

Situation and Response Analysis: LGBT Vulnerability in Kosovo in 2012: In the name of “tradition”

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ACRONYMS

ADL: Anti-Discrimination Law
AUK: American University Kosovo
BBSS: Bio-Behavioural Surveillance Study
CDF: Community Development Fund
CEDAW: Convention on Elimination of all forms of Discrimination Against Women
CEFTA: Central Europe Free Trade Area
CCM: Country Coordination Mechanism (Global Fund)
CPT: Center for Peace and Tolerance
CSGD: Centre for Social Group Development
CSO: Civil Society Organisation
CSWs: Commercial Sex Workers
EKEM: Hellenic Centre for European Studies
EU: European Union
FRY: Federal Republic of Yugoslavia
GFTAM: Global Fund to fight HIV/AIDS, tuberculosis, and malaria
HDI: Human Development Index
HDR: Human Development Report
ILGA: International Lesbian and Gay Association
IRD: International Relief & Development
KAC: Kosovo AIDS Committee
KDSP: Kosovo Development Strategy and Planning
KFOR: Kosovo Force
KIHR: Kosovo Institute of Human Rights
KLA: Kosovo Liberation Army
KSP: Kosovo Strategic Plan
LGBT: lesbian, gay, bisexual, trans people
LGE: Law on Gender Equality
MARPs: Most At Risk Populations
MDGs: Millenary Development goals
MoH: Ministry of Health
MSM: Men who have Sex with Men. The term MSM is inclusive: gay, bisexual, heterosexual, trans or intersex.
NGOs: Non Governmental Organisations
NSP: National Strategic Plan

OSAR : Organisation suisse d'aide aux réfugiés
OSCE: Organization for Security and Co-operation in Europe
PlwHIV: People living with HIV
PRSP: Poverty Reduction Strategy Paper
RAE: Roma, Ashkali, Egyptian
RDS: Respondent's Driven Sample
SDA: service delivery area
UN: United Nations
UNSCR: United Nations Security Council Resolution
UNMIK: United Nations Mission in Kosovo
YIHR: Youth Initiative for Human Rights

1. BACKGROUND AND AIM OF THE REPORT

What follows is a summary of the report Situation and Response Analysis: LGBT Vulnerability in Kosovo in 2012: In the name of "tradition" carried out in November 2012. It is part of the project Challenging homophobia – Building support systems for LGBT people in Kosovo. The aim of the project is to support the interests of LGBT people, their representation in public life and their political participation, and to challenge homophobia. The aim of the report is to assist Kosovo LGBT organisations, the Kosovo government and the partners to develop national strategies and annual action plans. By gathering as much information concerning the LGBT population as possible and conducting a situation and response analysis we want to support the relevant actors to use a results-based approach. The idea is to enhance or make these plans and strategies more prioritized, evidence-driven, and able to be implemented effectively and efficiently, and with clear accountability and consistent monitoring and evaluation.

The final version of the report was discussed during a concluding workshop (held in Pristina between 5th and 7th February 2013) together with the main stakeholders and LGBT organizations and activists (QESH and Libertas in particular). A new and consensual version of the report has been elaborated

2. INTRODUCTION/OUTLINE

Despite the broad protection provided by the legislation in Kosovo, LGBT people seem to be suffering from great discrimination and are generally unaware of the protection provided by the Anti-Discrimination law (ADL). Because of the fear of discrimination and social exclusion, many LGBT people never 'come out of the closet'. Leading activists repeatedly received death threats in 2007 and their cases were not taken seriously by the police, who even showed reluctance to investigate these cases. The US Department of State 2010 Human Rights Report on Kosovo notes: 'The print media at times reinforced negative attitudes by publishing articles about homosexuality that characterized LGBT persons as mentally ill. At least one political party, the Islamic-oriented Justice Party, included a condemnation of homosexuality in its political platform.'

If the legal and political context of Kosovo today, appears at the first glance, to be favourable towards LGBT people, the study concludes that this appearance is not confirmed in practice. Various institutions officially commit to the support of international expectations and requirements in protecting the rights of social and sexual minorities. However, triangulating data from multiple sources in this study revealed that there are to date very few evidence-based results in the field. LGBT people, as well as other vulnerable groups, are still victims of discrimination, stigmatisation and violence. Discrimination can be observed in the fields of access to employment, education, health services, goods and services, and decision-making positions; and what is even more worrying is the non-application of basic human rights, constitutional law and anti-discrimination law.

3. THE LGBT SITUATION IN KOSOVO

3.1. LGBT Identities

In use since the 1990s, the term “LGBT” refers collectively to the lesbian, gay, bisexual, and transgender community. The term replaced the expression “gay community” in order to emphasize how diverse sexual and gender identity can be. Creating such a “catch-all” category for all sexual minorities aims to build a critical mass for advocacy purposes. In Kosovo we met gays, lesbians and transgender people (if we accept limiting the definition of “transgender” to someone assuming a gender identity that do not match his or her sexual identity reduced to its biological definition). Transsexuals were reported unknown in Kosovo as there are no surgical facilities there for modifying the body in this way.

Gay is a person who feels sexual and/or emotional desire exclusively or predominantly for persons of her or his own sex. The term has however been misused to cover all gay men and lesbians (and sometimes even bisexuals). This has been widely discussed, and gay should therefore only be used when it is referring to men are emotionally and/or sexually attracted to other men. If the intention is to cover all without intentional excluding any sexual orientation or gender identity/expression, then it is better not to use the term gay, but rather LGBTI (lesbian, gay, bisexual, trans and intersex people) (ILGA Europe). In Kosovo, gay (pronunciation: gei) as a concept that started to be used only in 2006 – before this time gays were called peder (a negative term for homosexual). Some gays in Kosovo are married to women (due to the great pressures within society) and so often they do not define themselves as gay. Lesbian is a term most widely used in English to describe sexual and romantic attraction between females. According to different NGOs working in the field, lesbian and bisexual women are far less visible than gay men. Due to the role of women that is expected in Kosovo, lesbians face double discrimination – based on their gender and sexual orientation. Although the Kosovo lesbian community is quite small it is still very active and lesbians play a prominent role in LGBT activism there. The organization QESh, for example, is led by lesbians.

During our study, very few (3) lesbians could be contacted and they were all activists from NGOs. Here again, lesbian is a generic term grouping different categories. The general impression that emerged from these encounters was that lesbians may have a strong understanding of their identity amongst LGBT, thus making them prominent in the fight for LGBT rights. We should strive to raise the visibility of lesbians in Kosovo and include them more strongly in the LGBT community and activism.

Bisexuality is attraction toward males and females. The term is mainly used in the context of human attraction to denote romantic or sexual feelings towards both men and women.

The term transgender refers to those trans people who live permanently in their preferred gender, without necessarily needing to undergo medical intervention(s). Until recently, this term was also the primary umbrella term referring to all trans people, but this use is now losing favour to the term ‘trans’ which is perceived to be more inclusive of all trans communities. ILGA-Europe uses the more inclusive term trans in its work. The transgender community represents a very small part of the LGBT community in Kosovo.

The term queer has become an academic term that is inclusive of people who are not heterosexual - including lesbians, gay men, bisexuals and trans. Queer theory is challenging heteronormative social norms concerning gender and sexuality, and claims that gender roles are social constructions. In Kosovo the term ‘queer’ is hardly used, although many LGBT supporters believe that queer theory should be used more in LGBT activism.

Men who have sex with men (abbreviated as MSM) are male persons who engage in sexual activity with members of the same sex. The term was created in the 1990s to avoid complex debates on identity and in respect to many men who do not or cannot accept their sexual identities as homosexual or bisexual. It is primarily used in the field of HIV/AIDS prevention.

3.2. LGBT mapping

The easiest way to reach the LGBT population for mapping purposes is through LGBT organizations (Libertas, CSGD, QESH) and two drop-in centres in Pristina run by CSGD and Libertas. Other CSOs such as Women's Network, Youth Initiative for Human Rights, Civil Rights Defenders, Kosovo 2.0 and Alter Habitus are also connected to LGBT organisations and the LGBT community. The Kosovo Institute for Human Rights is tackling the issue of LGBT rights, although according to some organizations not adequately.

Starting from peer-educators or LGBT people identified in these organisations, the strategy further follows the snowball technique, ensuring confidentiality and protection to participants. However, given the fear of being identified as a member of the LGBT community, it is presently still very difficult to estimate the size of the LGBT population and to identify precise LGBT meeting points in the country. Estimating the total LGBT population in Kosovo is therefore still difficult, as most gays and lesbians hide because of stigma. The data that we have shows that 204 MSM participated in the BBSS Study in 2011 and the largest LGBT parties are attended by up to 200 people. According to a member of the LGBT community, the community is a large one. One member reported having more than 2000 Facebook friends on his profile, most of them from Kosovo. Often these profiles are false ones due to fear and stigma of being LGBT. But several respondents we interviewed assured us that true MSM or bi-curious were behind these profiles. None of the gays we interviewed had experienced homophobia from these profiles. According to peer-educators from CSGD who have been involved for several years in outreach work with the MSM community, including the most hidden ones, the number ranges from 2000 to 5000 MSM in Kosovo. This matches roughly with findings from Albania (USAID report, 2010).

Peer-educators also gave us indications about the relative importance of groups in urban centres. Their assessment was that Prishtinë/Priština and Mitrovicë/Mitrovica have the two largest LGBT communities in the country. In Gjakovë/Đakovica, the LGBT community is not apparent, but the city has one of the largest MSM communities. Podujevë/Podujevo, Prizren, Ferizaj/Uroševac and Pejë/Peć also have some MSM groups, but involving fewer people. In the northern part of the country, the LGBT community has less access to the LGBT organisation than in Prishtinë/Priština.

3.3. Social and family life of the LGBT community

Private LGBT parties are definitely the locations for the gathering of LGBT people. There are no gay and lesbian bars or clubs in Kosovo where LGBT people could meet. There are, however, some places that are known to be LGBT-friendly. Cruising areas in parks still exist, but most gays and bisexual men fear to go there, because of the high risk of exposure to violence. The cruising areas therefore sometimes change. Lesbians mostly meet on the internet, in coffee bars and night clubs.

"Gays are not one!" stated one of the gays we interviewed. With this statement he wanted to express how strongly individualistic is the behaviour of the LGBT community, which makes the work of NGOs rather difficult. Generally speaking, communication among gays and lesbians was reported as not easy-going or smooth. Presumably, the fear of being suspected or "outed" is so strong amongst LGBT people, that communication is very often reduced to its simplest expression. Often the gay community does not want to be associated with more feminine men; the same goes for lesbians – the lesbian community does not want to be associated with masculine women. Although the number of LGBT people attending the drop-in centres in Libertas and CSGD remains lower than expected, the opening of these centres has crucially contributed to improving intra-communication. According to Libertas, the community is becoming more relaxed. Nowadays, 15 to 20 LGBT people may attend workshops and other activities and up to 200 LGBT might gather for parties. With lesbians however, the NGOs have not yet managed to reach large groups of them and, so far, few lesbians participate in activities.

Even the lesbians leading community activities at Libertas reported not having met more than 12 other lesbians. QESh seems to have a better lesbian network, but we were not able to reach them because they did not feel comfortable being interviewed.

For LGBT people, family life is all about pretending or working on an appearance of normality. Due to the fear of being disclosed and bringing shame on the family they live a lie and under constant stress. As well as a stressful situation at home, the pretending continues at schools and working places. When discovered or suspected, LGBT people suffer from bullying, harassment, hostile speech and discrimination.

After coming to study in Prishtinë/Priština and engaging in LGBT life, individuals often decide to remain there. They rarely return to their hometowns to face the reality of a hostile environment and family, even if family would accept them back. Despite the more favourable environment in Prishtinë/Priština (which does make it possible for some relationships to exist, and the LGBT community to live and work) many LGBT therefore believe that the only way to live their life freely is to leave the country.

3.4. Perceptions of LGBT in the general population

Despite all the efforts, commitment and support and also due to the fact that homosexual behaviour is decriminalized in Kosovo, homosexuality remains extremely unacceptable socially and culturally. Different sources indeed indicate that Kosovo society is “homophobic” (YIHR 2011; ILGA Europe 2011) and that homosexuality is a “taboo” topic (Front Line Defenders 29 May 2007; BIRN 23 Sept. 2009). The survey conducted by the LGBT organisation Libertas in cooperation with Gani Bobi – Center for Humanistic Studies in December 2012 reports a “high degree of extreme negative attitudes towards members of the LGBT community.” Among the 755 respondents, 47.6% consider homosexuality as a disease while 61.6% believe it to be a human condition that is a danger to society. Half of the respondents (50.6%) believe that LGBT should be prohibited by law. (Libertas 2013: Survey on the attitudes of the Kosovo society towards homosexuality).

During our exploratory study, a broad consensus was also obtained about how strong the influence of families and “inherited traditions” are, especially concerning emergent behaviours under the influence of new conditions and circumstances (social change). When talking about the influence of tradition amongst Kosovo Albanians, the typical reference is to customary *kanun* traditions summarizing oral customary laws that have ruled daily life for centuries. Along with other “socio-political” requirements, the *kanun* promotes a traditional division of role according to gender consistent with the traditional and patriarchal social structure within extended families. Issues such as family planning, sexual orientation, homosexuality, certainly fall into the same category of socially unacceptable issues to talk about in public, as they belong to intimacy and involve a risk of dishonour for the whole family.

In an interesting literature review of masculinity, Linda Gusia and Nita Luci from the American University of Kosovo and the University of Prishtinë/Priština, further explored the concept of masculinity in Albanian culture and demonstrated how the maintenance of social, political and economic responsibilities and obligations for women and men is legitimated through the “traditional” social structure. “Gender roles”, they wrote, “are considered as enactments of natural distinctions between men and women”. Facing such a naturalist (essentialist) theory of gender, LGBT people thus represent a challenge since they distinguish social and cultural sexual identity from biological sex.

It is worth noting, for example, that in Kosovo the situation regarding homosexuality was not such an issue before WW2 compared to today. According to one of our key informants, but also to Murray (Islamic Homosexualities: Culture, History, and Literature; 1997) it seems that having a younger boyfriend was not uncommon for rich men. Moreover, it was even fashionable in the old Albanian culture, regardless of whether the individual was Muslim or Christian Orthodox. As part of the Ottoman Empire, it is also worth noting that Kosovo decriminalised homosexuality in 1858, and the religious or traditional authorities approved many of these measures (Murray 1997).

These few studies from various scholars demonstrate clearly how questionable the reference to “tradition” is, to legitimate how gender should be ruled or to excuse violence and discrimination against LGBT and women. Kosovo society has long been exposed to pronounced social, cultural and behavioural changes during its history: Turkish invasions, World War 2, socialism, 1990’s war etc. Constant and insistent reference to a falsely-naturalistic family tradition, dictating gender submission and vindicating violence against “non-natural” gender attitudes or sexual orientation, should be addressed publicly as it appears to be a hidden form of radical nationalism.

As far as law enforcement is concerned, one may question why this family tradition remains so powerful in warranting gender inequalities and violence against anti-discrimination and constitutional laws. One may even wonder whether the reference to fake authenticity and “tradition” is not merely a strategy for men to secure their territory, privileges and male power in face of inevitable social changes. Here we may risk the hypothesis that resistance to change may also be related to homophobia, i.e. contending vigorously his/her adhesion to the normative definition of gender identities to him/herself or to the public. Indeed, from a psychological perspective, resisting with violence possible change in gender relationships and definition possibly reflects a person’s uncertainty about the strength of his/her own gender and sexual orientation.

3.5. Fear, violence and discrimination

Quoting a 2008 survey conducted by the YIHR, the United States (US) Department of State’s Country Reports on Human Rights Practices recalled that in Kosovo in 2010 57% of LGBT people feared for their safety (US 8 Apr. 2011, Sec. 6) .

More recent sources indicate that LGBT persons who are victims of discrimination are often unwilling to publicly report their cases for fear because it might lead to more discrimination (UN 9 Nov. 2009, 20; US 8 Apr. 2011, Sec. 6). Similarly, the ILGA Europe indicates that “most” incidents of violence against LGBT individuals are not reported because of the “fear of double victimization and stigmatization” (29 Apr. 2011). The Executive Director of the YIHR also explained that discrimination based on sexual orientation is “one of the least discussed aspects of human rights in Kosovo” and is “largely neglected,” in part, she suggested, because of Kosovo’s traditional and conservative culture (18 Nov. 2011).

Different cases of homophobia were recorded during the exploratory study. According to the Frontline Defender, one of the cases even included death threats to the director of QESH who had to flee Kosovo in 2007 (Frontline Defenders 29 Aug. 2007; /Metro Weekly /6 Mar. 2008). The first reported case of an attack on a gay person occurred in the suburbs of Prishtinë/Priština in 2006, when two gay men were brutally beaten and abused. When the victims reported the case to the police, they were treated unprofessionally and offensively. More precisely, they were treated by the police as suspects, not as victims of an assault and beating. The first reaction of the police officer was the statement that “homosexual acts are illegal in Kosovo” which is not the case as a law that prohibits discrimination (including on the grounds of sexual orientation) was adopted in 2004. Furthermore, as reported, a police spokesperson said in an interview after the attack that: “Sexual intercourse between two persons of the same sex is prohibited and regulated in the Criminal Code of Kosovo.” (Bajrami and Krasniqi in Čitanka LGBT Ljudskih prava, 2012).

More recently, the widely condemned attack on Kosovo 2.0 (launch of a magazine dedicated to exploration of heterosexual and same sex sexuality in the Western Balkans) and the attack on Libertas, merely for having tried to discuss sexual issues including homosexuality, demonstrates once again how strong homophobia is and how little this part of the population is educated about their own history and culture.

During our exploratory study, however, the perceptions of LGBT people were not that the general population would necessarily be aggressive against them. We even collected a number of accounts where police officers were reported as showing a professional attitude or where LGBT persons did

find good acceptance in their professional situation or neighbourhood. However, the general feeling amongst LGBT is marked with fear, mistrust towards institutions in general and despair that coming out to express their difference and claiming for the application of the law will ever lead to any improvement. Because of fear, some gays were also reported as showing an aggressive attitude towards gays and lesbians. Most LGBT would not even go to LGBT NGOs because they fear being recognised. “With one flower you don’t start the spring” said a peer-educator during the study. This statement summarizes the self-perception of many LGBT about coming out and express oneself in public. Homophobia was even reported sometimes coming from inside the LGBT community itself. “Some gays do not accept what we are”, explained a peer-educator from CSGD. Sometimes, threats may be a way to force a partner into sex. One of the respondents reported that members of the gay community had his telephone number circulated, because he refused to participate in collective sex. Consequently, whilst looking for a steady partner, he kept on receiving messages from unknown individuals for sex. Subsequent to this he was abused on the street by a 50-year-old man who wanted to rape him and threatened to kill him. Our respondent managed to escape, took the man’s licence plate number but did not dare going to the police.

4. LGBT COPING STRATEGIES

4.1. Avoidance and secrecy

“If you are gay, you don’t need to tell everyone, you just let the people you like know about it”. (CSGD Peer-educator)

According to the Youth Initiative for Human Rights (YIHR), there is a “discreet community” of LGBT people in Prishtinë/Priština, as few of them feel safe revealing their sexual orientation (YIHR 24 May 2010). Several sources report that LGBT people in Kosovo are forced to hide (BIRN 23 Sept. 2009; ILGA Europe 29 April 2011; US 8 Apr. 2011, Sec. 6). In smaller towns, the situation is even worse, (YIHR 24 May 2010).

Places where LGBT people gathered were reported becoming a target for homophobic actions. In 2009, the United Nations High Commissioner for Refugees (UNHCR) reported that businesses such as restaurants that cater to LGBT people “have been targeted once this affiliation has been made public” (UN 9 Nov. 2009, 20). And indeed, no gay bars or clubs could be found in Kosovo in 2012, the same situation found by BIRN in 2009. Moreover, no gay pride parades have been organised so far.

“The problem starts when you start talking about it,” stated one of the peer-educators from CSGD. Very few LGBT people were reported talking publicly about their sexual orientation in Kosovo. Secrecy and avoidance of the topic shows that almost nobody is bringing LGBT issues and expectations into public spaces. The “Kosovo Law of Silence” syndrome, when talking about homosexuality and about sexuality more generally, is broadly related to a need to keep the self-esteem and honour of the family safe. This reference to “noble” customary traditions and customary ideals of heroism, mainly courage and honour, is often put forward to excuse violence, physical or psychological “torture”, sometimes bloodshed and general abandonment of parental responsibility (banishment), against any member of the family that would change this almost romanticised “tradition”. Bringing shame upon the family name is indeed reported as being severely punished and being identified socially as homosexual is systematically perceived as shame for the whole family.

One of the serious consequences of being identified as homosexual is related to the absence of other structures of solidarity and support other than families. When families ban their own sons and daughters in the name of honour, tradition and religion, for not sharing their own opinions on sexual relationships, excluded children are usually condemned to extreme poverty and isolation. Interestingly - in the name of “tradition” - heads of families appear more concerned about their own position and “respect”, than being willing to support the dignity and basic human rights of other family members. Only very few liberal families, usually better educated and open, would support the most personal choices of their sons and daughters.

Fearing social exclusion from their own kinship, many LGBT people interviewed prefer hiding their sexual orientation as long as possible. Given the importance of family ties in Kosovo and due to economic reasons and high rates of unemployment, most gays and lesbians are forced to live in the family household, thus being subjected to permanent social control. This control usually forces them to play “heterosexual roles” in their daily lives, and makes long-term relationships unattainable. Marriage is a major stressful situation amongst the LGBT community in Kosovo, as they know that family pressure will increase with age. In view of avoiding exclusion from the family ban and when the pressure becomes too strong, many gays and lesbians accept to marry an opposite sex partner, often leaving both spouses in a desperate situation.

During the exploratory study of November 2012, almost all stakeholders would agree that avoidance and secrecy are the prime obstacles to empowering LGBT people in Kosovo. The study reveals a great lack of confidence towards national institutions and the main strategy of defence of LGBT people against discrimination could be described as keep your sexual orientation secret or avoid situations where there is the risk of your identity being disclosed.

4.2. LGBT networking

So far in Kosovo, there are only 3 LGBT organizations – and none outside the capital – providing a space for freedom of speech, social acceptance and a shelter for gatherings: CSGD/Elysium, QESh and Libertas. No Serbian organisation working with LGBT people is reported. These NGOs are generally under-resourced and lack the capacity to design and implement large scale projects. Given the high stigma against LGBT people in Kosovo, access to this group is also extremely challenging, both to implement the anti-discrimination law and to develop any response programmes with this population. Around 2008-2009, a gay-friendly activist support group was agreed as an initiative of various Kosovo actors in the field of LGBT rights. However, after several meetings they could not reach consensus on a common vision and action plan. According to a respondent, who participated in this support group, discussions strayed far from LGBT people's needs and often reflected personal ideals or broader political ambitions of non-LGBT participants. According to a professor at the university, also a member of the support team, the network had become too big and therefore it became difficult to focus on specific issues. Central to other grievances was that misunderstanding existed about the themes that should be addressed in public, e.g., LGBT thought that addressing the issue of tradition should have been a priority.

QESh

In Albanian language, QESh means “smile” and is an acronym translated as the Centre for Social Emancipation (QESh). It was founded in 2005 with the aim of reporting about legal and social issues facing the LGBT community. QESh does advocacy work for LGBT rights, fundraising for community support and is also active in the field of changing the legal framework to suit the needs of the LGBT community. QESh has received funds from different donors such as the Finnish and Norwegian Embassy, USAID and COC Netherlands. According to the QESh leader, about 1000 LGBT people have been reached since they started and in 2008 they contacted 836 gay men.

Libertas

Libertas was formed in November 2011 and began working in May 2012. It offers support and practical help to the LGBT community in Kosovo. Libertas has a drop-in centre where the community are welcome to come and visit and meet in a friendly, safe and secure environment. The centre also has a resource area where LGBT themed magazines, books, movies and internet are available. Libertas is also implementing four major awareness raising campaigns on LGBT issues in Kosovo. The organisation is promoting cross border cooperation with LGBT programmes in the region. In 2013 Libertas hopes to develop additional programmes including counselling; an outreach programme extending and improving communication with ethnic minorities; expanding the regional network and offering free legal advice regarding LGBT issues.

Elysium/ Center for Social Group Development (CSGD)

Elysium was established in 2002 as a local NGO and it is the most longstanding LGBT organization in Kosovo. As early as 2003, Elysium opened the first LGBT drop-in centre in Kosovo and organised LGBT parties. A web site –www.gaykosova.org – was set up, advocating for human rights, providing information on sexual orientation, same-sex relations and health issues, as well as other information relevant for the LGBT community. However, the website is no longer functional. Since 2006, Elysium has also organised campaigns on LGBT rights and VCT. In 2007/2008 Elysium adopted a new name when applying for Round 7 of the GFTAM grant on HIV/AIDS: The Centre for Social Group Development (CSGD). CSGD became a member of the Country Coordination Mechanism (CCM) and therefore participated in the development of the Kosovo strategic plan with the aim of reaching MSM for prevention and care.

5.1. COUNTRY RESPONSE TOWARDS LAW ENFORCEMENT IN GENERAL

During the war, the law enforcement system was almost totally dismantled and found international support for reconstruction only after the conflict was over. However, even today the system is still far from being efficient. Various surveys and studies have also demonstrated that a majority of respondents are dissatisfied, especially in matters concerning anti-discrimination law and procedures. For several years, OSCE continuously noticed gaps in the implementation of legal reform and various other sources noted a general gap between priorities set by the legislator and the practices of the executive bodies. These gaps reveal a crucial weakness of governance since the will of both the legislator and the donors were thus ignored.

According to Human Rights Watch and the UNHCR, the legal system is probably the weakest of all Kosovo institutions. At the end of 2010, 213,037 civil cases were still pending (Annual Report of Regular Courts, Department of Statistics, Kosovo, 2011) and procedures to enforce civil judgments have not yet been put in place. Legal action against a judge for not applying the law remains a dream. Women, young people, some ethnic minorities (e.g. Roma, Ashkali) and disabled people still have a high unemployment rate and also have little access to health services. According to UNDP Human Development Report 2010, “existing policies promoting social inclusion in general are not effective in protecting excluded groups, because of lack of commitment, inadequate resources and lack of policy enforcement and oversight” (UNDP, HDR, 2010). Our exploratory study also made it obvious that, apart from a few activists, the majority of LGBT people had no knowledge about their rights or about how to proceed in case of violations of those rights.

In spite of the fact that adequate legislation is already in place, poor enforcement of the law, together with the lack of adapted information systems, makes the legislation meaningless. Procedures enabling these groups to report their cases and ask for protection either do not exist or remain mostly ineffective. As a consequence, several civil society groups are trying hard to amend the anti-discrimination law, mainly to clarify the procedural regulations and to provide the information on institutional framework/organisations and authorities responsible to receive and process allegations of discrimination and also compensation claims.

The Prime Minister’s office for Good Governance is responsible for policy coordination, human rights standards and for proposing protection mechanisms as well as communicating with the “human rights units” in the country that exist at the level of ministries and municipalities. According to the head of the Prime Minister’s Office for Good Governance, there is a recognition of difficulties in enforcing the Anti-Discrimination Law, mainly because of resistance from certain judges and police officers but also because enforcement procedures are unclear. Amendments to the law are already being adopted. Yearly renewal of the formula in awareness raising campaigns is also on the agenda. The Office acknowledged openly that LGBT people are not considered as a priority in the present Kosovo context. The Office pointed out that many other issues related to gender equality, law enforcement with Serbian and RAE minorities are already difficult to reach.

It has been noted by the Prime Minister’s office for Good Governance that efforts were intended to provide LGBT with opportunities to express their queries and difficulties to the government during large gatherings. However, from the Office’s point of view, it has been very difficult for LGBT themselves to reach consensus and defend a common position. Lack of transparency and personal conflicts were also noted among these NGOs. From the perspective of LGBT organisations, however, these meetings were organised to “instrumentalize” LGBT, to demonstrate the government’s good-will, whilst activities and plans were not supported further at the country level.

To help Human Right Units to become operational, the Office claimed, contrary to reports from the relevant LGBT organisations, that they are collaborating directly with the LGBT community at the level of municipalities, where it is a priority to enforce the ADL. However, the Office also stressed out how serious is the challenge of following EU and UN standards, especially facing traditional, nationalistic and religious stereotypes in the community that hinder social and legal development.

The Ombudsman's mission is to protect, monitor and promote human rights and fundamental freedoms of individuals or legal persons in cases of violations or illegal actions of the public authorities of Kosovo as well as of institutions having public authorization for acting on their behalf. The Ombudsman traditionally receives complaints of alleged violations of HR, examines them and issues recommendations to the relevant authorities. One of the main output activities of the Ombudsman's office is a yearly report on HR violations. The Ombudsman is an independent institution, which has no executive or judicial power but has authority based on its moral standing. Covering several topics, the Kosovo Ombudsman's office is divided into several departments: reproductive rights, children's rights and anti-discrimination (within which there is a newly established LGBT rights unit).

Some of the NGOs working on human rights issues expressed strong dissatisfaction with the Ombudsman office's work. However, some LGBT organizations such as QESh reported strong improvement and cooperation with the Ombudsman institution.

Even though we did get information during our meeting with the representatives of the Ombudsman's office that several violations against the LGBT community have occurred during the last few years, and in particular one resulted in the dismissal of 3 police officers, the case(s) was not processed through the Office and could therefore not be found in the Ombudsman's yearly reports. At present, no cases are pending, probably showing that further awareness-raising has to be done among the general public, on the jurisdiction and procedures of the Office.

5.2. COUNTRY RESPONSE TOWARD LGBT RIGHTS

Despite the inclusion of European human rights standards, little protection for LGBT people is recorded and recourse to the courts in cases of human rights violations is still as difficult as uncommon. In the same vein, LGBT people find it difficult to access other services, such as health care, because of stigma and discrimination (AIDSTAR-TWO: Capacity for Impact, 2010)

In 2009 the government still remained rather uncertain about its own policy to protect the rights of sexual minorities. UNHCR, the Immigration and Refugee Board of Canada and Human Rights Observers reported that sexual minorities in Kosovo have been subject to violence over this period (BIRN 23 Sept. 2009; YIHR 24 May 2010, 12; US 8 Apr. 2011, Sec. 6). Two sources report that in May 2008, a gay man was murdered in a city park in Prishtinë/Priština that was known as a meeting point for gay men (ILGA Europe 29 April 2011; YIHR 18 Nov. 2011). The YIHR also indicates that a lesbian activist reported on two "homophobic" murders that were committed between 2006 and 2010 but the authorities have not "classified any murders of recent years as hate crime based on the victims sexual orientation" (24 May 2010, 12 note 35) (Immigration and Refugee Board of Canada, Kosovo: Treatment of sexual minorities, including legislation, state protection, and support services, 2011).

In 2009, on the grounds of the different reports indicating significant discrimination against LGBT in the country, the UNHCR even felt the need to include individuals discriminated for their sexual orientation among those in need of international protection (UNHCR 2009; Schmid, Matten, 2010). So far, several sources report persisting discrimination against LGBT people, despite the existing legislation and political commitments by international donors (ILGA Europe 29 April 2011; UN 9 Nov. 2009, 20; CSIS and EKEM Nov. 2010). Amnesty International described discrimination against LGBT people in Kosovo as "pervasive" (2011), while ILGA Europe reported that in addition to the public sphere, LGBT people face discrimination within their families (29 April 2011). In correspondence with the Research Directorate at University of Pristina, the YIHR executive director explains that LGBT people "face a great risk of experiencing exclusion, discrimination or even verbal and physical violence if their identity is uncovered" (18 Nov. 2011).

As mentioned earlier, the Office for Good Governance claimed it was taking this discriminative context seriously and they reported that amendments to the ADL are already in the process of adoption. However, considering the wide range of human rights issues in the country the Office recognised that the situation of LGBT people has not been seen as a priority. During our exploratory study, local

Human Rights NGOs and LGBT organizations and activists themselves reported that laws and commitments are not fulfilled. According to the last YIHR report on the ADL, LGBT people are not even mentioned in any literature produced, nor are any positive measures taken, and they therefore lack de facto protection. Even if units specifically trained to address LGBT issues were created, LGBT people would not even be aware of them because of weak communication or they would definitely fear to report their cases to the police because of fear of stigma. However, whenever victims permit, QESH report cases to relevant institutions on their behalf. In the case of the Ombudsman, whose mandate is limited to public sector violations, LGBT people have no recourse to justice when violation comes from private aggression. Incidentally, it might be worth noting that during our study, we could not manage to obtain copies of the studies and reports on cases of violation of the Constitution and ADL against LGBT, either from governmental offices or from human rights NGOs.

In November 2010, the European Commission's progress report on Kosovo stated that, "the high level of formal protection provided by law has to be effectively implemented" (EU 9 Nov. 2010). This crucial gap between theoretical and practical policies is still present in 2013 and is unfortunately shared all throughout the Balkans: authorities are turning a blind eye to the persistent discrimination taking place against LGBT people (Centre for Strategic and International Studies (CSIS) and Hellenic Centre for European Studies (EKEM), Nov. 2010). In Kosovo, according to a Swiss study, there is no evidence that the Government might address this issue in the political agenda in a near future. (Schmid, Matten, 2010).

6. CONCLUSIONS

If the legal and political context of Kosovo today appears at the first glance to be favourable towards LGBT people, the study concludes that this appearance is not confirmed in practice. We identified cases of discrimination in the fields of access to employment, education, health services, goods and services, decision-making positions, and what is even more worrying is that we also found non-application of basic human rights, constitutional law and anti-discrimination law.

The general public services were reported inadequate for LGBT people, both because they feel stigmatised by service providers and because of lack of the relevant law enforcement mechanisms. According to the current legislative framework in Kosovo there is no clear defence mechanism against discrimination. The current ADL (approved in 2004) is very good in covering different grounds of discrimination but does not have clear provisions for the procedures to be followed. Several civil society organisations did attempt to amend the Anti-Discrimination Law, mainly to clarify procedural regulations and to provide the needed information on institutional framework/organisations and the authorities responsible for alleged discrimination and also compensation claims. National institutions have been mobilised to strengthen human rights both at the institutional and at municipality levels.

Our exploratory study also shows that proceedings enabling these groups to report their cases and ask for protection are not rooted into LGBT people's realities. A majority of LGBT people were even not aware of the existing mechanism to enforce the law or to improve their access to health services, revealing the weakness of the information system and making the legislation ineffective. LGBT organisations are present and are doing their best. Although the three LGBT organisations are complementary and present a strong operational potential, they are not connected in a formal platform. What is also the case is that even inside prominent LGBT institutions, resources were not always used to maximize the outcomes. With MSM for example, although CSGD did train the peer-educators, these have not been empowered to produce a snowball process, which is so necessary if protection is to be improved. According to LGBT organisations, the relationship with the government was perceived as purely "political" and mainly organised to demonstrate the government's good-will, but with no real follow-up. Different interviewees even mentioned that the sudden and recent influx of funds given to individual LGBT organisations by different donors may have played a disharmonising role. LGBT organisations used to be severely under-resourced and still have capacity gaps that make it difficult for them to manage and implement large scale projects. Funding and coverage levels for LGBT prevention programmes are low and insufficient. Political commitment and strategic planning have been only partly supporting the implementation of LGBT services with available resources. Most of the LGBT programmes could therefore be classified as small-scale, boutique or pilot projects, and none of them can be considered of a large scale. Insufficient government commitment in providing resources, support and services to the LGBT community and in addressing legal, financial and administrative barriers to services, indicates that the government is not yet fully prepared to address law enforcement concerning LGBT rights.

Meanwhile, most of the initiators of meetings with LGBT organisations/groups also deplored how difficult it was for LGBT actors to achieve a common vision and a consensual action plan. This may be partly related with the non-strategic nature of the LGBT definition for claiming specific and context-sensitive needs. LGBT are indeed considered as a whole mainly for political and advocacy purposes, reinforcing the critical mass in making claims for their identities. Another explanation for this lack of communication and consensus-building amongst LGBT actors in Kosovo may also be related to a capacity gap in leadership to deal with personal competition and to define a clear system of task and competence distribution.

The general cultural context in Kosovo largely explains why it is so difficult for LGBT people to meet, discuss and organise themselves in a network - fear and despair is still very much present in the LGBT community. The large majority of LGBT people still feel too insecure to come out and fight for their rights. They do not believe that existing mechanisms to protect them will be effective. Special units

for human rights enforcement were created in the police but LGBT people do not trust them or were not aware of them. It was clear from the Kosovo 2.0. and Libertas attacks that the authorities were unable to ensure the protection to the LGBT community. As a result, we may conclude that the anti-discrimination mechanism is not functional and that the even most prominent LGBT activists are forced to keep hiding themselves. This leads to a negative picture as far as the UNGASS, GFTAM, HDI and other relevant indicators are concerned.

The 2010 Human Development Report denounced “a lack of accountability to implement the wealth of high-quality social laws already on the books, a weak evidence base for monitoring results, the emergence of regional inequities during the decentralization process and difficulties faced by ministries seeking to work together across sectors”. These negative results also largely explain why most of the projects and programmes are so much under-scaled and involve too little participation of LGBT people themselves. They also point to the government’s difficulties to guarantee its own constitutional rights and to respect international expectations that should guarantee Kosovo’s integration into European networks (Eligibility Guidelines for Assessing the International Protection Needs of Individuals from Kosovo, 2009).

According to the HDR, there are two mutually reinforcing drivers of social exclusion explaining why Kosovo finds it difficult to implement social inclusion: “1) the legacy of the recent conflict which produced tensions between and within societal groups, and; 2) weak governance capacity that limits the implementation of policies to foster social inclusion”

These two factors were presented as the main explanations for cultural attitudes fostering discrimination against certain groups and reinforcing self-exclusion among the most ostracized. In our study, the crucial conclusion is that, whatever the structure or strategy proposed to implement legislation or services, the anthropological context (social, cultural, economic, political, religion) in which LGBT people are living in Kosovo and their social diversity, has been generally underestimated. Because of a strong social and cultural resistance to social change assigned to the general population, there is a strong reluctance to openly disclose homosexual practices. Avoidance and secrecy is the main explanation as to the LGBT community. As a result, we may conclude that the anti-discrimination mechanism is not functional and that the even most prominent LGBT activists are forced to keep hiding themselves. This leads to a negative picture as far as the UNGASS, GFTAM, HDI and other relevant indicators are concerned.

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nation as to why the majority of LGBT people do not participate in the NSP and law enforcement programme. In our socio-anthropological study, we also showed that some people try to legitimize homophobic violence, stigma and discrimination by referring to tradition or religion, usually to both. This has been reported as the principal obstacle to the fight against social exclusion and discrimination in Kosovo, and also to the European integration of the country, as even the government seems powerless in the face of this so-called tradition. However, in our findings, the social definition of the family as a strong male patriarchy and moral body appeared a social construction and even a recent invention. This social construction is based upon ignorance of the social history of family and religious rules in Kosovo, so loud references to “tradition” should be considered a political stand to legitimize a form of nationalistic resistance against women’s and minorities’ rights but also against European integration. To enable the government to fulfil its commitments to improving LGBT people’s situation and, thus to regain confidence from national and international observers, there is an urgent need to promote public debate on the genuineness of “tradition” as well as about how this is encouraging parental abdication of responsibility and homophobia. In addition, insights into family life during the study suggested that sexual abuse might be more frequent than expected. This would indeed cast more light on reports of families being so much concerned with avoiding disclosure of sexual orientation due to the dark side of the family myth.

Our findings also lead to the question of how far this reference to “tradition” is interfering with professional engagements and if it could explain why so little has been done with LGBT so far. As reported, even some police officers and judges were unable to apply the laws, presumably on the ground of “tradition”.

7. RECOMENDATIONS

Following our conclusions, different recommendations can be proposed provisionally to the workshop in February 2013.

- * The national strategic plan needs to include the findings on the situation and the analysis report on the LGBT community in Kosovo
- * NGOs should be partners in the processes of preparation and implementation of national strategies and other relevant documents
- * Amend relevant articles about hate crime and hate speech in the penal code in order to increase the protection of LGBT community in Kosovo
- * Implement a permanent and sustainable monitoring and evaluation system and ensure its independence and neutrality, involving various experts including lay experts from the LGBT community and academia, in cooperation with NGOs and international partners.
- * Create standard operating procedures for effective access to justice for the LGBT community
- * Identify the relevant services and competent actors (HR units in ministries and municipalities, judges, policemen, nurses, medical doctors) and train them to adopt a non-judgmental and LGBT friendly approach in order to create “LGBT friendly services”.
- * Organize public debates with experts from academia, traditional structures, lawyers, social scientists and lay experts, about different understandings and definitions of Kosovar “tradition” and its relationships with social exclusion and the law.
- * Improving a platform of LGBT friendly organizations and other actors in order to empower the LGBT movement
- * Empower LGBT organizations in leadership and efficient division of labour to decide for a common vision, design action plans, monitoring, evaluation and costing/expenditure tracking, in a participatory way.
- * Support programmes to empower the LGBT community and build their self-esteem.
- * Promote a regional exchange of experiences amongst LGBT organizations on a regular basis.
- * Encourage the media to promote LGBT topics and include LGBT in popular culture.
- * Improve educational programmes and train school workers dealing with human rights and in particular discrimination.

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