ The Consortium on Monitoring Violations Based on Sex Determination, Gender Identity and Sexual Orientation, 2015.

³¹⁷ Haidt, 2012.

³¹⁸ Cheney, 2012.

historical accounts and anthropological evidence. The disavowal of the historical sexual diversity in Uganda can best be described as a form of postcolonial amnesia. The Anti-Homosexuality Act was proposed as a defense of the traditional family. Thus, the discrimination of LGBT people in Uganda must be seen in the context of the politics of postcolonial identity. But what they really are defending against might be globalization and the diversification of lifestyles that follows with it, of which the homosexual social identity is one manifestation. Politicians alluding to family values are often trying to create national unity. This is perhaps very important in a country still scarred by a long civil war. LGBT people might be perceived to threaten this national unity, and they are probably also scapegoated as an out-group in order to create a cohesive in-group. Nationalist politics are also tied to sexual reproduction, which will ensure the future of the country. Loving relations that do not consist of a man and woman are not fulfilling the cultural expectations of marriage and reproduction. Lastly, Uganda could be said to be a part of an international proxy war where American Christian evangelicals intervene in Ugandan politics. They want to influence anti-homosexual politics on the ground in Africa, because they are fighting a losing war in America. By pointing to “results” in Uganda, politics and opinions in the US might be influenced. Hence, that which constitutes neo-colonialism in Uganda today is not any export of homosexuality, but rather the intervention of powerful U.S religious conservatives.

This text has looked into historical and political factors that may contribute to an upholding of discriminatory practices in Uganda. By confronting neo-colonial religious influences and cultivating respect for Africa’s history of sexual diversity, perhaps the arch of history will bend towards greater justice for LGBT people in Uganda in the future.

5.0 Russia

5.1 Background

5.1.1 Historical overview

Homosexual acts were criminalized for the first time in Russia in 1716, when Peter the Great implemented a military code prohibiting sex between men. This code, however, only applied to soldiers on active duty³¹⁹. In 1754, a similar law applying to civilians was proposed, but not enacted until 1835³²⁰. After that, the prohibition of homosexual practices only applied to men, not women: The Russian and Soviet laws against homosexual desire were always gendered. *Muzhelozhstvo*, the Russian term for homosexual practices, literally means *men lying with men*, and is always interpreted as anal intercourse³²¹. The laws of 1835 were the beginning of the creation of the male homosexual as a criminal³²². However, prosecution under these laws were rare, public tolerance was generally high, homoerotic desires were explored by literacies and artists in popular venues³²³, and an articulate homosexual culture existed in Russia during that period of time³²⁴.

Evidence of homosexual practices precedes the 18th century laws. Hints of same-sex love exist in early Rus' chronicles and religious texts from around the year 1000³²⁵. Homosexuality is said to have been visible and widely tolerated in the territory today known as Russia in the 15th, 16th and 17th century. Nonetheless, non-heterosexual and non-cisgender practices, especially cross-dressing, carried negative cultural value. The accounts of non-traditional sexual practices in Muscovy in this period are from Western visitors, bringing with them Christian values and who wanted to portray the Muscovites as “primitive” or “barbaric”³²⁶. Through the Byzantine Orthodox Church, a negative view of all sexual practices – not only homosexual but also masturbation and adultery – was spread to the Russians³²⁷. Like other Christian denominations, the Russian Orthodox Church defined sodomy as a mortal sin. However, in Ancient Rus, the concept of “sodomy” was understood as including both homosexual relations and heterosexual anal intercourse, “as well as any deviations from ‘normal’ gender roles and partners”, among others, intercourse with the woman on top³²⁸.

³¹⁹ Essig, 1999: 4.

³²⁰ Healey, 2005.

³²¹ Essig, 1999: 23.

³²² Ibid.

³²³ Essig, 1999: 4.

³²⁴ Healey, 2005.

³²⁵ Ibid.

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ Kon, 1997: 221.

In tsarist Russia, the homosexual person was not a juridical object. The law rather targeted homosexual practices³²⁹. The law banning homosexual practices enacted by Stalin in 1933 created the homosexual as a species, something one can *be*. The medical profession, however, saw homosexuality as something to cure and not punish, since it was understood as a disease of which the person was the victim³³⁰. Female same-sex desire was not an object of legal knowledge, but emerged solely as an object of medical knowledge, and the medical professionals studying same-sex desires and sexual practices between women did not always see these as a problem. Many aspects of the stereotypical “lesbian” were later valued as positive traits for the new Soviet woman, such as the inclination towards hard manual labor. However, on the other hand, medical professionals were worried that female same-sex attraction and their refusal to carry babies was socially disruptive and would lead to a demographic crisis³³¹. For these professionals, female same-sex desires were – in themselves – not seen as a crime against society, but a crime against “Nature” that needed to be cured, not punished³³².

A new legal code was adopted in 1903, where *muzhelozhstvo*, according to the law’s article 516, was punishable by imprisonment for three months or more, or in the cases of seduction or rape of a minor, by imprisonment of a minimum of three years³³³. In the Russian public, however, homosexuality did not develop into an identity or “person”: the laws did not punish persons, but banned acts. The object of the law was sexual practices between men, and not “homosexuals” themselves³³⁴. There is no history of any political or social movement based on sexual identity in Russia: Homosexual practices did not manifest themselves as an identity, something one *is*. This is still prevalent in contemporary Russian society³³⁵, and marks a contrast to the history of sexual politics and social movements in the “West”³³⁶.

The tsarists legal codes, including the anti-sodomy laws, were repealed when the Bolsheviks seized power after the revolution in October 1917³³⁷ and decriminalized “sodomy”. The legal prosecution of homosexuals of the tsarist regime was seen as reactionary and bourgeois³³⁸. However, homosexuality was labeled a disease³³⁹, and legal and medical experts

³²⁹ Essig, 1999: 25.

³³⁰ Essig, 1999: 27.

³³¹ Healey, 2005.

³³² Essig, 1999: 24.

³³³ Kon, 1997: 222.

³³⁴ Essig, 1999: 4.

³³⁵ Kon, 1997: 238.

³³⁶ Essig, 1999: 162.

³³⁷ Essig, 1999: 5.

³³⁸ Essig, 1999: 6.

³³⁹ Kon, 1997: 222.

began trying to find a “cure”³⁴⁰. Towards the end of the 1920s Stalin gradually gained control of the Soviet Union. The sexual policies under his reign marked a departure from the early Soviets’ proclamations of the autonomy and freedom the revolution would bring to the people. These policies included a ban on abortion, making divorce more difficult and expensive, and re-criminalizing homosexual practices in 1933. Coinciding with these new laws was the declining birth rates in Russia³⁴¹.

The prohibition of homosexual practices in 1933, however, cannot be read as solely demographic and economic measures; earlier social programs initiated to eliminate phenomena defined as “social problems”, such as prostitution and begging, developed under Stalin’s rule into social cleansing where all “social anomalies” became potential threats. Male homosexuals, whether they were prostitutes or not, could now be sent to Gulag³⁴². There were two arguments for this. First, to ‘protect minors’ – an argument still prevalent today. The second is of a more apparent ideological character: Homosexual practices were now linked to tsarism and capitalism, pre-revolutionary bohemian elite and as a sign of bourgeois mentality and values³⁴³. In an article called “Proletarian Humanism” by Maxim Gorky, published in 1934, the recriminalization of male homosexual practices was explained for the first time by linking it to fascism, and thus something to be eradicated³⁴⁴. Under Stalin, the private lives of the Soviet citizens became a matter of the state, and sexuality and sexual practices thus transformed from an individual affair to a political act: “The state must intervene in desire, or desire will intervene in the state”³⁴⁵. Thus, homosexual practices were criminalized in 1933. This marks the emergence of the homosexual person in Russia as a crime against society, rather than a crime against nature.³⁴⁶

The Russian Criminal Code of 1933 article 121.1 stated that sexual intercourse between men – muzhelozhstvo –, never women³⁴⁷, was punishable with imprisonment or hard labor for up to five years³⁴⁸, while article 121.2 stated that sexual practices between men where physical force, threats, exploitation of status or a minor were involved were punishable with up to eight

³⁴⁰ Essig, 1999: 5.

³⁴¹ Healey, 2005.

³⁴² Healey, 2005.

³⁴³ Essig, 1999: 6.

³⁴⁴ Healey, 2001: 189.

³⁴⁵ Essig, 1999: 5.

³⁴⁶ Ibid.

³⁴⁷ Essig, 1999: 23.

³⁴⁸ Essig, 1999: 6.

years³⁴⁹. These laws were the only presence of same-sex desire in the Russian public³⁵⁰. The male homosexual subculture nonetheless reconstituted itself as parks, public toilets and boulevards began functioning as meeting places and so-called cruising-strips³⁵¹. Those sentenced under this law were sent to camps where they were at the bottom of the prison hierarchy and victims of severe violence and sexual abuse³⁵². It is unknown how many were sentenced under these laws³⁵³; the first official data was released in 1988³⁵⁴. Some numbers indicate that around 1000 men were prosecuted under Article 121, and steadily decreasing every year³⁵⁵. Other sources suggested that as many as 1414 men were sent to prison annually for having sex with other men. However, only 560 of these were sentenced in what we today know as Russia³⁵⁶. The situation of people with same-sex desires was tougher in other Soviet Union states, such as Islamic Azerbaijan, Turkmenia, Uzbekistan and Christian Georgia, than of those living in Russia³⁵⁷.

While homosexual practices in Russia were a stigmatized crime, the punishment was meant as a rehabilitation: “Men who slept with men were no more a species than bank robbers are species”³⁵⁸. Homosexual women were labeled diseased, and were not subject to punishment, but to a cure³⁵⁹. This means that homosexuality in Russia did not emerge as a stable or possible identity, but as stigmatized practices from which one could return to “normal”. There was no identity, no representation, and no unified political movement. The lack of an LGBT identity opened up a field of possible practices: A combination of “heterosexual” public life, for example a traditional family constellation with heterosexual marriage or children, and “homosexual” private life.

There were many other laws that allowed harassment of non-heterosexual persons, for example the criminalization of not seeking treatment for a sexually transmitted disease. Towards the end of the 1990s, the Committee for Health Protection proposed the mandatory testing of any person suspected of having the AIDS virus and the possible imprisonment of

³⁴⁹ Kon, 1997: 224.

³⁵⁰ Essig, 1999: 6

³⁵¹ Healey, 2005.

³⁵² Essig, 1999: 10.

³⁵³ Essig, 1999: 8.

³⁵⁴ Kon, 1997: 224–225.

³⁵⁵ Ibid.

³⁵⁶ Essig, 1999: 8.

³⁵⁷ Kon, 1997: 223.

³⁵⁸ Essig, 1999: 162.

³⁵⁹ Ibid.

such persons³⁶⁰. During the worsening AIDS epidemic of the 1980s, Professor Nikolai Burgasov, then Deputy Minister for Health and Chief Hygiene Doctor for the USSR, announced: “We have no conditions in our country conducive to the spread of the disease; homosexuality is prosecuted by law as a grave sexual perversion and we are constantly warning people of the dangers of drug abuse”³⁶¹.

President Yeltsin signed a bill on April 29th, 1993 eliminating the law criminalizing consensual sex between adult men³⁶² during a wide-ranging legal reform, after a period of gradual opening of public discussion on the status of homosexuality from 1987 to 1990, and, from 1990 to 1993, a more explicit call for recognition by the LGB community³⁶³. However, the law remained ambiguous, because it was only Article 121.1 that was repealed, and not Article 121.2³⁶⁴, with unclear formulations of exploitation of status or a dependent relationship, which includes for example employee/employer and teacher/student³⁶⁵. The new legal framework also continued to treat heterosexual and homosexual relations completely separate, for example in questions of rape³⁶⁶.

This continued in the Criminal Code of the Russian Federation effective from January 1st, 1997 which allows for prosecution for “[s]odomy, lesbianism, or any other acts of a sexual nature which uses force or the threat of force to the victim or any other persons or take advantage of the helpless position of the victim” or for “taking advantage of material or any other dependence of the victim” respectively under Article 132 and 133 called “Forced Acts of a Sexual Nature”³⁶⁷³⁶⁸. The disease label was officially removed from homosexuality in 1999. In 2002 there was an attempt to amend the Criminal Code to recriminalize sodomy. The bill failed, but negative sentiments towards the normalization of homosexuality in the Russian society started building among officials around this time, with regional anti-LGBT laws and denial of applications to arrange Pride marches³⁶⁹. The juridical attempts to regulate homosexuality were supported by 68 percent of the Russian population in November 2013³⁷⁰.

³⁶⁰ Essig, 1999: 14.

³⁶¹ Kon, 1997: 226.

³⁶² Essig, 1999: 13.

³⁶³ Kon, 1997: 222.

³⁶⁴ Kon, 1997: 230.

³⁶⁵ Essig, 1999: 13.

³⁶⁶ Essig, 1999: 14.

³⁶⁷ Ibid.

³⁶⁸ Kon, 1997: 232.

³⁶⁹ Wilkinson, 2014: 367.

³⁷⁰ Ibid.

Outside the legal sphere, anti-homosexual sentiments are widespread, stemming from both the Orthodox Church and the state. A campaign launched in the early 1980s in educational publications defines homosexuality as a dangerous pathology and a violation of normal principles of sexual relationships, both as a social phenomenon and individual behavior³⁷¹. Homophobia is widespread in Russia, both historically and in contemporary society³⁷². A 2014 survey found that 74 percent of the Russian population believed that homosexuality should *not* be accepted by society, a rise of 14 percent points from 2002³⁷³. Another survey found that 41 percent of respondents agreed with the statement “the state must persecute people with a homosexual orientation and this phenomenon must be eradicated”³⁷⁴, and 20 percent of respondents agreed that people of a homosexual orientation are a danger to society and must be isolated³⁷⁵. The opposition to the normalization of same-sex love and relationships has persisted after the decriminalization in 1993, and state officials hold strong homophobic sentiments³⁷⁶. This is especially widespread among police officers, often acquainted with bands of hooligans assaulting, blackmailing and even murdering gay men, either by actively not protecting their victims or providing gangs with lists of people suspected of being homosexuals. These groups portray their actions as protection of public morals³⁷⁷.

5.1.2 Religion in Russia

5.1.2.1 History of Religion in Russia

Christianity was introduced to the Russians in the 9th century by Byzantine monks³⁷⁸, and laid the foundation for the autocephalous Russian Orthodox Church. The country now has the world’s fourth-largest Christian population³⁷⁹.

Orthodox Christianity was the dominant world-view in Russia until the 1917 Bolshevik revolution when atheism became imposed by the communist state ideology³⁸⁰. On October 26th, 1917, much of the church’s land was seized by the government, which officially separated church and state in January 1918³⁸¹. Nonetheless, it can be assumed that many Russians

³⁷¹ Kon, 1997: 226.

³⁷² Kon, 1997: 235.

³⁷³ Pew Research Center, 2014.

³⁷⁴ Coming Out, 2016: 15.

³⁷⁵ Ibid.

³⁷⁶ Kon, 1997: 236.

³⁷⁷ Kon, 1997: 239.

³⁷⁸ Pew Research Center, 2011.

³⁷⁹ Ibid.

³⁸⁰ Pew Research Center, 2014.

³⁸¹ Embassy of the Russian Federation in New Zealand, 2016.

continued their practice of religion in private during the Soviet era³⁸². It is also important to note that the Russian Orthodox Church supported the criminalization of male homosexual practices and abortion introduced by Stalin in 1933³⁸³. During the Glasnost years under Gorbachev, when 1000 years of Christianity in Russia was celebrated, the government began a slow relaxation of the control of religion³⁸⁴.

Today, the law on religion states that there are four official religions in Russia: Christianity (both Orthodox, Protestantism and Catholicism), Islam, Judaism, and Buddhism, Orthodox Christianity being the largest³⁸⁵. In 2008, 72 percent of Russia's population identified as Orthodox Christians, an increase from only 31 percent in 1991³⁸⁶. The effect cannot solely be ascribed to the fall of the Soviet Union, since the percent of Russians identifying as Christians rose as much from 1991 to 1998 as it did from 1998 to 2008³⁸⁷. In the same time span, the percentage of Russians unaffiliated with any religion decreased from 61 to 18 percent³⁸⁸. However, still only 7 percent attended religious services at least once a month (an increase of five percent points since 1991)³⁸⁹, and around 30 percent of those self-identifying as Russian Orthodox simultaneously describe themselves as atheists³⁹⁰. This can be read as the church serving as a cultural symbol for Russia and Russian culture, and not solely as a religious entity.

5.1.2.2 The State and Religion

The church had functioned as subordinate to the tsar for a long time when Peter the Great formally subjugated the church to the state in the beginning of the 1700s. When tsar Alexander III proclaimed himself head of the church in 1885, the Russian Orthodox church assumed a different character from countries with Protestantism as state religion, due to the lack of civil society or public arenas for critical discussions³⁹¹. The combination of Mongol and Byzantine traditions made the tsar exalted and God's representative on earth, which enabled the state to monitor and censor the private lives of the population³⁹². When the Bolsheviks secularized the

³⁸² Pew Research Center, 2014.

³⁸³ Bowring, 2015.

³⁸⁴ Embassy of the Russian Federation in New Zealand, 2016.

³⁸⁵ Waage, 2012: 160.

³⁸⁶ Pew Research Center, 2014.

³⁸⁷ Ibid.

³⁸⁸ Ibid.

³⁸⁹ Ibid.

³⁹⁰ Coyer, 2015.

³⁹¹ Waage, 2012: 150.

³⁹² Waage, 2012: 150.

empire, they removed the Russian Orthodox Church as a legitimation of the state's power, but continued the same exercise of power as before³⁹³. The monitoring and censoring expanded and the use of labor camps intensified – justified not by God, but by the Marxist state ideology³⁹⁴. During the Soviet era, the state and the laws were given a God-like status, and seen as tools for making a paradise on earth³⁹⁵. Today, we see a return to the Russian Orthodox Church as a legitimizer of the state's power and the utilization of religion as a strategy to secure their rule. This is well exemplified with the quasi-sacral position president Vladimir Putin has assumed in the Russian society³⁹⁶.

Even though the church and state have officially parted ways, there is an intimate relationship between religion and governmental institutions. In 1997, during the process of rebuilding the Church after decades of suppression from the atheist state ideology of the Soviet Union, the Russian Orthodox Church was able to influence the government to pass a law restricting the power of religions considered “foreign”. This was a response to the influx of Western missionaries to Russia after the opening up of the country after the fall of the Soviet Union – a move to secure the position of the Russian Orthodox Church as the paramount religious institution in Russia. This was the beginning of an increasingly close relationship between the Russian Orthodox Church and the Kremlin³⁹⁷. Putin has played a significant role in the establishment of this relationship, and his twofold mission to both create a clear national identity and secure his popularity among the population has made the Orthodox Church a natural partner³⁹⁸. Early in his presidency, he began a process of returning property seized under the Soviet era to the Church, and has later made huge contributions to rebuilding churches through state-owned energy firms³⁹⁹. Politically, Putin portrays himself as a defender of “Christian values” and is reported as a frequent attendee at church services⁴⁰⁰. In 2009, the Duma representatives from United Russia (the party of President Vladimir Putin) promised Patriarch Kirill that the Church would be able to review all legislative proposals before the Duma enacted them⁴⁰¹. The Russian government has also given the Church the right to teach

³⁹³ Waage, 2012: 151.

³⁹⁴ Waage, 2012: 152.

³⁹⁵ Waage, 2012: 153.

³⁹⁶ Coyer, 2015.

³⁹⁷ Ibid.

³⁹⁸ Ibid.

³⁹⁹ Ibid.

⁴⁰⁰ Bennetts, 2016.

⁴⁰¹ Waage 2012: 160.

religion in public schools⁴⁰² and enacted a law making it illegal to insult the feelings of religious believers⁴⁰³. Another recent example of the relationship between the Church and the government is the public support from the Russian Orthodox Church for Putin's government's policies, for example Russia's military campaign in Syria, which the church described as a "holy battle"⁴⁰⁴, and support for the state's policies against gay marriage⁴⁰⁵. In 2013, Patriarch Kirill, the Primate of the Russian Orthodox Church, both branded feminism "very dangerous"⁴⁰⁶ and stated that same-sex marriage is "a very dangerous sign of the apocalypse"⁴⁰⁷. Other representatives of dioceses of the Russian Orthodox Church have publicly called for an exclusion of LGBT people from church⁴⁰⁸ and stated that LGBT people should be seen as mentally sick and thus treated for their 'sickness' and isolated from public life⁴⁰⁹.

The Russian Orthodox Church and the Putin government have found common ground in their vision of Russia as a unified country with a sacralized national identity and traditional values, that is, something uniquely Russian; not Western and not Asian⁴¹⁰. Thus, the Russian Orthodox Church offers the regime a distinct position and an arsenal of strategies. Religion is politicized and used to create nationalist sentiment in the population. The Russian Orthodox Church is one of very few representations of something "Russian" in the post-Soviet uncertainty and value-vacuum^{411 412}. Additionally, nationalist sentiments are widespread in the Russian Orthodox Church⁴¹³. The church has thus fueled the government with the ideological framework necessary for the establishment of an alternative and distinctly Russian and "traditional" set of values politicized by Putin's government for the creation of a national identity. The Church has become the cultural symbol of Russian culture and what it means to be Russian today, gathering trust and support for the institution⁴¹⁴. On the other hand, this has made the government gain popularity in the population. As mentioned, most Russians see themselves as Orthodox Christians, and respond positively to the government's religious turn,

⁴⁰² Coyer, 2015.

⁴⁰³ Bennetts, 2016.

⁴⁰⁴ Ibid.

⁴⁰⁵ Higgins, 2016.

⁴⁰⁶ Wilkinson, 2014.

⁴⁰⁷ Herszenhorn, 2013.

⁴⁰⁸ Russian LGBT Network, 2016: 14.

⁴⁰⁹ Russian LGBT Network, 2016: 15.

⁴¹⁰ Coyer, 2015.

⁴¹¹ Bennetts, 2016.

⁴¹² Waage, 2012: 162.

⁴¹³ Waage, 2012: 161.

⁴¹⁴ Coyer, 2015.

describing it as the “guardian of Christian values”⁴¹⁵. Putin and his government have succeeded in establishing a bond with the church to the extent that support for his rule is seen as a “religious duty”⁴¹⁶.

The relationship between the Russian Orthodox Church and the Kremlin has thus created a situation where conservative Christian values and worldviews – characterized by negative views of LGBT people and other so-called Western values – are translated into a repressive set of policies and an ideology of a strong state. This is visible in the so-called Anti-Propaganda Law, which will be investigated later in this chapter.

5.1.3 Politicizing masculinity and heterosexuality

Masculinity and heterosexuality have historically been used by elites in Russia to legitimize the political regime. Portraying the country’s leader as a “man’s man”, or a masculine strongman, has been successful in solidifying support for their regime. Conversely, painting political opponents as feminine or homosexuals has been widely employed to weaken their position. The use of masculinity and heterosexuality as a tool for legitimizing political elites relies on a patriarchal culture which accepts widespread use of gender stereotypes⁴¹⁷. Below follows a discussion of how masculinity and heterosexuality have been used to legitimize leaders, and how it has been used to weaken opponents.

One of the most iconic features of Vladimir Putin’s political ascendancy has been his strategic use of masculinity. Examples include saving a TV-crew from a Siberian tiger, driving an F1 race car, hunting a gray whale with a crossbow, and displaying his martial arts skills⁴¹⁸. Putin also made efforts to use military imagery and symbolism to buttress his macho image shortly before his presidential incumbency⁴¹⁹. Additionally, his KGB background has been highlighted to grant him a certain military status⁴²⁰. This usage of military imagery was epitomized on March 2000, when he flew into Grozny on a fighter jet⁴²¹. Putin has also used his athleticism to embellish his masculinity. Such displays include playing hockey, performing martial arts and, perhaps most famously, shirtless fishing. Liudmila Putina, Putin’s wife, has

⁴¹⁵ Higgins, 2016.

⁴¹⁶ Bennetts, 2016.

⁴¹⁷ Sperling, 2014: 6.

⁴¹⁸ Sperling, 2014: 29.

⁴¹⁹ Sperling, 2014: 30.

⁴²⁰ Sperling, 2014: 32.

⁴²¹ Sperling, 2014: 33.

made it clear in interviews that Putin is attracted to “beautiful women”, and that he occasionally enjoys cognac and vodka, as well as having enjoyed drinking beer while in Germany⁴²².

As seen above, Putin’s masculinity and heterosexuality have been highlighted to strengthen his legitimacy. The other side of this political strategy is the use of homophobic stereotypes in order to hurt the credibility of political opponents. At a pro-Kremlin youth camp, opposition leaders were portrayed as prostitutes, with their faces photoshopped on top of female bodies⁴²³. Members of Oborona, an anti-regime group, were attacked with homophobic slurs and comments after discussing what position the group wanted to take on the issue⁴²⁴. Artem Samsonov, a Communist Party deputy, had photoshopped pictures of himself dressed as a woman and kissing another man spread online. Samsonov accused United Russia of being behind the attacks⁴²⁵. In another episode, supporters of Putin infiltrated the campaign of Evgenii Urlashov, a mayor that had recently beaten a Kremlin-favored opponent, pretending to be LGBT activists⁴²⁶. By affiliating themselves with him, they hoped to tie his name to the LGBT community, thus tarnishing his reputation. Finally, a propaganda campaign against opposition leader Boris Nemtsov sought to “feminize” him by claiming that he had been sexually violated in prison⁴²⁷.

The examples above illustrate how framing political opponents as feminine, unmanly or homosexual has been used to weaken their political position. This use of gendered norms in political strategy shows that in Russian culture, images of masculinity and heterosexuality can be used as proof of strength and security. This naturally raises questions about how other, non-normative, gender forms and sexualities can be expressed in a political environment so opposed to them.

5.1.4 Discrimination of the Russian Transgender Community

The transgender community is subject to discrimination and harassment in the workplace, and faces a lack of sufficient medical care. The report *Monitoring of Discrimination and Violence Based on SOGI in Russia in 2015* by Russian LGBT Network documented 20 cases of discrimination, including 6 cases of violence, against transgender people in 2015⁴²⁸. There are

⁴²² Sperling, 2014: 35.

⁴²³ Sperling, 2014: 105.

⁴²⁴ Sperling, 2014: 106.

⁴²⁵ Sperling, 2014: 107.

⁴²⁶ Ibid.

⁴²⁷ Sperling, 2014: 108.

⁴²⁸ Russian LGBT Network, 2016: 6.

also reports of abuse and neglect from law enforcement. Furthermore, transgender persons have experienced obstacles when attempting to adjust their juridical gender⁴²⁹. In the cases registered by Russian LGBT Network, the assigned gender in official documents did not match the victim's gender identity and expression, leading to violations of labor rights and restricted access to goods and services⁴³⁰. The lack of correspondence between officially registered gender and gender identity and expression has severe psychological consequences due to fear of being “outed”, and transgender people frequently avoid situations where they have to show official documents⁴³¹.

A bill proposed in May 2015 may de facto ban marriage for transgender persons by ruling that “a marriage between two persons of the same sex (assigned at birth) is prohibited, including cases when one of the marrying persons has undergone a procedure of sex change before marriage or is undergoing the procedure of sex change as of the time of marriage registration”⁴³².

5.1.5 Health

Discrimination of sexual minorities has serious health implications. Attitudes towards sexual minorities shape health care institutions and services, which can serve to perpetuate discrimination. Forced psychiatric hospitalization, pathologization of sexual orientations and gender identities, as well as “conversion” therapies are all forms of institutionalized heterosexism. These practices harm sexual and gender minorities directly, through violent “treatments”, or indirectly by depriving sexual and gender minorities of medical treatments, as seen below. Amnesty International has condemned the use of conversion therapy, describing it as “cruel, inhuman or degrading treatment which could amount to torture [and] should be prohibited in all circumstances.”⁴³³ Additionally, the perception of certain groups as vectors of disease, as has historically been the case with gay men and HIV/AIDS, is often used to justify violations of sexual minorities’ rights⁴³⁴.

The case of HIV/AIDS is a prime example of the importance of access to information to ensure the health of vulnerable groups. Russia’s Article 6.21 explicitly prohibits the dissemination of information that is “developing non-traditional sexual juvenile facilities,

⁴²⁹ Russian LGBT Network, 2016: 69.

⁴³⁰ Russian LGBT Network, 2016: 6.

⁴³¹ Ibid.

⁴³² Coming Out, 2016: 17.

⁴³³ Amnesty International, 2001: 30.

⁴³⁴ Meyer, 2002: 9.

attractiveness of non-traditional sexual relations, a distorted picture of the social equivalence of traditional and non-traditional sexual relations, or the imposition of information on non-traditional sexual relationships, causing interest in such relationships” (Article 19, 2013: 11)⁴³⁵. These penalties have the effect of making HIV prevention more challenging by making it more difficult to talk about homosexuality, per an advocate officer for the AIDS Healthcare Foundation in Moscow⁴³⁶.

These considerations are made more urgent by the spread of sexually transmitted diseases in Russia over the last few decades. At the start of the twenty first century, HIV incidence was spreading faster in Russia and in neighboring countries than in any other country⁴³⁷. Similar trends can be seen in other sexually transmitted diseases, such as syphilis, gonorrhea, and chlamydia. Additionally, HIV/AIDS prevention campaigns have not had the same impact and prevalence in Russia as elsewhere in the western world⁴³⁸. As a result, homosexual men in Russia are particularly susceptible to sexually transmitted diseases, as concluded by a 2001 study⁴³⁹. The effects of legislation that prohibits the distribution of valuable information that may help combat the spread of HIV/AIDS is thus highly damaging to the health of sexual minorities as a group.

5.1.6 LGBT Activism in Russia

Despite important achievements by activists, LGBT people are still a “marginalized and maligned community” in Russia⁴⁴⁰. Historically, there have been very few organizations working for the rights and freedoms of LGBT people, and political parties have been either hostile or indifferent to their cause⁴⁴¹. Today, the LGBT activism community in Russia is heterogeneous⁴⁴².

Several LGBT organizations were established after the fall of the Soviet Union, but they have been facing opposition from the authorities. In 1994, Treugolnik Center, a regional social lesbian, gay, and bisexual organization began their work, supported by the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA). However, shortly after its establishment, the Moscow Justice Department refused the organization’s legal registration on

⁴³⁵ Clark, 2014: 1.

⁴³⁶ Ibid.

⁴³⁷ Amirkhanian et al., 2001: 1.

⁴³⁸ Amirkhanian et al., 2001: 2.

⁴³⁹ Amirkhanian et al., 2001: 4.

⁴⁴⁰ Kon, 1997: 238.

⁴⁴¹ Kon, 1997: 228.

⁴⁴² Russian LGBT Network, 2016: 17.

the grounds that the organization “contradicts social norms of morality” and fails to meet the requirement of the federal law on ‘voluntary social organizations’⁴⁴³. Another form of activism is online projects. Children 404 have sought to show how the anti-propaganda laws, instead of protecting, in reality are having a negative impact on children. Both LGBT minors and children of LGBT parents are experiencing increased stress, stigmatization and marginalization due to the laws⁴⁴⁴. A court in St. Petersburg found the project guilty of spreading “gay propaganda” under the “Anti-propaganda law”, and ruled that their websites should be blacklisted. Further, the leader and founder of Children 404, Yelena Klimova, was fined 50.000 rubles for distributing “propaganda of non-traditional sexual relations among minors” under the same law. She successfully appealed the verdict⁴⁴⁵.

One of the major actors is the Russian LGBT Network, founded in 2006⁴⁴⁶, working to create local and regional initiatives, and to monitor the situation of LGBT people in Russia today⁴⁴⁷. It has also helped create 20 organizations in different regions in Russia⁴⁴⁸. The local groups offer psychological and legal assistance to LGBT people and their friends and relatives⁴⁴⁹, especially to LGBT minors and children of LGBT parents, who are particularly vulnerable⁴⁵⁰. They also arrange seminars, lectures and discussions aimed at providing information and assistance⁴⁵¹, hold regular meetings and arrange psychological training and consultations with a sexologist⁴⁵², as well as cultural and recreational activities⁴⁵³.

LGBT activists in Russia have since the 1990s employed an identity-based discourse for gaining “recognition of LGBT people’s human rights on the grounds of nondiscrimination”⁴⁵⁴. Since the mid-2000s, activists have actively turned towards the international community and other external institutions such as the European Court of Human Rights and the United Nations Human Rights Council for support for their cause⁴⁵⁵. These strategies have resulted in resistance from the Russian authorities and society⁴⁵⁶, and, one can

⁴⁴³ Kon, 1997: 228.

⁴⁴⁴ Wilkinson, 2014: 371.

⁴⁴⁵ Luhn, 2015.

⁴⁴⁶ Russian LGBT Network, 2017.

⁴⁴⁷ Russian LGBT Network, 2016: 12.

⁴⁴⁸ Russian LGBT Network, 2017.

⁴⁴⁹ Russian LGBT Network, 2016: 38.

⁴⁵⁰ Ibid.

⁴⁵¹ Russian LGBT Network, 2016: 38.

⁴⁵² Russian LGBT Network, 2016: 51.

⁴⁵³ Russian LGBT Network 2016: 11.

⁴⁵⁴ Wilkinson, 2014: 370.

⁴⁵⁵ Wilkinson, 2014: 371.

⁴⁵⁶ Ibid.

argue, enabled the Russian government to make the connection between LGBT people's rights and Western imperialism and foreign control. Another strategy that has been employed is an attempt to "rehumanize" the population's perception of LGBT people. This has been done by criticizing the Russian Orthodox Church⁴⁵⁷, which is a tremendous task given how much public support the Church enjoys.

Additionally, some individuals have "come out" publicly as an attempt to normalize the perception of LGBT people. One example is TV journalist Anton Krasovsky, who said that he is gay and "a person just like you, like president Putin" during a live broadcast on the pro-government TV channel Kontr TV in January 2013. He was fired immediately after⁴⁵⁸.

There is a strong anti-LGBT movement in Russia. Organized groups blackmail, extort, attack and threaten to "out" LGBT people⁴⁵⁹. In the Tyumen region, a group called "Parent-Teachers' association" aims to defend "traditional" family values and to protect children from "unwanted" information⁴⁶⁰.

Homosexuality and "transgenderism" have been lumped together with pedophilia by anti-LGBT activists⁴⁶¹. One example is the vigilante group Occupy Pedophilia led and founded by Maxim Martsinkevich – with the nickname "Tesak", meaning the "cleaver" or "hatchet" in Russian⁴⁶² – known for his neo-Nazi leanings⁴⁶³. He has previously been convicted of hate crimes and "extremism" not related to the Occupy Pedophilia group⁴⁶⁴. This is the most prominent anti-LGBT group in Russia today⁴⁶⁵, with 22 branches listed on its website⁴⁶⁶. Other nationalist organizations have organized "pedophile huntings" where they have attacked public LGBT events and threatened LGBT people and public representatives that support the LGBT cause⁴⁶⁷. The members of these groups argue that all gay men are also pedophiles because "[o]nce you've crossed over once, you can cross over again. Today he likes boys, and then it'll be children. They're not suitable for life in society"⁴⁶⁸.

⁴⁵⁷ Ibid.

⁴⁵⁸ Ibid.

⁴⁵⁹ Russian LGBT Network, 2016: 39.

⁴⁶⁰ Ibid.

⁴⁶¹ Wilkinson, 2014: 371.

⁴⁶² Human Rights Watch, 2014: 27.

⁴⁶³ Wong, 2014.

⁴⁶⁴ Human Rights Watch, 2014: 27.

⁴⁶⁵ Ibid.

⁴⁶⁶ Human Rights Watch, 2014: 28.

⁴⁶⁷ Russian LGBT Network, 2016: 13.

⁴⁶⁸ Sleczkowski, 2013.

In December 2015, Alexei Kolegova, the leader of the nationalist organization Rubezh Severa was sentenced to four years in prison by the city court of Syktyvkar for “torture by an organized group”, “threat of death”, “involving minors in the commission of crimes as a part of a criminal group”, “crimes motivated by hatred or enmity towards a particular social group” and “vandalism committed by a group of people”. Three other members of the same organizations were also sentenced to prison⁴⁶⁹.

5.2 Analysis: Forms of discrimination

In contemporary Russia, the ideological climate is dominated by a politicization of so-called traditional values. The Russian Orthodox Church is used as an ideological arsenal to produce a post-Soviet identity, in opposition to Western forms of individualization and secularization, as a “return” to something distinctly Russian. In this climate, LGBT people are seen as a threat to the clear-cut identity politicians want to establish. In the analysis of the situation of LGBT people in Russia, we have found two forms of discrimination especially prevalent and emerging from this process of politicization of “traditional” values. These are what we have called “limitation of civil society” and “violence”. Limitation of civil society and violence are in themselves two separate forms of discrimination with their specific consequences. At the same time, we see that they both have a similar genesis and operate to reinforce each other. These forms of discrimination and their relationship will be discussed in more detail in the following subchapters.

5.2.1 Limitation of civil society

5.2.1.1 Civil society

We use the term civil society to designate the social sphere – separate from both the governmental and business sphere – in which non-governmental organizations, institutions, groups and individuals express their interests, concerns, wishes and desires, and where these actors try to gain political influence. The form of discrimination we have called limitation of civil society designates practices limiting these possibilities. This form of discrimination is very closely related to the second form of discrimination which also will be discussed, namely violence. The two forms of discrimination, we argue, form a self-reinforcing union, where one is used to legitimize and enable the other, and vice versa. The major aspects of the limitation

⁴⁶⁹ Russian LGBT Network, 2016: 13.

of civil society discussed here are the various measures the Russian authorities take to prevent LGBT activism.

“One of the most concerning ongoing trends is the closing space for civil society”, International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA) wrote in their “Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe, 2016”⁴⁷⁰. We find this especially prevalent in today’s Russia.

5.2.1.2 Freedom of expression and assembly

There are numerous examples of limitations of LGBT people's freedom of expression and assembly in Russia. The obstacles LGBT rights activists and interest groups are facing in Russia today – the limitations of civil society – function as a maintenance of the status quo.

This is closely related to the specific history of LGBT activism and identity in Russia. As noted in both the historical overview and the section on LGBT activism in Russia, a unified LGBT identity has not emerged in the same manner as in the West, due to the understanding of homosexuality primarily as an act, not something concerning the person. Thus, identity has not functioned as a unifying principle for the establishment of formal organizations which could serve as a platform to fight for political recognition.

The organizations that have emerged have experienced limited possibilities for action due to official registration and monitoring from the authorities. In August 1994, for example, Treugolnik Center, a regional social LGB organization supported by the International Lesbian, Gay, Bisexual, Trans & Intersex Association (ILGA), was refused to register by the Moscow Justice Department on the grounds that the organization “contradicts social norms of morality” and fails to meet the requirement of the federal law on “voluntary social organizations”^{471, 472}. On November 1st, 2016, Amnesty International’s Moscow office was sealed by municipal authorities without any prior notice and a note on the door stated that the building now was the property of the Russian Federation⁴⁷³. The authorities terminated Amnesty International’s lease because Amnesty, according to them, had not paid rent, a claim refuted by the human rights organization⁴⁷⁴. The director of Amnesty International in Europe and Central Asia, John Dalhuisen, stated that the authorities have not responded to their inquiries and that “[i]f the

⁴⁷⁰ ILGA, 2016: 14

⁴⁷¹ Kon, 1997: 238.

⁴⁷² Essig, 1999: 162.

⁴⁷³ Amnesty International, 2016a.

⁴⁷⁴ Amnesty International, 2016b.

authorities remain unwilling to solve this issue, it will soon start to look ominously like a deliberate move to obstruct our work to defend human rights in Russia. It is becoming increasingly difficult not to see this incident through the prism of the wider crackdown on Russian civil society”⁴⁷⁵.

A 2012 law made it possible for the Russian government to label non-governmental organizations that receive funding from abroad “foreign agents” – a term often interpreted as “spy” or “traitor” – if they engage in “political activities”^{476, 477}. The government defines ‘political activities’ so broadly that it extends to almost all aspects of what civil organizations do. The law required organizations to register with authorities and identify themselves as “foreign agents” in all their publications. This changed in 2014, when the Duma authorized the Justice Ministry to classify organizations as “foreign agents” directly⁴⁷⁸. By mid-October 2016, 146 organizations have been labeled “foreign agents”⁴⁷⁹. The label “foreign agent” has two functions. First, it allows for imposing fines on organizations that do not comply with or abide by this law. These fines have forced organizations to stop their work for financial reasons. Second, it is a tool used to discredit the work of these organizations⁴⁸⁰.

In June 2015, a new law made it possible for Russian authorities to ban foreign or international organizations perceived as threats to Russia’s security or “constitutional order”. Any connection to these “undesirable” organizations is punishable with fines and up to six years of imprisonment⁴⁸¹.

There are numerous cases of violations of freedom of expression and assembly. Russian LGBT Network has documented 26 cases of the latter only in 2015⁴⁸². Between 2006 and 2009, 171 applications from LGBT organizations to hold public events were denied⁴⁸³. In 2015, the permission to hold a Pride parade in Moscow was denied for the tenth year in a row, while “city authorities in Arkhangelsk denied a total of 11 requests from LGBTI activists to hold peaceful assemblies; referring to the ‘anti-propaganda’ legislation”⁴⁸⁴. The “Anti-Propaganda Law” is one of the most frequently utilized measures for limiting the spheres of expression, assembly and association.

⁴⁷⁵ Ibid.

⁴⁷⁶ Human Rights Watch, 2016b.

⁴⁷⁷ Human Rights Watch, 2016a.

⁴⁷⁸ Human Rights Watch, 2016b.

⁴⁷⁹ Ibid.

⁴⁸⁰ Ibid.

⁴⁸¹ Human Rights Watch, 2016a.

⁴⁸² Russian LGBT Network, 2016: 7.

⁴⁸³ Global Rights et al., 2009: 16.

⁴⁸⁴ ILGA 2016: 141.

5.2.1.3 Anti-Propaganda Laws

English translation of the federal law:

Propaganda of non-traditional sexual relations among minors, manifested in the distribution of information aimed at forming non-traditional sexual orientations, the attraction of non-traditional sexual relations, distorted conceptions of the social equality of traditional and non-traditional sexual relations among minors, or imposing information on non-traditional sexual relations which evoke interest in these kinds of relations – if these actions are not punishable under criminal law – will be subject to administrative fines: for private citizens in the amount of 4,000 – 5,000 rubles; for administrative officials, 40,000 – 50,000 rubles; for legal entities, 800,000 – 1,000,000 rubles or suspension of business activities for up to 90 days.

Actions covered under Part 1 of this article which are committed with the employment of the media and/or information and telecommunications networks (including Internet sites) – if these actions are not punishable under criminal law – will be subject to administrative fines: for citizens of 50,000 – 100,000 rubles; for administrative officials – 100,000 – 200,000 rubles; for legal entities – 1,000,000 rubles or suspension of business activities for up to 90 days.

Actions covered under Part 1 of this article which are committed by foreign citizens or stateless persons – if these actions are not punishable under criminal law – will result in an administrative fine of 4,000 – 5,000 rubles with administrative deportation from the Russian Federation or administrative arrest for up to 15 days with administrative deportation from the Russian Federation.

Actions covered under Part 1 of this article which are committed by foreign citizens or stateless persons with the employment of the media and/or information and telecommunications networks (including Internet sites), if these actions are not punishable under criminal law, will result in an administrative fine of 50,000 – 100,000 rubles with administrative deportation from the Russian Federation or administrative arrest for up to 15 days with administrative deportation from the Russian Federation.⁴⁸⁵

On June 30th, 2013, president Vladimir Putin signed into law a bill unanimously approved by the State Duma 19 days earlier⁴⁸⁶. The law was enacted despite opposition from Russian activists and condemnation by the international community⁴⁸⁷. The federal law, officially known as the law “For the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values” but often referred to as the “gay propaganda law” or “Anti-Propaganda Law” – by the media often referred to as “anti-gay” laws⁴⁸⁸ – criminalizes

⁴⁸⁵ SRAS, 2013.

⁴⁸⁶ The Guardian, 2013.

⁴⁸⁷ Wilkinson, 2014: 366.

⁴⁸⁸ Wilkinson, 2014: 365.

“propaganda of non-traditional sexual relations”⁴⁸⁹ and “non-traditional sexual values” to minors⁴⁹⁰, and, in practice, public support for non-traditional sexual relations⁴⁹¹. Non-traditional sexual relations are generally understood as non-heterosexual and non-heteronormative relations⁴⁹².

This federal law has many local and regional predecessors, the first being an amendment titled “Public actions oriented to propaganda of homosexuality (male and female) among minor children”, adopted by the Ryazan Regional Duma in May of 2006⁴⁹³, which made offenses punishable by fines⁴⁹⁴ between 1500 and 2000 rubles⁴⁹⁵. In 2009, LGBT activists Nikolay Bayev and Irina Fet were arrested and found guilty of “popularizing homosexuality” after having displayed posters saying “[h]omosexuality is normal” and “I am proud of my homosexuality”⁴⁹⁶. After Fet appealed to the United Nations Human Rights Committee she was acquitted of all the charges against her⁴⁹⁷, and a court ordered that she should be given 8000 rubles in compensation⁴⁹⁸. The example of Ryazan Oblast was followed by similar laws in both Arkhangelsk and Kostroma Oblast in 2011, and these types of laws gained traction in Russia in 2012⁴⁹⁹.

However, none of these laws, neither the local nor the federal, clearly define what constitutes homosexual “propaganda”⁵⁰⁰⁵⁰¹. The distinction between ‘information’ and “propaganda” made by some of the backers of the law, which specifies that the law only targets actions directly aimed at the “popularization” of non-traditional sexual relations among minors, has in practice proven irrelevant: “any public representation of non-traditional sexual relations that is not explicitly negative could be considered ‘homo-propaganda’”⁵⁰². In an interview with REN-TV the Chairman of the Duma Committee on Family, Women and Children Affairs and one of the authors of the bill, Yelena Mizulina, defined non-traditional sexual relations as “men

⁴⁸⁹ Global Rights et al., 2009: 15.

⁴⁹⁰ Human Dignity Trust, 2014: 1.

⁴⁹¹ Mills, 2013.

⁴⁹² Wilkinson, 2014: 366.

⁴⁹³ Ibid.

⁴⁹⁴ Global Rights et al., 2009: 15.

⁴⁹⁵ Wilkinson, 2014: 366.

⁴⁹⁶ Interfax Religion, 2009.

⁴⁹⁷ Human Rights Watch, 2014: 20.

⁴⁹⁸ Human Rights Watch, 2014: 21.

⁴⁹⁹ Wilkinson, 2014: 366.

⁵⁰⁰ Ibid.

⁵⁰¹ Mills, 2013.

⁵⁰² Wilkinson, 2014: 366.

with men, women with women, bisexuality and being transgender”⁵⁰³. There are also regional differences; actions deemed to be propaganda in one area have been accepted other places⁵⁰⁴.

“Gay propaganda” is considered a danger to society – especially young people’s health and spiritual and moral development – by the Russian authorities, both for religious and demographic reasons – the state’s pronatalism⁵⁰⁵. This is visible for example when Viktor Ilyuhin, a member of the Communist Party’s Central Committee, declared during the 2007 election campaign that “homosexuality is a movement of sick people with serious health deviations and anomalies. Therefore, advocating and constantly raising this issue destroys moral values of the Russian society, as homosexuals are dangerous for other people”⁵⁰⁶. Leaders of Russia’s Muslim and Christian communities have indulged in anti-LGBT rhetoric, describing homosexuality as a sin and “a vicious asocial phenomenon”, and linking homosexuality to Russia’s demographic crisis – low birth rate – effectively justifying violence against LGBT individuals⁵⁰⁷.

This is the context in which the “Anti-Propaganda Law” was enacted and is now being enforced. The explanatory note of the bill states that the promotion of homosexuality through the media and public activities has sharply increased in Russia, and that the portrayal of homosexuality as normal behavior is dangerous for minors, because these are not able to take a “critical approach to this avalanche of information with which they are bombarded on a daily basis”⁵⁰⁸. It further states that any activities that may popularize homosexuality are banned for the purpose of protecting intellectual, moral, physical, spiritual and mental well-being of children⁵⁰⁹. The law is an attempt to protect the traditional family structure and traditional family values. Discrediting these by providing a neutral or a positive description of homosexuality, bisexuality and transgenderism can consequently be a violation of the Anti-Propaganda Law⁵¹⁰. The political strategy of promoting “traditional” family values – at the expense of international conventions Russia has signed and ratified⁵¹¹ – began in 2006, but what “traditional” means remained unclear until 2012, when Putin articulated his goal of the rebirth of Russian society’s “spiritual bonds” and preservation of Russia’s collective identity,

⁵⁰³ Mills, 2013.

⁵⁰⁴ Wilkinson, 2014: 366.

⁵⁰⁵ Ibid.

⁵⁰⁶ Global Rights et al., 2009: 5.

⁵⁰⁷ Ibid.

⁵⁰⁸ Human Dignity Trust, 2014: 1.

⁵⁰⁹ Ibid.

⁵¹⁰ Human Dignity Trust, 2014: 3.

⁵¹¹ Human Rights Watch, 2012.

consequently making “traditional” values a “politicized imperative for the survival of the Russian nation”⁵¹². These statements are very much related to the relation between the state and the Russian Orthodox Church discussed in an earlier chapter.

Expression of homosexuality is thus prohibited on the grounds of representing “non-traditional sexual values” and as “information promoting non-traditional sexual relations” to minors⁵¹³. Under these laws, many individuals and organizations have been prosecuted and convicted, and the laws made it harder for LGBT activists in Russia to fight for their cause.

In 2015, the Russian LGBT Network observed that the law was being used by law enforcement as a justification to interfere in the private lives of people of LGBT people by restricting their right to adopt children⁵¹⁴. The same year, fights broke out between Pride participants and Orthodox Christian protesters after Pride participants unfurled a rainbow flag. Eight people were injured in the confrontation, and ten LGBTI activists were subsequently arrested. Nikolai Alexeyev was later fined 20.000 rubles and spent ten days in jail for holding the parade without permission⁵¹⁵. This is only one of many examples of violent disturbances of LGBTI assemblies.

The “anti-propaganda” laws and other juridical regulations of non-heterosexual relations “have operationalized ‘traditional’ values by providing practices to accompany rhetoric, turning homophobia into a convenient proxy for ‘traditional values’”⁵¹⁶. Within the political context of today’s Russia, anti-LGBT laws, rhetoric and sentiments function as “political shorthand for national identity and traditional values”⁵¹⁷. The limitations of the civil society in Russia, i.e. the freedoms of expression, assembly and association, encourage the further stigmatization and discrimination of LGBT individuals. It is a signal that the Russian authorities do not perceive LGBT people as equal citizens which effectively makes them second class citizens. The laws enacted for this purpose in Russia in the last decade restrict the public debate and fuel already existing homophobia and prejudice. The “Anti-Propaganda Law” functions as a legitimization of violence and thus enables further violence.

⁵¹² Wilkinson, 2014: 367.

⁵¹³ Human Dignity Trust, 2014: 1.

⁵¹⁴ Russian LGBT Network, 2016: 68.

⁵¹⁵ ILGA, 2016: 141.

⁵¹⁶ Wilkinson, 2014: 367.

⁵¹⁷ Wilkinson, 2014: 368.

5.2.2 Violence

The second form of discrimination of LGBT people in Russia we have found especially prevalent is violence. Violence constitutes a serious issue for LGBT people in Russia today. Coming Out LGBT Initiative Group published a report containing 122 documented cases of violations of human rights based on the victim's sexual orientation or gender identity/expression only in Saint Petersburg⁵¹⁸. A number of cases where gay men were killed as a result of hate-motivated violence have also been reported⁵¹⁹.

There has been an increase in and intensification of stigma, harassment and violence⁵²⁰ against LGBT people since 2013, when the “anti-propaganda law” was enacted at the federal level⁵²¹. In 2015, a total of 52 cases of violence against LGBT people were reported to the Russian LGBT Network⁵²². These cases of physical violence are often accompanied by psychological abuse such as threats, insults⁵²³, and systematic blackmailing⁵²⁴. Hate speech in general remains very prevalent, both inciting physical violence and accompanying it⁵²⁵. However, it is important to note that due to fear of negative reactions such as humiliation and more violence, the number of unrecorded cases is most likely very significant⁵²⁶.

In the following sections, four aspects of the violence against LGBT people in Russia will be discussed. These are 1) violence against activists, 2) violence conducted by vigilante groups, 3) violence conducted by individuals in everyday life, and 4) the Russian authorities' responses to the violent acts. There is no clear-cut distinction between the three first aspects of the violence: both vigilante groups and individuals attack activists during public events and individual LGBT people in their everyday life. The distinction is thus purely analytic.

5.2.2.1 Violence against activists

Russian authorities have refused to approve the arrangement of most public events in support of LGBT people interest's and equality since the mid 2000s⁵²⁷. Many of those events which nonetheless have been held, have been violently disrupted by counter-demonstrators⁵²⁸ using

⁵¹⁸ Coming Out, 2016: 7.

⁵¹⁹ Global Rights et al., 2009: 9.

⁵²⁰ Human Rights Watch, 2015.

⁵²¹ Human Rights Watch, 2014: 26.

⁵²² ILGA, 2016: 139.

⁵²³ Russian LGBT Network, 2016: 28.

⁵²⁴ Russian LGBT Network, 2016: 29.

⁵²⁵ Russian LGBT Network, 2016: 33.

⁵²⁶ Russian LGBT Network, 2016: 17.

⁵²⁷ Human Rights Watch, 2014: 40.

⁵²⁸ Ibid.

both physical and psychological means⁵²⁹. According to data gathered by Human Rights Watch, the frequency of these attacks has risen significantly from 2012 to 2014⁵³⁰. In this period, Human Rights Watch documented 18 cases of violent attacks on events organized in support of the interests of LGBT people in Russia⁵³¹. Coming Out LGBT Initiative Group documented three cases of physical assaults during public events for LGBT people in Saint Petersburg in 2015⁵³².

The use of hate speech and violence as a strategy to block and disrupt public events in support for LGBT people's interests is not very new. On May 14th, 2007, a demonstration took place despite the parade application having been denied. Several Pride participants were arrested and protesters were attacked by homophobic nationalists, while the riot police refused to stop attacks on the LGBT activists, but rather incited further violence by pushing the violent and the peaceful demonstrators together⁵³³. The violent incidents during these types of events have been used to justify banning Pride events⁵³⁴.

5.2.2.2 Violence conducted by vigilante groups

Vigilante groups attacking LGBT people became a widespread phenomenon in late 2012⁵³⁵. These vigilante groups, such as Maxim Martsinkevich's Occupy Pedophilia discussed earlier in this report, usually have some kind of nationalist affiliation⁵³⁶. One of their preferred strategies for finding victims is using online dating sites for LGBT people. The vigilante groups subsequently lure their victims into violent traps by arranging a fake date⁵³⁷. Human Rights Watch describes the attacks as usually proceeding in this way: "[A] vigilante group uses a teenage boy, or has someone pose as one online, and engages in an online chat with the victim, eventually agreeing to meet with him. A group of young men arrives at the agreed-upon location, where they tell the victim that he has been tricked and accuses him of being a pedophile. They question him about his reasons for meeting and his sexual orientation and eventually verbally, physically, and in some cases sexually assault him"⁵³⁸. These so-called

⁵²⁹ Coming Out, 2016: 24.

⁵³⁰ Human Rights Watch, 2014: 40.

⁵³¹ Ibid.

⁵³² Coming Out, 2016: 24.

⁵³³ Global Rights et al., 2009: 17.

⁵³⁴ Ibid.

⁵³⁵ Human Rights Watch, 2014: 26.

⁵³⁶ Wong, 2014.

⁵³⁷ Russian LGBT Network, 2016: 68.

⁵³⁸ Human Rights Watch, 2014: 29.

set-up dates are often filmed⁵³⁹, and the materials are often shared on social media⁵⁴⁰ or used to blackmail the victims for large sums of money for further exploitation and harassment⁵⁴¹.

In addition to the severe physical injuries suffered by victims of these attacks, the psychological and emotional trauma can be devastating. Victims interviewed by Human Rights Watch have suffered from depression, anxiety and developed a fear of going outside⁵⁴².

5.2.2.3 Violence conducted by individuals

The violence against LGBT people is not limited to that perpetrated by the vigilante groups. Individual attackers are also a part of this issue. There are many documented cases where violent acts were conducted in public only on the grounds that the attackers identified the victim as an LGBT person⁵⁴³. People have been attacked for wearing rainbow badges, but also for simply not conforming to the stereotypical norms of expression of gender and sexuality⁵⁴⁴. Strangers usually attack after having followed the victim, calling them pejorative terms like “faggot”, and telling them they have no rights, etcetera⁵⁴⁵, thus clarifying the motivation behind the attack. All the interviewees of the Human Rights Watch have experienced strangers shouting derogatory and homophobic slurs at them in public⁵⁴⁶.

It is important to note that the attackers, being strangers, do not know the victim's actual sexual preferences or practices. The attack is thus solely based on the attacker's perception of the victim's properties based on their appearance and behavior.

5.2.2.4 Official responses to violence

There are four important aspects of the Russian authorities' responses to violence against LGBT people.

First, the law enforcement does not always take the victim of violence or the case in general seriously when an act of violence against LGBT people is reported. When LGBT people report violence committed against them to the police, the police often respond dismissively by trivializing the episode or blaming the victim for displaying their sexual

⁵³⁹ Human Rights Watch, 2014: 26.

⁵⁴⁰ Ibid.

⁵⁴¹ Coming Out, 2016: 34.

⁵⁴² Human Rights Watch, 2014: 30.

⁵⁴³ Coming Out, 2016: 8.

⁵⁴⁴ Coming Out, 2016: 31.

⁵⁴⁵ Human Rights Watch, 2014: 36.

⁵⁴⁶ Ibid.

preference or practices too explicitly⁵⁴⁷. The Russian LGBT Network has documented 21 cases of abuse of LGBT people by law enforcement in 2015⁵⁴⁸. These include refusal to accept the report and the lack of investigation of reported violence and discrimination, illegal detention, humiliation and other forms of psychological violence against the victims. A report by Human Rights Watch from 2014 found that 22 of the 78 victims of homophobic or transphobic violence and harassment they interviewed did not report the attacks to the police. They saw reporting the attacks to the police as a waste of time⁵⁴⁹. Among those who reported the attack to the police, very few have seen a meaningful investigation⁵⁵⁰. In seven cases reviewed by the Human Rights Watch, the police did not secure important evidence or interviewed the victim and possible key witnesses⁵⁵¹. There are also documented cases where the police have condoned the acts of violence and made homophobic remarks themselves⁵⁵².

When instances of violence are reported to the police, they are often left uninvestigated⁵⁵³. For example, peaceful assemblies are regularly disrupted by anti-demonstrations, and the police authorities have shown a lack of any meaningful investigation, prosecution and convictions⁵⁵⁴. Out of the 44 cases documented by the Human Rights Watch, only three led to a prosecution⁵⁵⁵.

Second, blaming the victim and adjusting the punishment. People convicted for violence against LGBT people, regularly – if convicted at all – receive less harsh punishments due to the “immoral” activities of their victims⁵⁵⁶.

Third, not taking the offender’s motivation into account. The police further ignore the motivations behind the violent attack on LGBT people; the attackers’ strong negative sentiments towards these people, visible in the hateful language usually accompanying the physical harm⁵⁵⁷. During the violent attacks documented by Human Rights Watch, the attackers usually indulge in homophobic rhetoric⁵⁵⁸. This clearly shows that the violence is directed at the victims because of their attackers’ perception of their sexual practice or identity. A Russian

⁵⁴⁷ Human Rights Watch, 2014: 59.

⁵⁴⁸ Russian LGBT Network, 2016: 2.

⁵⁴⁹ Human Rights Watch, 2015.

⁵⁵⁰ Human Rights Watch, 2014: 59.

⁵⁵¹ Ibid.

⁵⁵² Ibid.

⁵⁵³ Human Rights Watch, 2015.

⁵⁵⁴ ILGA, 2016: 141.

⁵⁵⁵ Human Rights Watch, 2015.

⁵⁵⁶ Russian LGBT Network, 2016: 68.

⁵⁵⁷ Human Rights Watch, 2014: 59.

⁵⁵⁸ Human Rights Watch, 2014: 26.

researcher at Human Rights Watch stated that the “[v]iolence experienced by LGBT people in Russia is unmistakably motivated by homophobia, but the authorities deliberately ignore that these are hate crimes and fail to protect the victims”⁵⁵⁹, and further added that the “Russian law enforcement agencies have the tools to prosecute homophobic violence, but they lack the will to do so”⁵⁶⁰.

One of the issues concerning these situations is that the Russian law enforcement agencies do not investigate such attacks as hate crimes. None of the cases documented by the Human Rights Watch were treated as hate crimes⁵⁶¹, even though the Russian Criminal Code, article 63, states that the “commission of a crime by reason of political, ideological, racial, national or religious hatred or enmity or by reason of hatred or enmity with respect to a social group” adds an additional penalty to crimes as murder and other form of physical violence⁵⁶². This is due to the lack of recognition of LGBT people as a social group⁵⁶³. This might be due to the specific history of LGBT people in Russia discussed earlier: Homosexual practices have not necessarily defined a person as a homosexual. Consequently, even though the Russian criminal code enables the legal apparatus to consider hatred against a social group as an aggravating circumstance when prosecuting⁵⁶⁴, it has not been done in cases of violence against LGBT people⁵⁶⁵.

Fourth, the lack of systematic recording of violence. The Russian authorities do not collect data on violence against LGBT people, which allows the Russian authorities to refuse to account for these acts⁵⁶⁶. Furthermore, this lack of solid data makes it hard to investigate the patterns of attacks and develop strategies for protection of potential victims⁵⁶⁷. The police have thus repeatedly failed to protect LGBT people from violence⁵⁶⁸. During events in support of the interests of LGBT people, the police have usually failed to protect demonstrators from harassment and physical violence⁵⁶⁹.

⁵⁵⁹ Human Rights Watch, 2015.

⁵⁶⁰ Ibid.

⁵⁶¹ Ibid.

⁵⁶² Human Rights Watch, 2014: 64.

⁵⁶³ Coming Out, 2016: 22.

⁵⁶⁴ Ibid.

⁵⁶⁵ Ibid.

⁵⁶⁶ Human Rights Watch, 2014: 60.

⁵⁶⁷ Ibid.

⁵⁶⁸ Global Rights et al., 2009: 10.

⁵⁶⁹ Human Rights Watch, 2014: 41.

5.2.2.5 Violence and its victims

The result of the Russian authorities' responses to violence against LGBT people is that the victims do not report violence to the police⁵⁷⁰, aggravating the situation where LGBT people are seen as legitimate targets for violent attacks, because the law enforcement shows that they do not care equally about violence against LGBT people. The Russian authorities' responses to the violence against LGBT people are an essential part of violence as a form of discrimination of LGBT people in Russia. By not investigating and prosecuting cases of violence against LGBT people, the Russian authorities are contributing to the situation where this form of discrimination is possible. Thus, it is not only through their lack of investigation and prosecution of cases of violence against LGBT people that the Russian authorities are participating in the discrimination of LGBT people, but also by enabling the continuation of these acts through letting offenders go free.

Furthermore, the violence directed at LGBT people during public events in support of LGBT people's interests and recognition functions directly as an obstruction of political struggles. This – combined with other factors discussed in this chapter – is creating a situation where LGBT people risk being attacked, even murdered, if they express their sexuality or gender in so-called non-traditional – i.e. non-heteronormative and non-cisnormative – ways.

5.3 Conclusion: Limitation of civil society and violence: Discrimination, why?

Historically, in Russia, only male homosexuality – *muzhelozhstvo* – has been the target of legal discrimination, while female homosexuality was a concern for the medical institutions. Today, the traces of this are still visible: An overwhelming majority of acts of violence documented in Russia is aimed towards homosexual men. Similarly, the imagery of heterosexuality and masculinity is employed to legitimize political leadership, while opponents of the regime are portrayed as feminine and homosexual.

The two forms of discrimination of LGBT people highlighted and analyzed in the previous chapter are *the limitation of civil society* and *violence*. They function separately, but are also mutually reinforcing and together constitute an assemblage of discriminatory practices. They function in an ideological climate where the so-called traditional values are politicized for the purpose of manufacturing a unified post-Soviet Russian identity. This political project is using the Russian Orthodox Church as one source of morality, and labeling all forms of

⁵⁷⁰ Human Rights Watch, 2014: 60.

foreign influence, non-heterosexual practices and identities, and non-cisgender expressions as un-Russian, and thus legitimizing the limitation of LGBT people's possibilities for gaining political recognition. It further enables the creation of LGBT people as potential and justifiable targets of violence.

As discussed earlier, the possibility for LGBT people to fight for their interests and political recognition is obstructed by the systematic limitation of civil society. The spreading of information and arrangement of public events are prevented by laws and the law enforcement's practices. The relation between the two forms of discrimination of LGBT people we have focused on in the previous chapter is a dual one, and mutually reinforcing.

First, the limitation of civil society exercised against LGBT people by the Russian authorities is a systematic degrading of their political existence, effectively making LGBT people second class citizens. This further legitimizes LGBT people as targets of violent attacks. Through the lack of recognition for the identities, practices and political rights of LGBT people, the Russian authorities have established LGBT people as a group not equal to everyone else. This has largely been done through politicizing heteronormativity through linking LGBT people and practices to the "West" and opponents of the regime, while heterosexism, cisgenderism and traditional gender expressions are, conversely, actively linked to "traditional" Russian values. LGBT people are thus represented as a threat to "Russia". In this ideological universe, LGBT people are acceptable targets of violent attacks, and attackers are given impunity. Second, this symbolic degrading of LGBT people and the very limited space that is available for them to fight for their interests and recognition is buttressed by violent attacks. The disruption of public events by vigilante groups is a good example of this form of discrimination. The threat and fear of violence are further limiting the space of political struggle for LGBT people.

This unholy marriage of political degradation and violent attacks of LGBT people has greatly impeded the activism and LGBT people's struggle for their interests and recognition, and at the same time as making their daily lives dangerous.

The very successful unification of political patriotism and heteronormativity by the Russian political authorities and the Russian Orthodox Church has made it very hard for established politicians in Russia to openly recognize the struggle of LGBT people. By doing it, they risk being labeled "foreign agents" or anti-Russian.

There is a clear paradox in the way LGBT people are treated in Russia: On the one hand, they are not recognized as a social group by state institutions, which means that, as we have discussed, crimes committed against them motivated by enmity are not processed as hate

crimes. On the other hand, LGBT people are systematically attacked and persecuted as if they were a social group. Here, the historical heritage of LGBT people and homosexual practices in Russia appears in a different form than when discussed previously in this chapter. “Homosexuality” has historically not been an identity in Russia, and sexual relations between people of the same gender did not make them “homosexuals”. Even when the law prescribed harsh sentences for homosexual practices, the offender returned to his – the law only banned homosexual relations between men – family and sexual and gender roles: One might practice homosexuality, but one was not a homosexual. This now leads to a situation where sexual preferences and practices does not serve as a unifying criteria for the formation of social groups, at least not for recognition of social groups. An example of this is the fact that homosexual men in Russia are particularly susceptible to HIV/AIDS. The inability of Russian culture to perceive gay men as a social group with its own issues and challenges has led to a situation where a growing HIV/AIDS crisis has not been effectively handled.

In contemporary Russia, we see another social group emerge – not based on sexual or gender identity – as a product of the ideological structures discussed earlier, which unifies all sexualities and expression deviating from the heteronormative and cisnormative categories understood as “traditional” into a symbolically degraded category. A devastating example of this is how homosexual men are labeled “pedophiles” and systematic attack by vigilante groups on members of the LGBT community are called “pedophile hunts”.

Through our analysis of the forms of discrimination of LGBT people in contemporary Russia, we have found that by limiting LGBT people’s space for political expression and legitimizing harassment and violence directed at this group, “Russian” traditional values are buttressed, and the legitimacy of Russia’s political regime is strengthened. Not only does it serve as a means of creating a unified Russian identity opposed to non-heteronormative sexualities and gender expressions, but it also deprives LGBT people of both political recognition and sufficient medical care, as well as the freedom to live safe lives with the freedom of self-expression.

6.0 Norway

6.1 Background

This chapter will provide some information on Norwegian history, religion, politics, activism and laws, in order to give the reader sufficient background knowledge for the analysis.

6.1.1 History

6.1.1.1 A brief introduction 50-years of struggle

In 1972, Norway abolished the laws that had criminalized sexual intercourse between two men. This decriminalization was an important step. One of the pioneers in the struggle for LGBT-rights in Norway Karen Kristine “Kim” Friele has expressed the following about how it was in Norway more than 40 years ago: “Back then, homosexuality was counted as equal with sexual intercourse with animals. The psychiatry made all sex that didn’t brought children as something sickly. It wasn’t about humans, it wasn’t about feelings. It was about what then was named perversion.”⁵⁷¹

However, the struggle for legal equality was far from finished. During the following four decades there would be many “victories”, but also setbacks. One of the major setbacks was the increased stigma during the early period of the HIV/AIDS-epidemic in the 1980s and 90s when the fear of the newly discovered and described virus strongly affected the everyday life of many in the Norwegian LGBT community. We will return to this in the chapter on health.

In addition to this major victory, two legal milestones stand out in the period after 1972. First, the law on anti-discrimination from 1984, where, for the first time, a legal framework to give LGBT people some protection from discrimination based on sexuality, was enacted. Second, and for many a defining moment, the law on civil registered partnership was narrowly passed the Norwegian parliament (Stortinget) in 1994. During the 1990s, there were many debates in Norway about different topics related to LGBT; especially the debates about family and the churches were hard. It was first with Jens Stoltenberg’s center-left government (formed in 2005) that the debate about equal marriage was properly placed on the agenda and. Until then the Christian Democrats (Kristelig Folkeparti – KrF) had been in government (except for some months in 2000-2001) from 1997-2005, blocking any attempt to define marriage as something beyond the union of one man and one woman. Still today, the party has defined the revision of the law as a political goal in their political program: “KRF are focused on securing

⁵⁷¹ Mathisen, 2016.

marriage between one man and one women in the legislations.” Later in the paragraph KRF states that marriage between a man and a woman is traditional in many countries and “[t]his has proven to be the most stable framework for children’s upbringing”⁵⁷².

Beside these formal modes of unequal treatment by the government, discrimination is also something that happened and happens in the everyday life of LGBT people in Norway. Later we will return to some examples of this kind of discriminations that happened in Norway during the last decades, including incidents of violence against LGBT-persons.

6.1.1.2 Pre-Christian traditions in Norway

From around the year 1000, Norway was under Christian rule, most of the time as a monarchy. First mainly Catholic, with the king and the bishops being more or less connected with the Western Church. In 1537 the Lutheran reformation was adopted by the Danish king Christian III.⁵⁷³ And still today, we see parts of Christianity in Norway. This influences the situation for LGBT people in Norway. The period surrounding the establishment of Christian monarchic rule in Norway is referred to as the age of the Vikings, or the Norse period. In this period the culture and religion were *Norrøn* or old Norse. Various texts from this period indicate that gender, gender roles and sexuality were important. The old Norse people in Norway had a unique word for a man that through his actions or appearance was challenging the established norms of masculinity. This word was “*ergi*”⁵⁷⁴. Once a man was labelled as *ergi*, he was no longer considered a man. Examples of this could be that a man had dressed in women’s clothing, that he had shown himself as a coward in battle or that he had been caught as the passive part in sexual intercourse with another man. In some traditions this was tantamount to a complete loss of honor. and in some cases it was even punishable by death. This was the situation for regular farmers and free men. For the Norse the world was divided in three distinct areas: *Aasgaard*, *Midtgaard* and *Utgaard*, which is also reflected by how the farmsteads were constructed. Women were in control of the house and the economy, and men were in control of the fields and forests and represented the family outside the farm. Men were the protectors and guardians of the family. Some traditions surrounding the cult of this pre-Christian period include the concept of *Seid*, where a man or a woman is part magician and part link between the different realms⁵⁷⁵. The ability to contact the underworld was particularly important. The

⁵⁷² KRF, 2017.

⁵⁷³ Imsen, 2016.

⁵⁷⁴ Steinsland, 2005.

⁵⁷⁵ Christensen, 2008.

underworld was the place where death and knowledge laid. The myth tells about Odin who hung himself in Yggdrasil, the tree of life and wisdom and the center of the world, to gain wisdom from its roots. A man that was involved in “seid” was in some degree also committing *ergi*. The seid person was often dressed in a fashion which resembled a woman, for a man this was “*ergi*”. Odin, the King of the Gods, was often portrayed as a military leader, but, also being the god of seid and magic is often also connected with the feminine. And he was known to visit humans, dressed like a woman. Thus, Odin challenges the fixed border between the sexes to some degree. Other stories also tell of Thor, the god of thunder and of the sky, who wore a bridal dress. Similarly, Loke, the nemesis of the good gods, wore women’s clothing in some stories. It is also important to mention a point made by Gro Steinsland in her book *Norrøn religion*: Although the gods might have crossed the borders of gender expression, this was not an example for the common people to follow⁵⁷⁶. The idea of a person with an unclear gender expression as more in contact with the supernatural is not unique for the Norse – the Sami Noaide or shaman also have some gender crossing attributes⁵⁷⁷.

6.1.2 The political system and the development of democracy in Norway

The modern Norwegian state got its constitution and independence (first short lived) in 1814. The constitution confirmed the rights of the citizens to vote and was the foundation of a system that at the end of the 1880s developed into a parliamentary democracy⁵⁷⁸. In June 1905, the Norwegian government voted that they had no trust in the Swedish king and declared the end of the union between the two countries. After some negotiations, the two states separated peacefully. The Norwegian voters, back then only men older than 21 years, were asked in three referendums in 1905 to make decisions on the further development. First, they voted 98 % in favor of the separation from Sweden, then they voted in favor of Norway still being a monarchy, and finally they voted for the Danish prince Karl to become king of the newly independent country under the name Haakon VII. In 1913 women were given equal rights to vote in parliamentary elections in Norway. Norway was occupied by Nazi-Germany from April/June 1940 until May 8th 1945. Norway joined NATO in 1949 as one of the founding members of the North Atlantic Treaty. In 1972 and 1994 the people of Norway narrowly voted against Norway becoming a member of the EU. The first Secretary-General of the UN was the Norwegian social democrat Trygve Lie. After the Second World War Norway structured its

⁵⁷⁶ Steinsland, 2005.

⁵⁷⁷ Ibid.

⁵⁷⁸ Nordby, 2004.

foreign policy around close cooperation with international institutions and participation in organizations like the UN and The Council of Europe. From the Norwegian perspective, there is an ambition and a tendency to see the country as an active smaller country that is punching above its weight on the international stage, emphasizing the establishment of, and adherence to, international law and regulations. Norway has recently included LGBT rights in the diplomatic works of some of its embassies⁵⁷⁹.

The Norwegian parliament, known as Stortinget, is currently a unicameral parliament with 169 members elected in a representative voting system from the 19 “fylker” (counties). General elections are held every fourth year in September. The parliament can change the constitution with a two thirds majority. Norway practices negative parliamentarism⁵⁸⁰. This period 8 different parties are represented in parliament: Sosialistisk venstreparti (SV – Socialist left), Arbeiderpartiet (Ap – Labour / Social democrats), Senterpartiet (Sp – Center party / Agrarian), Miljøpartiet de grønne (MDG – Green party), Venstre (V – “Left” / liberal), Kristelig folkeparti (KrF – Christian democrats) Høyre (H – Right / conservative), Fremskrittspartiet (FrP – progress party / right wing). The government is formed by Høyre and FrP, supported by Venstre and KrF.

The prime minister is Erna Solberg (H). The last two terms the center-left had a majority government (Ap, SP and SV) led by Jens Stoltenberg (Ap). LGBT issues and discrimination are mainly a topic for the Ministry of Children and Equality (Barne- og likestillingsdepartementet) with Solveig Horne (FrP) as minister. The Ministry of Justice and Public Security (Justis- og beredskapsdepartementet), Ministry of Health and Care Services (Helse- og omsorgsdepartementet) and Ministry of Foreign Affairs (Utenriksdepartementet) also deal with LGBT related issues⁵⁸¹.

6.1.3 Juridical status and rights

Norway has formal laws and prohibitions in place with the purpose of protecting individuals from discrimination. The following sections will present the Norwegian Discrimination Act and other laws relevant for understanding discrimination of LGBT people in Norway. To give the reader an understanding of these laws and how they have evolved, Norway’s public assessments (NOU) will be presented as well.

⁵⁷⁹ Utenriksdepartementet, 2011.

⁵⁸⁰ Nordby, 2004.

⁵⁸¹ Regjeringen, 2017b.

6.1.3.1 The Discrimination Act

What kind of formal laws are in place to prevent discrimination of LGBT people in Norway? The Discrimination Act states that discrimination is prohibited (§4)⁵⁸². The purpose of the law is further stated as following: “to promote equality, ensure equal opportunities and rights and prevent discrimination on the basis of ethnicity, national origin, ancestry, color of skin, language, religion and spirituality” (§1). The law is operative in the entire society except in the context of family life and personal relationships (§3).

The Discrimination Act makes a distinction between direct and indirect discrimination (§4) and states that both types of discrimination are prohibited. Direct discrimination is defined as an act or omission which purpose is to treat a person or entity differently in a negative sense, compared to others in the same situation because of certain characteristics of this person or entity. Indirect discrimination is defined as a seemingly neutral decision, condition, practice, action or omission with the result of a person being put in a disadvantageous position relative to others⁵⁸³.

6.1.3.2 A new law: The Discrimination Act of Sexual Orientation

The Discrimination Act was introduced in 2005. Whenever the government or a department wishes to make a legislative proposal, a selected group of people will discuss and assess relevant societal matters in order to formulate this proposal⁵⁸⁴. These assessments are then published as reports or as NOUs⁵⁸⁵. In 2009 such a group was put in place to propose a more inclusive Anti-Discrimination Act that would include sexual orientation⁵⁸⁶. As of today, and since 2009, protection against discrimination is spread across several laws. The goal and purpose of the new proposal was to ensure a stronger Discrimination Act. The selected group also considered including discrimination based on gender identity and gender expression⁵⁸⁷.

Five years passed before a law would prohibit discrimination of people based on their sexual orientation, gender identity or gender expression on its own, and not as a subchapter in other laws. The new law was established in 2014 and states that it is prohibited to discriminate on the basis of actual, assumed, former or future sexual orientation, gender identity or gender

⁵⁸² Diskrimineringsloven (The Discrimination Act), 2005, §4.

⁵⁸³ Ibid.

⁵⁸⁴ Ruud, 2010.

⁵⁸⁵ Regjeringen, 2017a.

⁵⁸⁶ NOU 2009: 14.

⁵⁸⁷ Ibid.

expression (§5)⁵⁸⁸. The law further states that various institutions in the Norwegian society are obligated to promote equality, independent of sexual orientation, gender identity or gender expression. This includes workplaces, organizations and educational institutions⁵⁸⁹.

The following subchapter will present some other Norwegian laws and revisions of laws relevant to the situation\position of LGBT people in the society

6.1.3.3 Marriage and family life

Only those who are legally married are allowed to adopt children in Norway. Before same-sex couples were allowed to get married on the same ground as heterosexual people, there was a partnership act in place with the purpose to regulate homosexual cohabitation⁵⁹⁰. As a consequence of being excluded from traditional marriage, gay men and lesbian women were not ascribed the right to adopt their own children⁵⁹¹. Changes in laws regulating same-sex cohabitation came about in 2008/2009.

The Norwegian Marriage Act states in §1. *Gender*, that people of the same and opposite sex are allowed to get married. This alteration was made in 2008 and finalized in 2009. However, the Marriage Act, §13, still states that the church can decide not to wed a couple of the same sex if doing so is in conflict with a particular belief system.

With the revision of the Marriage Act came the revision of several other laws⁵⁹². In the realm of family life, laws are put in place to ensure that lesbian couples have rights on the same grounds as heterosexual women when it comes to having their own biological children. The Biotechnology Act states that two women are permitted assisted fertilization as long as they are cohabiting, or are married (§2-3). The Children Act, §4, states that the woman who is cohabiting with, or is married to a woman who has undergone assisted fertilization, is permitted *additional motherhood* on the same grounds as a man cohabiting with, or is married to a woman giving birth would be considered the father of the child. Donation of semen is allowed in Norway but as of today egg donation and surrogacy is not allowed. Therefore, gay couples' opportunities for having biological children of their own are more restricted⁵⁹³. However, the debate on egg donation is still ongoing. This spring, the Government will make a proposal for

⁵⁸⁸ Diskrimineringsloven om seksuell orientering (The Discrimination Act of Sexual Orientation), 2013, §5.

⁵⁸⁹ Ibid.

⁵⁹⁰ Kjeldsberg, 2001.

⁵⁹¹ Ibid.

⁵⁹² Odelstingsbeslutning nr. 91.

⁵⁹³ Bioteknologiloven (The Biotechnology Act), 2003, §2.

changes in the Biotechnology Act, and several parties are voting “yes” for allowing egg donation in Norway⁵⁹⁴.

6.1.3.4 Other relevant laws

The Gender Equality Act, §5, states that it is illegal to discriminate on the basis of a person’s sex⁵⁹⁵. The purpose of the law is to promote equality between sexes; equal rights, opportunities, status and worth⁵⁹⁶.

The Penal Code, §185, states that anyone who puts forth a discriminating or hateful utterance can be punished with up to three years of imprisonment. This pertains to discrimination or hateful statements based on, among others, someone’s “homosexual orientation”⁵⁹⁷. The Penal Code makes it clear that discrimination on the basis of someone’s sexual orientation is a punishable act. The following paragraph (§186) states that an act of denying a person a commodity or service because of their homosexual orientation is also punishable⁵⁹⁸.

The Landlord and Tenancy Act (§1-8) states that it is punishable to take someone’s sexual orientation, gender identity or gender expression in consideration when leasing shelter⁵⁹⁹. The purpose behind this law is to make sure that everyone has the same opportunity to rent shelter, regardless of their sexual orientation, gender identity or gender expression. Landlords can also be punished for refusing to rent out to a person based on these characteristics.

The Work Environment Act, chapter 13, is named a *legal protection against discrimination*⁶⁰⁰. This particular chapter was put in place to protect the individual from discrimination during the process of job announcement, employment, promotion, pay, working conditions, training and job termination. This statement is also found in the Discrimination Act of Sexual Orientation, §15. Further, §16 states that it is prohibited to search for information about the employee’s sexual orientation, gender identity or gender expression and use this information in the process of employment⁶⁰¹.

⁵⁹⁴ Tjernshaugen & Dommerud, 2017.

⁵⁹⁵ Likestillingsloven (The Gender Equality Act), 2013, §5.

⁵⁹⁶ Ibid.

⁵⁹⁷ Straffeloven (Penal Code), 2005, §185.

⁵⁹⁸ Straffeloven (Penal Code), 2005, §186.

⁵⁹⁹ Husleieloven (The Landlord and Tenancy Act), 1999, §1-8.

⁶⁰⁰ Arbeidsmiljøloven (The Work Environment Act), 2005, chapter 13.

⁶⁰¹ Diskrimineringsloven om seksuell orientering (The Discrimination Act of Sexual Orientation), 2013, §15-16.

If you, as an individual, originate from a country where you are being persecuted on the basis of your sexual orientation and fear for your life, you have the right to seek asylum in Norway. This is stated in The Immigration Act, §28⁶⁰², and you will be granted asylum as long as the Norwegian government sees your need for protection as legitimate⁶⁰³.

Last but not least, if someone has been subject to discrimination, or has questions about the matter, the Gender-Equality and anti-Discrimination Ombud (LDO) can assist the individual by giving practical information about laws, and one's rights and duties. This is also the place where people can submit complaints or accusations they may have⁶⁰⁴.

Religious organizations are still exempt from parts of the Anti-Discrimination Act like the question about not asking a possible new employee about their sexual orientation before employment⁶⁰⁵.

6.1.4 Religion

6.1.4.1 The Evangelical Lutheran Church of Norway

Den norske kirke (DNK, The Evangelical Lutheran Church of Norway) used to be a state church and is today still partly regulated by the Norwegian government through a separate "Church law" (Kirkeloven. From 2017 DNK has full juridical independence from the state. Today it is the national congress (Kirkemøtet), which consists of elected members elected from the clergy and among lay Church members, that make important strategical and political decisions in the Church. In the congress the laity held the majority. The day to day business of running the church is delegated to the bishops, the gathering of the Collegium of the bishops and the regional boards of the dioceses. There are 9 dioceses in the DNK. DNK is by far the largest denomination in Norway with 3.8 million members. In 2015, 73 % of the population in Norway was member of DNK⁶⁰⁶.

6.1.4.2 Pietism and conservative laity 19-century

Lay Christian movements have from the late 18th and early 19th century played an important role in Norway. The Mission was and is still one key priority for many of these congregations, and many of them have kept a traditional view on issues such as female priests and marriage.

⁶⁰² Utlendingsloven (The Immigration Act), 2008, §28.

⁶⁰³ Hoffart, 2014.

⁶⁰⁴ Bakkeli & Grønningsæter, 2013.

⁶⁰⁵ Diskrimineringsloven om seksuell orientering (The Discrimination Act of Sexual Orientation), 2013, §16.

⁶⁰⁶ Den Norske Kirke, 2016.

This form of Christianity has traditionally been most popular alongside the Southwestern Coast of Norway, in Norway referred to as the Bible belt (Bibelbeltet) and in the counties of Telemark and Østfold. In Finnmark and Troms the Laestadians has their own traditional and conservative direction of the Lutheran doctrines (more about them in the subchapter “Double and multiple minorities”)⁶⁰⁷. Persons with an LGBT identity have, and in some degree still today are, faced strong reactions from the more conservative groups. These reactions can take on different forms: like direct exclusions, either from a part of the religious ceremonies or from the entire group. Some have also faced strong condemnation, either of their practice or their person. Often, this is accompanied by statements like “burn in Hell” or “you are going to be condemned.” There are several descriptions of degrading language in the media, books (both academic and non-academic) and articles; One of the most influential books on the debate in Norway was the book *Betre død enn homofil* (Rather Dead than Gay) from 2009 by Arnfinn Nordbø⁶⁰⁸.

It is also worth mentioning that there are several non-Lutheran Churches and Christian congregations in Norway, the majority of them with a more conservative approach.

6.1.4.3 From a traditional view on marriage and a conservative view on sex to equal church marriage

In his book about newer Christianity in Norway Hallgeir Elstad refers to some of the moral conflicts between those who held a traditional view and those that were in favor of a less dogmatic view. One of the central conflicts was the question about homosexuals inside the church. In 1977 the Norwegian bishops voted that DNK should separate the question about homosexuality into two, one was the orientation, that was in some way accepted, and the practice, that the church would not accept. The lesson from the story was “it is ok to be gay as long you don’t live as one”⁶⁰⁹. It is important to remember that this was at a time where much of the clergy and laity in the church were still highly skeptical towards the priesthood of women, remarriage and sex before and outside the marriage. It can be argued that in the 1970s homosexuality was only one among many so-called moral conflicts inside DNK⁶¹⁰.

The last decade of the 20th century witnessed many important milestones when it comes to LGBT issues in the country. One of them was the appointment of the first woman bishop, in

⁶⁰⁷ Elstad, 2013.

⁶⁰⁸ Nordbø, 2009.

⁶⁰⁹ Elstad, 2013: 96

⁶¹⁰ Ibid.

any Lutheran church, Rosemarie Köhn, in the diocese of Hamar in 1993. Bishop Köhn would become a central figure in one of the largest conflicts inside the church in the late 90s when she agreed to not sack Siri Sunde, a priest that was living in a same gender relationship.

Siri Sunde was a chaplain in Nordre Land in the diocese of Hamar until she lost her job when she chose to live with another woman. Rosemarie Köhn, acting against the official policy of the church, gave Siri the job back. This was the beginning of a long and harsh debate, which included protests from several hundred priests, petitions and demands for both Sunde and Köhns resignations. This debate also highlighted the conflict in the parliament between fractions with different views on the relationship between the state and the church, and a more general conflict about moral issues.

Today, at least in some parts of Norway, the situation has changed. An example is the deanery of Lofoten where half of the priests are homosexual and the local community does not consider it a problem. In 2015, the national broadcaster NRK made a short documentary featuring three of these priests⁶¹¹. The same year, there was a case in the Diocese of Møre where the local bishop refused to ordain a lesbian priest, despite the fact that the priest had the support from both the local congregation and a majority in the board of the Diocese. The case became even more complicated when the bishop refused to let the priest be ordained by one of the other bishops, a practice used by the church earlier in cases where the priest bishop in question had problems with the candidates' gender or sexuality⁶¹².

6.1.4.4 The church elections and the meetings of the congress.

The Congress – Kirkemøtet in Norwegian – is the supreme organizational organ that decides the doctrine of the Church today. There are 116 representatives that participate in the annual gathering of the Congress. The majority of the delegates are elected in “Kirkevalget” (the Church Elections), which are held every fourth year. During the last couple of elections, the question of equal right to church marriage for same sex couples has been high on the agenda and debated in both mainstream media and the Christian press. In 2014, Kirkemøtet, with a narrow vote, decided not to establish a new liturgy for same sex couples. This led many church members, both LGBT and non-LGBT, to leave the Church in protest. Many, including the former Minister of Church, Rigmor Aaserud, complained that several of the delegates held their ballot secret after the voting at Kirkemøte⁶¹³. It also had another consequence: The

⁶¹¹ Falch-Nilsen, 2015.

⁶¹² Ervik, 2015.

⁶¹³ Solvang, 2014.

establishment of the Åpen folkekirke (ÅF) – not to confuse with Åpen kirkegruppe. ÅF is an organization with the objective to gather and organize candidates to the church election under a common platform. Among the central political targets of the organization is the creation of an open church for all, a church that does not discriminate people based on their gender, relationships and sexuality. One of the more central LGBT-related issues was the question of marriage. In the 2015 election, ÅF won in the majority of the dioceses. 42 of 77 elected lay members were representing ÅF. In addition, there was a majority in favor of a new marriage liturgy among the bishops, priests and lay church employees at Kirkemøtet.

In the early spring of 2016 at the gathering of Kirkemøtet in Trondheim, the vote turned out 88 against, 27 in favor of church marriage for two persons of the same sex. Though the majority of the responses were positive, some, like the conservative priest Øyvind Benestad, were disappointed by the decision⁶¹⁴. The congress also made it clear that no congregation inside the Church could opt out of using the local church building to perform marriage ceremonies of this kind. This ruling of the congress caused some anger among conservatives and many people have left the Church afterwards. In the summer of 2016, the congregation in Kautokeino made an attempt to deny same-sex couples using the local church to marry. The local Bishop answered that this was against the ruling of Kirkemøte and not an option⁶¹⁵.

The Congress in 2016 was also the first time when transgenderism was a topic when Alex Ramstad, an activist, was not satisfied with the “discriminatory rhetorics” of those who opposed same-sex marriage in the Church. He described this as a topic where the Church still has a long way to go⁶¹⁶.

6.1.4.5 Åpen kirkegruppe (The Open Church Group)

Founded in 1976, Åpen Kirkegruppe is an ecumenical Christian fellowship for gays and lesbians. Today they have local branches in Oslo, Trondheim, Bergen and Stavanger, and inactive groups in Tromsø, Kristiansand and other cities. Empowerment and a safe and inclusive environment are central issues for Åpen Kirkegruppe. One key concept for Åpen Kirkegruppe is that Christian LGBT people have suffered from discrimination both inside the traditional churches and inside the LGBT movement that have been in general critical towards religion. They have church services with alternative liturgy and monthly gatherings in places

⁶¹⁴ Fremstad, 2016.

⁶¹⁵ Bye, 2016.

⁶¹⁶ Hansen, 2016.

like Trondheim. During the annual Pride festivals in many Norwegian cities Åpen Kirkegruppe, together with progressive priests, hold Rainbow services. Åpen Kirkegruppe is a member of The European Forum of Lesbian, Gay, Bisexual and Transgender Christian Groups⁶¹⁷. In Trondheim the rainbow services during the Pride festival are held together with Kirkens bymisjon and the Congregation of Nidaros Cathedral and the Church of Our Lady (Nidarosdomen og Vår Frue menigheter). In 2016 Dean Ranghild Jeppsen, a possible candidate to become the new bishop of Nidaros, led the rainbow service in the Church of Our Lady in Trondheim during Pride.

6.1.5 LGBT Activism

Various organizations in Norway work on behalf of LGBT people's interest and rights and against discrimination and mistreatment. In the Human Rights Act, Attachment 2, Part one 1: *Rights and liberties* it is stated that people have a right to participate in peaceful assemblies with other people and organize or join organizations in order to protect their interests⁶¹⁸.

6.1.5.1 Historical development

The journey begins in the early 1950s, when non-normative orientations and practices were hidden from the public sphere. The first organization for LGBT people was established in 1950⁶¹⁹. Since then, it has expanded and evolved, and is now known as Fri. In collaboration with other groups and organizations they have been fighting for the rights of LGBT people since the 1950s⁶²⁰. The following section will provide a brief presentation of three decades of LGBT activism in Norway, based on the book *Rødt, hvitt og skrått* (Red, White and Queer). The book portrays the early times in Norway (the 1950s) as a time where homosexual men and lesbian women were deprived of places to explore and gain knowledge about their sexuality, and as a time where many people were living double lives and hiding their non-normative orientation and/or practices. This was also a challenging time for organizations and interest groups. It was difficult to gain real political influence since homosexuality was criminalized at that time.

An important name in relation to activism in Norway is Kim Friele. She came out as a lesbian in the 1960s and became engaged in politics and the fight for the rights of homosexual

⁶¹⁷ Åpen Kirkegruppe, 2017.

⁶¹⁸ Menneskerettsloven (Human Rights Act), 1999, Attachment 2: Part 1.

⁶¹⁹ Seehuus, 2009.

⁶²⁰ Benestad, Arntzen & Alm, 2016.

men and lesbian women. Friele was active in spreading the word about the organization for homosexual men and lesbian women (then called The Norwegian Federation) and became the leader of the organization in 1967. The 1960s and 70s would become an era of political protests and sexual liberation⁶²¹, a development that suited the gay and lesbian movement well. Activists discussed their hopes of decriminalizing homosexuality and brought other important issues up for debate. Through working in close proximity with political parties, they managed to bring about change in a number of ways. For instance, in 1972 homosexuality was removed as a punishable act in Norwegian laws, and homosexual men and lesbian women were no longer equated with criminals and the mentally ill⁶²².

The few organizations for LGBT people that existed in Norway during the 70s started redefining themselves and their interests, establishing new organizations and creating more diversity. The status of LGBT people became strengthened as a result of the political movements, campaigns and evolving organizations that aimed at protecting the interests and the rights of their members.

6.1.5.2 Organizations, activities and prides

Norwegian interest groups and organizations in favor of LGBT people have become diverse and many. This section will present a few of those organizations, their aims, and their particular interests.

Fri (Free) is an union for gender and sexual diversity, and is the biggest organization for LGBT people in Norway⁶²³. The union's objective is to be a driving force in the fight for equality and against discrimination⁶²⁴, both nationally and internationally. Fri has also been arranging the Oslo Pride every year since 1982. The Pride emphasizes the importance of openness and visibility, equal rights, solidarity, freedom to express oneself and one's sexual orientation and/or gender identity and expression. The aim is to challenge pervading norms and attitudes in the Norwegian society⁶²⁵. The pride has been expanding and more and more people are participating in it every year. Prides and festivals are also being arranged all over the country.

⁶²¹ Seehuus, 2009: 77.

⁶²² Seehuus, 2009.

⁶²³ Barne-, ungdoms- og familiedirektoratet, 2016.

⁶²⁴ Fri, 2017.

⁶²⁵ Oslo Pride, 2017.

As the biggest organization for LGBT people, Fri consists of several sub-organizations. One is an organization for all of those under the age of thirty who fall outside the heteronormative and the traditional understanding of gender. This sub-organization is called Skeiv ungdom (Queer Youth)⁶²⁶. Their vision is a world where no one is more privileged than others on the basis of gender or sexuality, and where every human being is free to be themselves, regardless of sexual orientation and/or gender identity and expression.

Forbundet for transpersoner i Norge (The Federation for transgender people in Norway) or FTPN is an union for transgender people in Norway, their vision being a society where people can express themselves as they like, regardless of their gender identity. FTPN's aim is to collaborate with political parties, public authorities and private companies in order to better the treatment of trans-people. The work of FTPN is also centered around the individual members, helping them to come in contact with one another and build social networks⁶²⁷.

6.2 Analysis

The following sections of this chapter will consider discriminating practices within the working environment and health care system, what consequences discrimination can have, what forms of discrimination we can understand as being exercised, and finally why these forms emerge and persist in the Norwegian society.

6.2.1 Discriminatory practices

It is difficult to state clearly to what degree LGBT people are being subjected to discrimination in Norway today. The fact that discrimination is difficult to define in research, law, politics and everyday life might reflect a possible reason for this difficulty⁶²⁸. The phenomenon is also experienced and understood differently by different people. Further, with a lack of knowledge, information or understanding about the discrimination, someone may not even realize that they have been subject to it⁶²⁹. This is where the Gender-Equality and Anti-Discrimination Ombud (LDO) becomes a valuable resource.

The following subchapter will consider some Norwegian research conducted in the realm of the work environment, with a focus on the experiences of lesbian women, gay men, bisexual men and women and trans-people in this context. The literature points to the fact that

⁶²⁶ Skeiv ungdom, 2017.

⁶²⁷ FTPN, 2015.

⁶²⁸ Bakkeli & Grønningsæter, 2013.

⁶²⁹ Bakkeli & Elgvin, 2014.

the number of LGBT people who experience or have had experiences with discrimination is quite small⁶³⁰. For instance, Bakkeli and Elgvin interpret the data they have reviewed in their report to suggest that lesbian women, gay men and bisexual men and women are not substantially discriminated against, since there are no systematic differences to find between this group and the heterosexual majority. The following subchapter will return to this discussion.

6.2.1.1 Discrimination and the work environment

The workplace, or the work environment, is an essential case to consider when trying to gain an understanding of discrimination of LGBT people in Norway. This is the context where the most substantial amount of research has been conducted⁶³¹. The Work Environment Act, chapter 13, is in place to protect people from discrimination in the realm of work⁶³². By law, it is prohibited to discriminate on the basis of a person's sexual orientation, gender expression or gender identity. However, as this chapter will show, there are some discrepancies between the formalized laws and reality.

Vidar Bakkeli and Arne Grønningsæter wrote a report in 2013 about LGBT people in the workplace, with the purpose of gaining knowledge about this diverse group of people in this particular context. A small part of the LGBT group experiences discrimination or are met with negative attitudes at work (roughly 10%)⁶³³. However, before we consider the literature the authors reviewed and the conclusions they made, it is of great importance to acknowledge some of the challenges central to this report and the study of LGBT people in the workplace as a field of research in general.

First of all, the amount of research conducted in this area in Norway is limited⁶³⁴. Bakkeli and Grønningsæter found it challenging to find Norwegian literature on the matter. Therefore, they had to base some of the report on international and Scandinavian literature. International literature can give good indications of the situation of LGBT people⁶³⁵. However, these findings cannot be generalized to the Norwegian population. More research in Norway is needed, especially after the new discrimination act has been finalized.

⁶³⁰ Ibid.

⁶³¹ Bakkeli, 2014.

⁶³² Arbeidsmiljøloven (The Work Environment Act), 2005, chapter 13.

⁶³³ Bakkeli & Grønningsæter, 2013.

⁶³⁴ Ibid.

⁶³⁵ Ibid.

Further, based on their report, it becomes evident that few incidents of discrimination of LGBT people are being reported. The question is, is this an accurate presentation of reality; is there a low prevalence of discrimination in Norwegian workplaces? The following sections will take these questions into consideration, have a look at the results of four relevant reports and consider what can be drawn out and understood from these.

The European Union Agency for Fundamental Rights (FRA) has been focusing on discrimination on the basis of sexual orientation and gender identity in the workplace, with the conclusion that LGBT people are being subjected to homophobia, transphobia and discrimination⁶³⁶. After reviewing a sizeable amount of literature, national and international, Bakkeli and Grønningsæter conclude that it is evident that discrimination takes place in Norwegian workplaces as well. Having work assignments taken away, being pressured to quit the job, or being fired, are some of the incidents roughly 10% of LGBT people claim to have experienced⁶³⁷. This is also evident in the cases presented by Bakkeli and Grønningsæter from the Norwegian Gender-Equality and anti-Discrimination Ombud (LDO).

Degree of openness can be relevant for our understanding of discrimination of lesbian women, gay men and bisexual men and women in the work environment. Research suggests that lesbian women and gay men feel as if they can be more open and are less ashamed of their sexual orientation, compared to bisexual men and women. In general, a substantial amount of LGBT people (20%) wished they were open with more people in their lives⁶³⁸. Further, 80% of lesbian women and gay men experience the workplace as including. The percentage is lower for bisexual men and women, 49% and 66%, respectively.

Another report that focuses on LGBT people and their experiences related to the workplace, is Bakkeli and Elgvin's *Kunnskapsoversikt om LHBT* (Knowledge overview of LGBT). Their data points to the fact that lesbian women, gay men and bisexual men and women may not experience more harassment than heterosexual people. However, the report suggests that work is still a challenging aspect for a minority of this group. Roughly 10% of lesbian women and gay men have experienced discrimination in this context (having work assignments taken away, being pressured to quit, being fired, etc.). Bisexual men and women are less open about their sexual orientation, feel less included in the work environment, and claim to experience less discrimination than gay men and lesbian women. This could be a direct result

⁶³⁶ The European Union Agency for Fundamental Rights, 2009.

⁶³⁷ Bakkeli & Elgvin, 2014.

⁶³⁸ Anderssen & Malterud, 2013.

of the low degree of openness further resulting in fewer encounters with discrimination⁶³⁹. As will become evident in the following sub-chapters, there seem to be a systematic difference between bisexual men and women and gay men and lesbian women as well as the overall heterosexual majority. Bisexual men and women appear as a more vulnerable and less open group that experience more pain. Further, the report shows that people of all sexual orientations have observed negative behavior towards others because of their sexual orientation⁶⁴⁰. A possible explanation for this behavior will be considered below.

Anderssen and Malterud's report with the title *Seksuell orientering og levekår* (Sexual orientation and living conditions) points to some of the same findings as mentioned above. More than 90% of lesbian women, gay men and bisexual men and women in the study had never experienced discrimination at work because of their sexual orientation⁶⁴¹. One out of ten lesbian women and gay men have had experiences where they have been dislocated from the workplace, did not get a job, were not promoted or were forced to quit work, school or studies because of their sexual orientation⁶⁴². Further, consistent with the pattern we have seen so far, more (10%) bisexual men experience the workplace as excluding compared to the other groups⁶⁴³.

Rogstad reports findings that support the assumption that discrimination based on ethnicity finds place in the Norwegian work environment⁶⁴⁴. Bakkeli and Grønningsæter discuss the possibility that workplaces that are prejudiced or are dominated by negative attitudes towards ethnic minorities, people with disabilities and other minority groups, may also be more susceptible to discrimination of LGBT people⁶⁴⁵.

It is of great relevance to point out that various discrimination and equality acts encourage institutions, organizations and workplaces to work actively for equal treatment of all people in order to prevent discrimination. The Norwegian law obligates the employer to report on the activities and efforts implemented with the intention of promoting greater equality and preventing discrimination in the workplace⁶⁴⁶. This has long been a practice with the purpose of promoting gender equality and, later, equal treatment of ethnic minorities and

⁶³⁹ Bakkeli & Elgvin, 2014.

⁶⁴⁰ Ibid.

⁶⁴¹ Anderssen & Malterud, 2013.

⁶⁴² Ibid.

⁶⁴³ Ibid.

⁶⁴⁴ Rogstad & Midtbøen, 2009.

⁶⁴⁵ Bakkeli & Grønningsæter, 2013.

⁶⁴⁶ Diskrimineringsloven om seksuell orientering (The Discrimination Act of Sexual Orientation), 2013, §13.

disabled people. Tronstad found that Norwegian companies are more likely to formally state that they wish to work for better gender and ethnical integration, while very few state the same about LGBT people⁶⁴⁷. Not every employer follows this obligation in any form at all, but out of those who do, one third report that they find the initiative helpful⁶⁴⁸. Private companies are more restrictive on this kind of initiative while there are more public companies that confirm plans to promote equality and prevent discrimination. There does not seem to be much awareness on behalf of the employers whether diversity in the workplace is seen as a valuable resource or not. An exception might be those who formally state that this kind of diversity is desirable⁶⁴⁹. It is possible that a duty to report on equality- and anti-discrimination-work with LGBT people will better the experiences of this group as well.

6.2.1.2 Discrimination in Norwegian health services

As already mentioned above, it is difficult to state clearly to what extent LGBT people are being discriminated against in Norway. The amount of research and reliable information is limited⁶⁵⁰. This is also true for the Norwegian health service as an arena for discrimination. Before 2014, there was no comprehensive law in place for the protection of LGBT people from discrimination. Their rights were scattered around a couple of other laws. Sunniva Ørstavik from LDO (as quoted in the article “Skeiv diskriminering”⁶⁵¹ (Queer Discrimination) points out this deficit in the law as one of the reasons why there have not been any formal complaints about unequal treatment of LGBT people within the Norwegian health services. However, there is some evidence of discrimination of lesbian women. Ørstavik refers to an informal questionnaire conducted during “Skeive dager” (Queer Days) where lesbian women shared some of the experiences they have had in their encounters with the health system⁶⁵². The more negative experiences found place in the context of assisted fertilization. One story is told by a woman who (when visiting a fertilization clinic) was encouraged by her doctor to go out on the town and get herself a man⁶⁵³.

The Norwegian health system has been criticized for its lack of knowledge about, and in some cases acceptance of, LGBT people⁶⁵⁴. In van der Ros’ report on people with gender

⁶⁴⁷ Tronstad, 2010.

⁶⁴⁸ Ibid.

⁶⁴⁹ Ibid.

⁶⁵⁰ Bakkeli & Grønningsæter, 2013.

⁶⁵¹ Hofstad, 2011.

⁶⁵² Ibid.

⁶⁵³ Ibid.

⁶⁵⁴ van der Ros, 2013.

identity issues (who either had undergone treatment in order to change juridical gender or feel a discrepancy between biological and psychological sex) those who have shared their experiences with the Norwegian health system say there is unsatisfactory knowledge about trans-people. This group is in need of a more diverse offer within health care and greater acceptance among health care professionals. The lack of understanding, knowledge and acceptance may result in poorer health services for transgender people than other groups of people, consequently causing them to have poorer health. As the Norwegian Discrimination Act⁶⁵⁵ states, this can be understood as a case of indirect discrimination where seemingly neutral practices, in this case a lack of knowledge, puts a group of people in unfavorable positions.

6.2.2 Outcomes of discrimination

6.2.2.1 Health and the quality of life

As mentioned in the section on discrimination in Norwegian workplaces, Bakkeli and Elgvin interpret their data as an indication of no systematic differences between LGBT people and heterosexual men and women in Norway. However, Anderssen and Malterud's *Seksuell orientering og levekår* (Sexual orientation and living conditions) from 2013 points to several differences between LGBT people and the overall heterosexual majority, as well as differences within the LGBT group. The question, therefore, is: Are LGBT people living with any additional stress concerning their sexual orientation, gender expression and/or gender identity? If they are, this might be an indication of discrimination. If LGBT people and heterosexual people are treated equally, there should be no systematic differences between them in relation to health and the quality of life. Reports and questionnaires like NOVA 1999⁶⁵⁶ has shown that lesbian women, gay men and bisexual men and women overall live fairly normal lives. They have close friends, they are open to people in the workplace, and the majority of the Norwegian population have positive attitudes toward non-normative sexualities. All the same, the same reports show that lesbian women and gay men face particular problems pertaining, for instance, to their psychological health. The following paragraphs will provide a brief presentation of some relevant results from Anderssen and Malterud's report where only statistical significant results have been presented as important differences.

When considering self-reported health, women who identify as bisexual report their own health as being poorer compared to lesbian women, gay men, bisexual men and

⁶⁵⁵ Diskrimineringsloven (The Discrimination Act), 2005, §4.

⁶⁵⁶ Hegna, Kristiansen & Moseng, 1999.

heterosexual men and women. In addition to rating their overall health lower, bisexual women have more chronic illness, more long term sick leave and experience more physical deficits. In addition, bisexual men and women feel more alone and score lower on overall satisfaction with life. In general, more lesbian women, gay men and bisexual men and women have attempted to take their own life compared to the heterosexual majority. When it comes to psychological health, bisexual women seem to be the most vulnerable, with a higher prevalence of suicidal thoughts⁶⁵⁷.

Lesbian women, gay men and bisexual men and women have a higher risk for psychological distress⁶⁵⁸. In addition, other reports show that experiences of psychological distress are especially evident within the group of people with gender identity issues⁶⁵⁹. It is self-evident that a person will experience more psychological problems as a result of experiencing a mismatch between psychological gender and biological sex, not fitting into any of the normative gender categories, or not being able to live out the identity they wish for. These challenges have led some close to suicide. The amount of people who have actually committed suicide on the basis of such issues is unknown⁶⁶⁰.

As seen so far, quality of life and health research suggests that heterosexual men and women have an overall better health status than LGBT people⁶⁶¹. It has also become evident that transgender people, bisexual men and (especially) women have poorer psychological health, a higher prevalence of suicidal thoughts and more suicidal attempts. To sum up and answer some of the questions posed in the beginning of this subchapter, there seem to be some systematic differences of importance between LGBT people and heterosexual men and women, pertaining to the quality of life and health.

6.2.2.2 Vulnerable groups

As the short review of health and quality of life literature indicates, there are some sexual orientations and/or gender identities and expressions that can put an individual in a more vulnerable position compared to others, something that requires paying some extra attention to.

⁶⁵⁷ Anderssen & Malterud, 2013.

⁶⁵⁸ Ibid.

⁶⁵⁹ van der Ros, 2013.

⁶⁶⁰ van der Ros, 2013: 59.

⁶⁶¹ Anderssen & Malterud, 2013.

6.2.2.2.1 Bisexual men and women

As shown in the previous section, bisexual men and, especially, women come out on the more negative side compared to lesbian women and gay men and the heterosexual majority. To highlight some of the main findings from the reports mentioned above, the group of bisexual men and women seem to be less satisfied with their own sexual orientation, are less open about their sexual orientation, and struggle more with health-related issues and suicidal thoughts. These results might be an indication of some form of discrimination taking place but not being detected⁶⁶². As referred to in Bakkeli and Grønningsæter, Barker et. al. (2012) points out that bisexual men and women might be facing prejudiced thoughts from not only heterosexual men and women, but also from lesbian women and gay men⁶⁶³.

6.2.2.2.2 People with gender identity issues

There is a knowledge-gap on the matter of people with gender identity issues, or transgender people. Reports that attempt to cover the whole spectrum of lesbian women, gay men, bisexual men and women and transgender people usually only cover lesbian women, gay men and bisexual men and women, and in some cases only lesbian women and gay men. Transgender people are a relatively new group in the Norwegian consciousness, and have not been acknowledged at the same level as lesbians, gays and bisexuals. A lack of understanding and knowledge in the population might be contributing to the vulnerability of this group. The knowledge-gap will be discussed in more detail in the section on *Discrimination, why?*

In the report *Alskens folk* (All types of people), van der Ros highlights some challenges pertaining to the group of people with gender identity issues. Many of the informants in her report experience and live with psychological problems as a result of not identifying with their biological sex. Many of them also feel like they are hiding their real self or living a double life. Further, some are scared of coming out and showing their real identity because of fear of harassment. Like the group of bisexual men and women, trans-people experience more suicidal thoughts and a larger percentage have attempted suicide⁶⁶⁴.

The following paragraphs will look at some other challenges that people with gender identity issues face, according to van der Ros' report. The first one is the matter of sterilization. Before 2016, in order to receive gender confirming treatment, you had to be diagnosed with a

⁶⁶² Bakkeli & Elgvin, 2014.

⁶⁶³ Bakkeli & Grønningsæter, 2013.

⁶⁶⁴ van der Ros, 2013.

gender identity disorder. Following this diagnosis was its treatment, including hormonal and surgical interventions⁶⁶⁵, and an irreversible sterilization. In order to change your juridical gender, you had to undergo sterilization, a practice in conflict with the Universal Declaration of Human Rights. This was problematic for all of those in need of only minor changes in order to experience better quality of life, and those who were not willing to undergo such dramatic changes in order to change their juridical gender. However, in June 2016, a law was passed to make it easier for people to change their juridical gender⁶⁶⁶. There is no longer a demand to undergo medical interventions in order to change it.

Lastly but not least, the unequal treatment of people with gender identity issues who seek help will be discussed. Some of the informants in van der Ros' report claim to have experienced discrimination in the process of diagnosis. Some are considered as being in too much psychological distress to receive treatment. This matter can be understood as an ongoing negative spiral where a person undergoes a lot of psychological distress because of the experience of mismatch, and a lack of understanding and acceptance in the society overall. The distress might grow and become even greater and put the individual in a condition where he or she is considered unfit for treatment. Further, many of the informants in van der Ros' report have a an understanding of the Section for Transsexualism in Norway as a place where you cannot allow yourself to *be* yourself 100%. They ascertain that your age, sexual orientation and gender expression is crucial for the chance of being diagnosed and receiving further treatment. You should be of young age (under 25), dress as the identity you wish for and have no uncertainty as to your sexual orientation.

As mentioned above in the section on bisexual men and women as a vulnerable group, poorer health and life-quality might be an indication of discrimination taking place. This might also hold true for trans-people, however, it might be just a tiny piece of the picture. The reports reviewed so far do not provide a basis for arguing or proposing that covert discrimination is the source of all the challenges faced within these groups, it is just a possible explanation.

6.2.2.2.3 Double and multiple minorities

Double and multiple minorities are known for facing a higher risk of discrimination. A person belonging to more than one group can find themselves struggling inside the minority community as well as when they faces the prejudices of the majority society. There are several

⁶⁶⁵ van der Ros, 2013: 59.

⁶⁶⁶ Christensen, 2016.

different combinations of identities that people who belong to or identify with a sexual and/or a gender minority in Norway can have, such as religion, addictions, disabilities, ethnicity and in some degree socioeconomic class. In the case of Norway all this can be relevant and interesting to study and research. However, it has to be added that these issues are not unique to the Norwegian case. People with a Sami background are a good example of this struggle of identities. The Sami people are an indigenous people of Scandinavia and parts of Northern Finland and the Kola peninsula in today's Russia. This topic of LGBT and Queer in Sami was depicted by Ane Hedvig Heidrunsdotter Løvold, in her master thesis "The silence in Sápmi – and the queer Sami breaking it" from 2014⁶⁶⁷. The traditional way of life, which many still practice to some degree, has been a nomadic or semi-nomadic life as reindeer herders, fishermen, hunters and in some regions also farmers. In more recent times, many have joined the majority community to a degree that makes them indistinguishable from other people that lives in modern Norway. Traditional Sami people have their own religion based on many of the same principles also shared by shamanistic religions in today's Russia. Today many identify as Christians, and in northern Norway and Sweden a particular branch of Lutheran Christianity, Laestadianism, named after the Swedish priest and missionary Laestadius, are particularly popular. Laestadianism is famed to be a conservative branch of Lutheranism rejecting priesthood of women and sticking to older versions of the liturgy and using old translations of the bible⁶⁶⁸. There are several distinct Sami languages, some of which are still actively used in Norway. Family and relationships are important for many connected with the traditional rein herding. For many years the Sami people faced different forms of mistreatment by the Norwegian majority society spanning from ignorance to outspoken assimilation policies. Not to challenge the traditions are important, and combined with a strong tradition around the clan or family and pietistic and conservative Christian beliefs it can be hard to get acceptance for someone challenging the norms and expectations of gender and sexuality, also including the traditional ideas of masculinity still common in Sami.⁶⁶⁹ Additionally, in the LGBT and queer communities, the Sami identity has until recent years been seen as something standing almost as in contradiction to the ideas of the culture of the LGBT minority. This is also stated by the young activist Dávvet Bruun-Solbakk⁶⁷⁰.

⁶⁶⁷ Løvold, 2014.

⁶⁶⁸ Kringlebotn, 2016.

⁶⁶⁹ Løvold, 2014: 77.

⁶⁷⁰ Bue, 2016.

In the last years there has been some research about this issue done in Norway and Scandinavia, and there has been an increase in activism as well.⁶⁷¹ First by the LLH, now FRI, that organized Pride in Finnmark and Tromsø, and today by the new organization Queer Sami and Sami Pride (that organized pride with their own parade in Kautokeino, Finnmark). In recent years' prominent representatives in the Sami community have also raised their voices in favor of diversity and sexual and gender minorities among the Sami. The new president of the Sametinget (Sami Parliament) addressed this issue in her new year's speech this year, and named some of the activists that have challenged the idea of how the diversity of identities can be combined, underlining that there is a need to look beyond the traditional image of what a Sami person is.⁶⁷² Among the activists are Dávvet Bruun-Solbakk, a student and a young activist who represents multiple identities and in this way challenges the normativity in the society. Another important voice in the debates about multiple identities is the celebrity stylist and blogger Erlend Elias Bragstad who has reached out both to Sami and non-Sami people and both to LGBT community and outsiders. In an interview with Norwegian broadcaster NRK he stated that "Sami gays have it more difficult than Norwegians"⁶⁷³. Different artists have also made significant contributions to the more recent debates; when a festival (not a Pride festival) provoked reactions by designing a poster of two kissing men in a traditional Sami costume⁶⁷⁴. Still, being both queer and Sami in areas dominated by traditional views and Laestadianism is difficult. Many of the activists live outside the traditional areas in cities like Oslo, Trondheim and Tromsø⁶⁷⁵.

6.2.3 Discrimination, why?

This subchapter and its subsequent sections will consider how we can get an understanding of discrimination in Norway. The main focus will be on constructs that can aid in understanding why discrimination takes place.

6.2.3.1 Attitudes

To provide tools for understanding why discrimination might emerge and persist in the Norwegian society, this section will be based on Anderssen and Malterud's report which, in

⁶⁷¹ Løvold, 2014.

⁶⁷² Måsø, 2017.

⁶⁷³ Pettersen, 2015.

⁶⁷⁴ Tollefsen, 2016.

⁶⁷⁵ Løvold, 2014.

addition to covering several aspects of LGBT people's lives, provides an overview of people's attitudes toward LGBT people and how these attitudes have changed compared to earlier reports.

The amount of people with negative attitudes toward lesbian women and gay men is low and decreasing⁶⁷⁶. A larger percentage of people report being in regular contact with gay men and lesbian women. This stands in contrast to the amount of contact people report on having with bisexual men and women, which is less frequent. The attitudes towards bisexuals are also more negative. A few people admit to acting in an overtly negative manner towards bisexuals. There is also a group of people who admit to making, or having made, negative statements about lesbian women and gay men, like making jokes⁶⁷⁷. Further, it seems like heterosexual men have the most negative attitudes toward LGBT people and they express the most negative attitudes toward bisexual men and women and trans-people.

Anderssen and Malterud argue that the results from the attitudes questionnaire might suggest that people have both positive and negative attitudes at once. The majority state that they have positive attitudes towards LGBT people, while at the same time being negative to the practices of people who identify as non-normative. In reality, people also display attitudes and actions that are inconsistent with their reported attitudes. The authors also argue that the amount of contact that people have with LGBT people can help to explain people's attitudes towards them. For example, heterosexual men and women have more negative attitudes towards trans-people, consistent with the majority reporting that they are never in contact with trans-people.

6.2.3.2 Lack of knowledge

Van der Ros' report on people with gender identity issues indicates that there is a knowledge-gap in the Norwegian society⁶⁷⁸. The lack of knowledge and understanding of LGBT people within schools, workplaces, families, the health care system and other public institutions can result in a systematic mistreatment of this group.

⁶⁷⁶ Anderssen & Malterud, 2013.

⁶⁷⁷ Ibid.

⁶⁷⁸ van der Ros, 2013.

6.2.3.3 Heteronormativity

The informative and interactive booklet *Riv gjerdene* (Tear the walls down)⁶⁷⁹, produced by Skeiv Ungdom (Queer youth), has made a considerable contribution to the discussion in this section on the matter of heteronormativity and discrimination. The booklet provides a thorough presentation of LGBTI people in the context of pervading norms in the Norwegian society, and presents solutions for creating a more inclusive and open society. The purpose of the booklet is to engage people in critical reflection on these norms and bring attention and focus to the maintenance of discrimination through the unwritten rules people live by and follow. We ask questions when people break the accepted norms and sanction these people in various ways. Discrimination of particular groups of people might be a reaction to people who break with pervading norms. Therefore, Skeiv Ungdom consider norm-criticism an anti-discrimination tool.

“Norms are unwritten rules on expectations pertaining to the individual in various situations”⁶⁸⁰. The booklet highlights that the stronger the norm, the less visible it is to us. One of these strong norms relates to gender and sexuality. “Heteronormativity is the assumption that everyone is heterosexual”⁶⁸¹. Further, we often assume that people identify with the sex they are born with, and that everyone fits into in the two-gender-category – as seen in department-stores, clothing-stores, restrooms and so on. There are norms in every society pertaining to gender, gender expression and gender identity, and to our sexuality. However, heteronormativity makes it challenging for those who do not feel like they fit the gender- and/or sexual categories⁶⁸² to fit into a society where such norms are dominant.

The actions of people who break with pervading norms, such as heteronormativity, are understood and interpreted in light of stereotypical understandings and beliefs – there has to be something wrong with *them*. The booklet highlights such beliefs as possible contributors to systematic unequal treatment. Norms create normal people and abnormal people, and the abnormal people are those we have to protect, treat nicely, feel sorry for, and consider if we want accept or not. Skeiv Ungdom are very clear on their opinion when they state that pity and special treatment is not needed, nor wanted. What we need is to get to the core of the assumptions and beliefs that create and maintain discrimination and unequal treatment. In other words, getting to the core of social norms. They further advocate a need for challenging the

⁶⁷⁹ Skeiv Ungdom, 2015.

⁶⁸⁰ Skeiv Ungdom, 2015: 8.

⁶⁸¹ Skeiv Ungdom, 2015: 66.

⁶⁸² van der Ros, 2013.

norms of heterosexuality and expectations regarding the sexes. If we reflect critically on these norms and work together in order to become more open and including, we can move towards prevention of discrimination of LGBTI people.

6.3 Forms of discrimination

Finally, this subchapter will give a summary of how we can understand the forms of discrimination of LGBT people exercised in the Norwegian society, based on previous subchapters on discrimination, quality of life and health, and vulnerable groups within LGBT.

6.3.1 Lack of knowledge and acceptance (indirect discrimination)

As mentioned above, the experiences of LGBT people, in the context of health care, are characterized by a lack of knowledge and acceptance among health care professionals that may lead to systematic mistreatment of this group (a form of indirect discrimination). This systematic mistreatment may in turn result in systematic differences between LGBT people and the heterosexual majority. Such differences, as shown above, can be detected when considering overall health and quality of life. When health care professionals lack knowledge and acceptance for those who break with pervading norms, such as heteronormativity, their professional work with such people might lack the same quality as their work with those who are not considered norm-breakers.

Even equal treatment of LGBT people and heterosexual people can in some cases be considered as acts of discrimination. Equality cannot be equated with justice at all times⁶⁸³. Every society is built on pervading norms. As a result, instances such as health care, that are built on such norms, might work against those who break with them. For example, health care systems that are built on heteronormativity might not be best suited for LGBT people⁶⁸⁴. An example of this can be found within the psychological health care, where some professionals assume that their patients are heterosexual and by virtue of this miss or ignore sexual orientation as an important indicator of the difficulties of their patients⁶⁸⁵.

6.3.2 Exclusion

Differential treatment can result in the exclusion of LGBT people from various spheres, social arenas and opportunities. This is evident in the cases this chapter has presented concerning

⁶⁸³Standberg, 2011.

⁶⁸⁴Ibid.

⁶⁸⁵Angeltvedt, 2007.

both the working environment and the health care. Whenever a person is denied service, like assisted fertilization, or an opportunity like a job offer or a promotion, because of sexual orientation and/or gender identity and gender expression, it can be considered a form of discrimination we can call exclusion. Individuals who are exposed to this kind of treatment become excluded from services and opportunities that others have access to.

Therefore, in order to gain access to these services and opportunities, one might resort to complying with the pervading norms of the society in order to avoid exclusion. For example, a person might be restrictive in his or her openness about one's sexual orientation and/or gender identity and expression when at work. As seen above on discrimination in the work environment, not all LGBT people are open in the workplace, and an underlying fear of being treated differently might be a possible explanation.

One consequence of exclusion and discrimination is that people are not able to live their life in the way they want. Through exclusion, formal or informal, people are prohibited from taking part in social activities, studies and some jobs. In some cases, like the case of Norway, there are regulations in place to protect people from exclusion. Nevertheless, religious organizations are still exempt from parts of the Anti-Discrimination Act. Discrimination by exclusion, and condemnation, are often observed in religious and traditional parts of the society. If a LGBT person happens to be a part of one or more groups, like be homosexual and at the same time feel a strong connection to an indigenous and traditional culture or a religion, the person is at risk of being excluded or mistrusted by one or both of the groups. The consequence can be that the person might feel like he or she does not belong to, or is excluded from, both groups, in addition to feeling alienated from the majority community.

7.0 Conclusion

We will in the following summarize our findings briefly, by answering the research questions stated in the introduction.

1) *What forms of discrimination of LGBT people are exercised in Russia, Ghana, Uganda and Norway today?*

The dominant forms of discrimination found in Ghana are violence and limitation of civil society. Violence towards LGBT people perpetrated by both state actors, mainly the police, and individuals. Limitations of civil society and freedom of expression and assembly are also a significant problem. In addition, LGBT people face exclusion in various areas such as health care and education, and social exclusion from the communities they live in. All these forms of discrimination are legitimized and amplified by the rhetorics used by politicians and religious leaders, and the predominantly negative images of LGBT people presented in the Ghanaian media.

In Uganda, differential treatment based on sexuality or gender leads to the exclusion of LGBT people from various social arenas and opportunities. Violence, assaults, negative portrayal in the media, school exclusions, evictions and loss of employment are examples of exclusion and loss of opportunity. The social exclusion of LGBT people in Uganda means living under constant danger of violent assaults, and being denied education, housing and work. Consequently, LGBT people are further distanced from the centers of power and resources, and their chances of influencing prevailing values and leading discourses are small.

The other form of discrimination of LGBT people we found prevalent in Uganda is the lack of knowledge or false understandings of LGBT people in general, and the history of LGBT practices in Uganda in particular. This contributes to a moral panic in the country which the church and the state deliberately use as a tool to frame LGBT people as “foreign” and a threat to the Ugandan culture and morals, illustrated by the introduction of the Anti-Homosexuality Act.

In the analysis of the situation in Russia, we have described the two forms of discrimination of LGBT people we have found especially prevalent: Limitation of the civil society and violence. The violence towards LGBT people consists of different violent practices, all making their everyday life dangerous. Due to the historical condition of LGBT people and practices in Russia, men are at the largest risk of violent attacks. In responding to violent acts

towards LGBT people, the Russian authorities, especially the law enforcement, show a lack of willingness to investigate the cases and prosecute the attackers.

In the already harsh climate of strong anti-LGBT sentiments in the population, the possibility for LGBT people to fight for their interests and political recognition is legally limited by law, for example the “Anti-Propaganda Law”. Forms of activism are further obstructed by regular attacks on public LGBT events by both individuals and vigilante groups. The practices constituting these two forms of discrimination of LGBT people are legitimized by ideological currents of sovereignty and tradition.

Within the religious institutions, the legal landscape, the work environment and the health care system in Norway, we have analyzed two different forms of discrimination of LGBT people that are especially prevalent in the country. The first is the lack of knowledge and acceptance of LGBT people, which can result in systematic mistreatment, and lead to systematic inequalities between LGBT people and the heterosexual majority. Using the health care system as an example helps to illuminate this particular issue. When health care professionals lack knowledge and acceptance of those who break with pervading norms, such as heteronormativity, their professional work with such people might lack the same quality as their work with those who are not considered norm-breakers. An example considered in the chapter on Norway is when a person is denied service, like assisted fertilization, because of their sexual orientation.

The second form identified is exclusion. This form of discrimination consists of practices excluding LGBT people from services and opportunities that others have access to, due to their sexual orientation and/or gender identity and expression. Persons with multiple minority identities, for example, might experience distress when their multiple identities are in conflict with each other. Traditional values or a religious identity can be in conflict with a LGBT identity. Also a lack of recognition of multiple identities as equally important can be problematic for the individual. One identity might be used to exclude the individual from an arena connected to another identity, while both of them might be equally important to the person.

2) What actors, institutions, programs etcetera produce, participate in and enable these forms of discrimination? Why do these types of discrimination emerge and persist?

This report has shown that the forms of discrimination of LGBT people we analyzed emerge and are practiced in an intimate relationship with political and governmental authorities,

religious institutions, and the media; supported and enabled by the pervading social norms – especially heteronormativity and cisnormativity – and ideological atmospheres where religion, patriotism and nationalism legitimize and justify discriminatory actions. In this atmosphere, negative sentiments towards LGBT people are translated into discriminatory practices, ranging from social exclusion to violence.

In both the African countries, homosexuality is something that many see as imported from foreign countries and therefore un-African. By stating that homosexuality is un-African, African politicians are making the argument that accepting LGBT practices would be tantamount to neo-colonialism and constitute a threat to the culture, tradition and values of the countries. In Russia, we see a somewhat similar rhetoric, where LGBT activist organizations are framed as a Western import.

However, there are of course differences between the countries analyzed. When considering the debate of homosexuality as something “Western” the case of Norwegian history shows us that the acceptance of LGBT people has not always been the case. Back in 1972 sexual intercourse between two men in Norway was punishable. Further, the history of both the Church and the pre-Christian religion in Norway also shows that to being accepting of LGBT people is not innate to Norway or the “West”.

Overall, there is good legal protection of LGBT people in Norway, something that stands in contrast to the situation in the other countries considered in this report. This includes good protection within a number of Norwegian laws, which regulate the work environment, tenancy, marriage and family life, and protection against hate speech. In addition, the Discrimination Act of Sexual Orientation constitutes an overarching legal protection against discrimination of LGBT people.

3) What are the consequences of the forms of discrimination of LGBT people for the victims of these practices?

The unequal treatment of LGBT people in Ghana, Uganda, Russia and Norway results in life conditions which are systematically worse for LGBT people than for those fulfilling the heteronormative expectations for sexual expressions and practices. Acts of harassment and violence against LGBT people, subsequently not investigated seriously by the law enforcement, are prevalent in Ghana, Uganda and Russia. In Norway the police are instructed to thoroughly investigate any report about harassment and discrimination, they also have to register reported “hate crimes” in a designated register.

Discriminatory practices also manifest themselves in the health situation of LGBT people. In Russia, we have seen that the HIV/AIDS epidemic – largely affecting the LGBT population – is not taken seriously by the authorities. In Ghana, individuals are refused treatment due to suspicions of their sexual orientation. MSM are recognized as one of the groups at risk when it comes to HIV/AIDS, but due to stigma and discrimination they have difficulties accessing HIV prevention services. When the health condition of LGBT people in Norway is compared to that of the heterosexual majority, discrepancies appear. LGBT people in general, and bisexuals and transgender people in particular, report to have more psychological problems than heterosexuals. This may be a result of discrimination and a more stressful life due to fear of discrimination. Discrimination, or rather the fear of discrimination and sanctions, can lead to harm even though no actual discriminatory acts are exercised. In addition, transgender people and lesbian women report discontent with the Norwegian health system. There is a lack of knowledge and acceptance among health professionals, and rigorous criteria for diagnosing and medical treatment for transgender people have caused difficulties for these groups in Norway.

An important set of discriminatory practices highlighted in the chapters on Ghana, Uganda and Russia in this report, are limitations of LGBT people's possibilities for activism, obstructing their struggle for their interests and political recognition. In Norway this is not significant a problem, and Pride festivals and LGBT organizations partly funded by the government.

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