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All works and major viewpoints of the other authors, data from other sources of literature and elsewhere used for writing this paper have been referenced.

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Student's code

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Introduction

“The only thing that we really know about human nature, is that it changes” (Oscar Wilde)

My thesis has three main foci: the history of homosexuality, the social acceptance of the homosexuals and the treatment of homosexuality in the legislation, all these issues will be investigated and exemplified by means of Estonia. The question, which guided me through my research, is simple: How is homosexuality perceived in present day Estonia? For this I chose to focus on a few basic parameters, the most important being: what is homosexuality? For this purpose I looked at the history and compared other states to Estonia because in my opinion only by comparative analysis one can truly understand a nation and get an accurate measurement of the perception of homosexuality. The quest for appropriate literature on the aforementioned areas displayed that, even though homosexuality is after ethnicity the second biggest form of discrimination in the EU, not many governments, even within the EU, encourage research about this very delicate topic. For many states discriminating in present day works by simply ignoring the existence of homosexuality, even more than claiming homophobia. When you are from a different ethnicity it is hard for a government to deny your existence, visibility is shown. For a person with a different sexual orientation this is very different. Fear of discrimination leads to a closeted lifestyle, a closeted lifestyle leads to a lack of visibility in society and a lack of visibility leads to a government that does not see the problem. The Iranian president, Mahmoud Ahmadinejad, answered in the New York's Columbia University when asked about the execution of homosexuals in his country: "In Iran we don't have homosexuals like in your country." General laughter followed from the crowd. "In Iran we do not have this phenomenon, I don't know who has told you that we have it," he said. (BBC News, 2007) Many conservative states believe that homosexuality is a choice or a disease

which can be cured and that is spreading due to the tolerance it experiences in many 'Western countries'. Many countries believe that if you prevent the 'promotion' of homosexuality, it will not arise in society. Even closer in one of the Baltic states, Lithuania, just last month they approved a law making it illegal to talk about homosexuality in schools and places where youth is present. (The Baltic Times, 2009)

When looking at history it becomes clear that homosexuality has been defined differently in different areas and that the concept of 'a homosexual relationship' is something very new. The general belief in the West is the necessity for acceptance of homosexuality and by trend it can be said that when a country develops in human rights, it will accept homosexual behaviour. For many conservative countries, like Poland and Lithuania, a development is not making homosexuality a part of the society but is keeping a society with the traditional perception of a relationship between a man and a woman where the natural conception of children is present. If the sexual deviant that homosexuality is, becomes a part of society, it will mean the destruction of the society as homosexuality leads to a lack of children, diseases like AIDS and is often put on the same line as alcoholism, drugs addicts and criminals. Throughout the years this has been discussed a lot and the differences within countries are still there in present day society.

Acceptance of homosexuality is still far from well developed, in many states. For Estonia I conducted my own interviews and additionally based my chapters on the research done by Judit Strömpl and by talking with lawmakers in Estonia. I compared Estonia with Russia and Belgium. I chose these countries because of the different level in development. Belgium is known for its total acceptance towards homosexuality, Estonia is developing towards more inclusion and Russia still has no urge to include homosexuality in its society, only pressure from the EU leads to certain legal protections.

As homosexuality is still so widely unknown and the numbers of homosexuals for example within Estonia is relatively unknown it is important to first explain things. My

main goal with this thesis is to inform people about the history, the development in history and the present day society.

Glossary

In order to fully understand this essay it is important to clarify a few terms used in recent literature revolving around homosexuality. For the simple understanding of the words, I will use definitions put forward by the Swedish lesbian, gay, bisexual and transgender organisation, RFSL Ungdom.

Homosexual/Homosexuality = A person that is homosexual has the ability to fall in love with or/and feel sexually attracted to a person with the same sex.

Lesbian = Girl that falls in love with and/or is sexually attracted by girls

Gay = Boy that falls in love with and/or is sexually attracted by boys

Bisexual/Bisexuality = A person that is bisexual has the ability to fall in love with or/and to be sexually attracted by persons irrespective of the sex. Some bisexuals have sexual relations with persons irrespective of the sex, but fall in love just with persons of the same sex. For others it can be the opposite.

Transgender = A transgender person feels that they fall outside the sex-identity that has been given by birth.

LGBT = Short version that stands for Lesbian, Gay, Bisexual and Transgender.

An important understanding of language is needed when we look at the terminology of the LGBT community. Within the sexual minority there is also a debate on how to express oneself and if the need for defining is necessary. In Poland for example you have no word for expressing your coming-out. The term queer, used a lot lately to define 'being different than the norm' has no translations and is used mainly in English. This causes problems in different countries because language always has a high priority.

If you cannot even express your being in your own language, how can you explain it to others?

Throughout time language has been very important within a culture and for society to accept a nation. Certain terms have been translated into your own language, others like computer and Internet have been taken over from English. Still in countries where language is valued very highly they also translated this. (For example in French the word for computer is ordinateur) When the definition of the concept remains English it is often regarded as something alien that does not receive too much attention.

Furthermore, I experienced that in the course of my research the term development usually has a rather positive connotation. In the context of homosexual discourse and its changing perception however, it is incorrect to assume that this change is always positive. Therefore, I would like the reader to be aware of this possibly negative implication of development.

Theoretical framework

For the construction of my theoretical framework I chose the concept of homosexuality. This choice turned out to be quite challenging as I have been confronted with very little literature, which hints at a lack of research done about the theme. When I found theories, it was based on the queer-theory. In this thesis I don't want to get into the queer theory although it does have an interesting point of view on how to reach acceptance and a more inclusive way of thinking that goes beyond homosexuality. Nevertheless it speaks about gender roles and breaking the pattern of male/female thinking. In this thesis however, I will focus on the old-fashioned way of thinking and talk about heterosexuality, bisexuality and homosexuality, dealing with transgender and gender roles only on the periphery as it is simply beyond the scope of this work.

This thesis will not focus on one theoretical framework, that I will argue later, I will give an informative overview of homosexuality, the history, the social aspects and the legal aspects. I chose to follow this structure to convey a general understanding of the topic, especially since it has not been dealt with much, certainly not in Estonia. I also did 10 focus interviews with Estonian youths (age 18 till 35) to gain a deeper understanding of homosexuality and how they present themselves within Estonian society. I will end my thesis with talking about these in-depth interviews to create a more personal understanding of the LGBT subject within Estonia. These focus interviews in comparison with the academic research done by Judit Strömpl enabled me to dive deeper into comprehension of Estonian LGBT life.

The rest of the thesis is based on analyses of literature, of social life in Flanders and Estonia and of the legal system in Estonia, Russia and the European Union. I choose these countries because of their development history. As I see progress in the rather positive development starting from Belgium, going to Estonia as a new EU member

state, and then finally or hopefully swapping over to Russia.

The history of homosexuality

When defining homosexuality, most of the terms that have to be included are poly-dimensional and very much contested concepts. 'Homosexuality' for example is used differently and has different connotations depending on the cultural background and setting and the variable of time. For some cultures you can be considered a straight man but at the same time openly engage in sexual relationships with other men. In other cultures homosexuality only refers to guys who play the passive role in a sexual context. The active partner of this sexual act is not seen as a homosexual. It creates even more discussion when we talk about the female role in homosexuality. Many sources of literature about the history of homosexuality talk only about men having sex with men, there are no women involved, no love, no relationships. Of course, the concept has been subject of tremendous modification over time.

Society develops, human nature changes, we are living in a constant process encapsulating the development of new possibilities, new materials, new mentalities and new ideologies. Homosexuality is one of those changes in society that is given more and more space and visibility in every day life. Even though it could be seen as a “trend of the 20th century”, homosexuality has been present much longer. Weeks gives in his article “Historical Approaches to Homosexual Identities and Social Control” an interesting overview: It is not “homosexuality” that is a new concept of time but “the homosexual” that is a more recent development in history (Weeks, 1991, p.7-16).

It should be noted that naturally, any interpretation of the past does not spare contemporary influences. This is certainly not very objective. For example there is an author, Frank Sargeson, who wrote two autobiographies and the fact that he was together with a man for 40 years was entirely ignored. It is also happening in the analysis of literature of the past that explanations have been given on why some male

authors write lovingly about other males; often a strong friendship is put forward above a homosexual relationship. Only recently researches have been looking at the stories and how they really happened. In present day Estonia, it is also a new and quite carefully dealt with and obviously also delicate topic that still needs to be researched within their historical books.

The concept of homosexuality

The history of homosexuality can be based on two theories: the essentialist approach and the social constructionist approach. (Sullivan, 2004, Journal of Human Behaviour in the Social Environment) The essentialist approach does not speak about homosexual history or culture. It has always existed, as long as sexuality exists and it is not related to a culture or time. It also doesn't give much place for an overview of homosexual history, as the essentialist approach does not believe that within history the concept of homosexuality changes, but they would look more into the concept of sexuality in general and the development of this. In a way opposed to this stands the constructionist approach, which places homosexuality in a certain time and context. For the history of sexuality it is interesting to read Michel Foucault. He wrote a three-volume series about this. His main hypotheses being that since the 19th century we have "repressed" our sexuality. This thesis is not about sexuality specifically but the repressing of sexuality, the Christian influence and society influence on this repression could be linked to the homosexual history. I will get deeper into the constructionist approach now and see how homosexuality has been perceived in history.

When I look at literature from the past I often bump into prosecutions of homosexuals but it hasn't always been like this. In Greek history, for example, homosexuality was a part of their sexual culture.

First prove of homosexual behaviour comes across in the Greek model in the 12th century where it was most common in a relationship between an active male and a passive adolescent. It was not a form of relationship and the pattern of male-female

relationships were not replaced by those sexual acts. It was considered as a transitional rite of passage for young men in early Greek and Roman societies. (Sullivan, 2004, p.4)

During the Middle Ages homosexuality was seen as a form of paganism and every act of sodomy was sentenced with death. Being burned at the stake was the most common way of executing the death penalty. This is where the word faggot comes from as the bundles of wood that were used to kindle the fires were called faggots.

From the early 18th century a homosexual community started to develop, which was present in bigger cities like Paris, Berlin and London. Still all the 'knowledge' or better acknowledgement of homosexuality was about two men having sex; the sexuality of women was always seen in relation to the presence of the man.

The first real mentioning of 'the homosexual' as a person who has feelings, sexually and/or loving for a person of the same sex can be traced to the 1870s, 1880s. It is mentioned in publications, authors write about it more commonly in Germany and in other Western European countries like Britain. One of the leading authors of that time was Havelock Ellis. He wrote a lot about sexual differences in comparison to the heterosexual norm that was present. It was more than just mentioning sexual acts between people of the same-sex but about showing the existence of different sexualities than hetero. Havelock Ellis was married to a woman who openly declared herself lesbian. In his book 'My life' he talked not about imaginary characters but the reality of his friends, partner and case studies he had conducted.

The definition of homosexuality became more concrete when sodomy laws came further to the fore. It is interesting to make a note that the definition of homosexuality became more important when the homosexual act was made illegal in certain laws, therefore pointing the finger at a certain community of people with different sexual experiences and making them stick out.

The first mentioning of the word homosexuality was a reaction to a Prussian anti-sodomy law in a German pamphlet by the Austrian born novelist Karl-Maria Kertbeny.

This journalist had a friend who was gay and committed suicide. This act had a strong influence on his life, not understanding the laws and believing that homosexuality was not chosen but present from birth. Many authors took over his concept and it was widely used also after to define the sexual act between people of the same-sex.

The 1960s mark a significant turning point. The Stonewall riots in New York contributed to a change in perspective towards the homosexual theme. From the 1960s it was mainly the feminist movement that changed the view on homosexuality, which is why I will elaborate on the 'lesbian' movement more in the following paragraphs.

Lesbian movement

“Things back then were horrible and I think because I fought like a man to survive I made it somewhat easier for the kids coming out today. I did all their fighting for them. I’m not a rich person. I don’t have a lot of money; I don’t even have a little money. I would have had nothing to leave anybody in this world, but I have that – that I can leave to the kids who are coming out now, who will come out in the future. That I left them a better place to come out into. And that’s all I have to offer, to leave them. But I wouldn’t deny it. Even though I was getting my brains beaten up I would never stand up and say, “No, don’t hit me. I’m not gay; I’m not gay” I wouldn’t do that. I was maybe stupid and proud, but they’d come up and say, “Are you gay?” And I’d say, “Yes, I am.” Pow, they’d hit you. For no reason at all. It was silly and it was ridiculous; and I took my beatings and I survived it.” – Matty (1940s-1950s).

When I looked into the history of lesbianism I came across many of those stories. The first lesbian activists started coming out in public around this time. This testimony reminded me of a story that I heard in my interviews about a gay guy in Estonia that answered, “no, I am not gay” when being asked on the street. It is interesting to see that still many situation and stories can be used in present day.

Often people think lesbianism started on the island Lesbos, a place inhabited by lesbians and characterized by sexual freedom; sadly for many, this is not the case. Only the name 'lesbian' did in fact come from the island Lesbos, the home of Sappho. Although Sappho was married and had a child, she did write love poems about both men and women. This is the first tracked record of the mentioning of lesbianism, in about 610.

Again like with the gay history, the lesbian community started to develop first in the big cities like London, Berlin and New York around 1860. The feminist movement gave another vision about the sexuality of a woman. It stood for 'free love' and this also mobilised women to talk about same-sex sexuality (Goldman, 1869-1940).

From the end of the 19th century onwards first lesbian activists started fighting for equal rights. The first known lesbian activist, Anna Rüling (1880 – 1953, Hamburg) already spoke about the economic and social ideas that separate men and women at work and within the family. It is interesting to read how she mentions the same social problems that arise in present day Estonia. She speaks about stereotypes and stigmas that define what kind of jobs are meant for women and what is meant for men. She speaks a lot about breaking those gender roles and denying the conventional roles that are put forward in society.

It was in Berlin where an amount of lesbian establishments occurred and homosexual culture flourished in the beginning of the 20th century. With a lot of cabaret, a magazine called 'Die Freundin' and women starting to wear trousers, and thereby opposing the traditional dress code, certain emancipation began to take shape. Still, authors like Freud wrote in the same time about homosexuality being an illness that could be cured if you found the childhood trauma that caused the different sexuality. In the United States Freud's theories created more place for sexual adventures and bisexuality became 'chic'. This did not mean lesbianism was accepted, it was just accepted to be in a relationship with a man and have women lovers on the side. It was not about creating a lesbian family but more about the sexual adventure.

Things changed with the economic depression of the 1930s. Women became dependent on the men much more and needed their place in the traditional family to survive, as women had to face great inequality when it came to being employed. The whole lesbian movement disappeared in Germany in 1933 with the rise of the Nazis.

The period during World War II was one without any acceptance for homosexuality. But it did generate a change in the traditional 'role' of women. They were forced to either serve in the military or work at places where only men worked before. The period under Nazi rule was one where homosexuality was condemned as homosexuality was regarded a disease degrading gays to second-class people. However, afterwards the challenges and roles, which had been taken up by women, created increased independence of women from men. (Bernstein, 2002, Social Science History)

After WWII it didn't become any better concerning equal rights and treatment of homosexuals. In 1952 homosexuality was listed as a pathological emotional disturbance in the American Psychiatric Association's Diagnostic and Statistical Manual. It was seen as something that needed psychological help, doctors believed in therapy and even electric shocks were used to 'cure' it.

The second feminist movement in the 1950s-1960s changed things again in the West and created more meeting places for lesbians, started a second revolution and a fight for equal rights again that had been put aside directly after World War II. The American Psychiatric Association removed homosexuality from its official listing of mental disorders in 1975.

Identity formation

As was stated before homosexuality was defined when the sexual act between two people of the same sex became illegal and a political culture began to arise within the gay community. The question of sexuality before was more determined by questions concerning identity formation. Questions as: what or who are we? Is it wrong? Is it natural? Do we belong somewhere? Are others like us? These kind of questions come up in the search for the identity. This has not changed much, every person is in need for an identity: a cultural one, a historical one or a social one - we all have something that brings us together. Sexual identity has been present even before the definition of homosexuality and is of course still present today.

Why do we need to show our identity? Do we need symbols of pride? When the Nazis chose the pink triangle as a symbol of the homosexual, it was later used to show pride of belonging to the group that they are and the identity they represent. Based on discrimination, being a minority and not being defined equally to others by law and being prosecuted, leads to an enhanced need to find one's identity.

In history it is visible that homosexuality was not always regarded to have a separate identity. Many people had sexual adventures and freedoms but not a real common identity. The identity formation was a development that occurred when homophobia was becoming omnipresent to stand up against the norm and start the fight for equal treatment and rights.

Homosexuality during communism

In this chapter I will talk about how homosexuality was perceived during communism. It is important to distinguish between two groups: the Soviet Union and the other countries under communist rule. The Soviet Union did not mention homosexuality at all until 1989 when a letter was published condemning homosexuals and putting them on the same level as drug addicts, alcoholics and prostitutes. In countries like Hungary, Poland and Czechoslovakia on the other hand there was an LGBT community present already before the independence.

In the first years after WWII most homosexuals in either West or East suffered the same hardship: homosexuality was not being tolerated, it was regarded a sickness, forbidden and unacceptable. While the West started moving towards a more vivid LGBT community and acceptance around 1960-1970, there were also movements created in the east. It is interesting to see how tolerance towards homosexuality was used within some communistic states to show their openness towards the west. In other countries it was again completely unacceptable.

I will start this chapter by explaining how homosexuals were perceived and how the Marxist/Leninist policies excluded them. I will get into the legal system and compare the social community in several communistic states. When looking into the policies it will become clear that an LGBT community is not just dependant on state rule but it shows that sexuality and the acceptance of a variety of sexuality depends on the culture within a city or in some cases a country. For example Ljubljana has always been a city with an extended orientation into art, alive and alternative festivals have taken place there. It is no surprise that the first LGBT festival took place just there in 1984. Places with more diversity in general, also create more space and tolerance for different sexualities.

State exclusion of homosexuals

In the beginning of the Marxist/Leninist rule they believed that by breaking traditional community ties and quick urbanisation and industrialisation a more profound nation could be formed (Hillhouse, 1994, p.66-77). It was quite impossible to break down the society up until the individual so the family became the most important base. The organisational structure of society developed around the idea of a family. As a family you had more rights in housing and in the distribution of the goods for example. Still the family had little importance in the socialistic economy but housing was already so limited that as a homosexual it became almost impossible to live a life with your partner as you were forced as an individual to remain close to your own family during the long wait for an apartment.

The very fact that gays and lesbians were forced to hide their sexuality led to the development of an underground culture. Hillhouse mentions in his article that because of this hidden sexuality the gay community (as well in the West) was forced to meet up in parks, dark clubs, public toilets and saunas. The intolerance led to an environment characterized by shadiness, which involves meeting in dark places where the spreading of HIV is also more present. (Hillhouse, 1994, p.66-77) For the lesbian movement the hidden sexuality led to groups formed within the feminist community as mentioned before.

Community formation

In each communistic state a different development of the LGBT community can be observed. In increased permissive countries, there was consequently more room for community formation. Hungary for example was always a more tolerant state in the Soviet Bloc when it came down to private initiatives of citizens. In the 70s and 80s there was allowance for a homosexual group to be founded. Concerning the spreading of AIDS, it led to a more accepted formation of organisations and protection. In 1988 the first homosexual group was formed. It was called 'the homosexual association for Leisure and Health Protection' (Homeros Lambda). (Hillhouse, 1994, p.66-77)

In countries like Slovenia and Croatia indifference determined the state's attitude towards private initiatives. As mentioned before the bohemian culture in Ljubljana also allowed a gay and lesbian movement and the first LGBT festival there took place in 1984- it was called Magnus Homosexualnost in kultura. Thousands of Yugoslavs attended this festival that was organised by the student cultural centre of Ljubljana. In Slovenia several organisations were built from 1984 onwards, for gays and lesbians alike. A magazine called Gayzine was also published.

In Poland a smaller organisation was formed, mostly under the umbrella of west-European organisations. The Viennese group, the Homosexuelle Initiative (HOSI), established some eastern-European centres in 1981. They started a newsletter from information gathered during journeys to Poland and spread it around within the country. Because of the effort of the Viennese organisation, the first Polish organisations were informally formed in 1986 and 1987. The Polish government was tolerant towards groups who were not against state ruling consequently, they were able to exist.

In Eastern Germany and Czechoslovakia there was quite a vivid LGBT life and they found ways to build up LGBT organisations, within existing institutions that were allowed by government. In the GDR there was the strongest movement of all the communistic states. They were able to build it up through church institutions and youth

organisations. The Protestant church was an active provider in many communistic states for organisations who were not allowed by state. They used the church area for seminars and meeting places. In Leipzig in 1982 there was a seminar within the Protestant church called 'Homosexuality in Theology, Church and Society – How do we deal with it?'. This seminar was such a big success and caused so much discussion that twenty homosexual study groups were formed after, sponsored by the church (Günter Grau, 1987). The issue of homosexuality gained intensity as a topic of debate within the GDR in the end of the 80s with movies shown, organisations formed and articles published. The GDR became more liberal towards homosexuals than the Federal Republic of Germany. One LGBT organisation was formed on behalf of the SED (Sozialistische Einheitspartei Deutschlands). A city in the GDR, called Gera, was a partner town of The Netherlands. A Dutch delegation was going to visit the city and because the Party wanted to make a good impression they asked Gera to form an LGBT group. As a result quickly before the visit some co-workers within the Marriage and Sex Counseling Center built up an LGBT group.

The LGBT organisations during communism, excluding the Soviet Union, were mostly formed in the 80s, not much later than in Western Europe. It mostly depended on the level of tolerance of the government within each country. Some countries tolerated it; in other countries LGBT groups could be formed under the umbrella of a sexual health organisation, youth groups or church groups. Sometimes they could only form informal groups as it was illegal by law, and again in some countries they could form groups legally. As you can see there was a lot of variety in acceptance. Throughout the last paragraphs the importance of the church for the LGBT life becomes obvious. As church structures were not very tolerated within the communistic area, it stood up for other organisations that were discriminated against. Nowadays, the protestant church is still one of the most tolerant church structures when it comes to homosexuality.

Now I mentioned the countries that experienced successful community formation. Gay and Lesbian movements were not present in more traditional societies of Eastern Europe like: Romania, Albania, Bulgaria and in the Soviet Block, with a more tolerant attitude in the Baltic States. Interesting to look at is also the religious background. Most

countries mentioned before did not have a very strict orthodox background. You have catholic Poland, Protestant GDR, a mixed variety of religions in Yugoslavia. Looking into the Balkan, the countries with an orthodox culture: Serbia, Macedonia, Kosovo, all have a very intolerant view on homosexuality. The protestant religion is the most tolerant towards homosexuality and the catholic religion differs in how strong the country still perceives the religion.

If we try to look at the homosexual issue within Soviet Russia we get stuck in a lack of literature, lack of research and lack of mentioning of the topic. During communism there was a complete ignorance of the topic. A community was not visible, debate was not present and homosexuality was completely forbidden. If we look at the chapters below about the LGBT community in present day Estonia, we can still see the aftermath of this history.

The first time homosexuality was mentioned in the Soviet Union was in 1987 by Borodnikov. An article in the *Moskovskii Komsomolets*, the newspaper of the communist youth organisation in Moscow, was published and said that the number of homosexuals is increasing. Furthermore, it was claimed that homosexuality is a disease, like alcoholism, and can be cured. The discrimination towards homosexuals becomes higher. Within the homosexual community many people have diseases and criminality is high. Homosexuality is encouraged due to childcare by grandmothers, exclusive female teachers and non gender-specific occupations. The best way of curing the homosexual is by gender-specific education oriented towards love and family. (Tornow, 1987, p.78-93)

KGB officers kept a strict eye on homosexual information exchange and homosexual gatherings. Under the Finish LGBT organisation, SETA, some Russian homosexuals could be present at the international gay conference in 1984. It was mentioned on Finish television (visible in Estonia) and it was announced that people from Leningrad were at the conference. When getting back to Russia, they couldn't meet anymore in the flat of the people that were mentioned on television. The contacts with SETA remained but the main contact person, travelling to Leningrad a few times, was refused permission to

enter the Soviet Union ever again, when they found papers with homosexual references in his luggage. Homosexuals present at the conference and cooperating with SETA, were arrested, were fired from their jobs and some were sent to prison. (Shcherbakov, 1994) The group mentioned by Shcherbakov in his article 'On the relationship between the Leningrad gay community and the legal authorities in the 1970's and 1980's' stopped their activities after a KGB raid in August 1986. During the time that the author wrote this article it was still forbidden to form an LGBT organisation. It was also made practically impossible to form informal groups because of the lack of places to gather (or fear of being denounced), no financial and technical facilities and the increasing homophobia.

As will be demonstrated in the chapter about the present day legal status of Russia, the homophobia in Russia is still very high and LGBT people, although not criminalised anymore, still have a hard time forming an LGBT organisation.

Focus study: Estonia

Estonia had quite a tolerant attitude towards homosexuality before 1940. Different sexualities were mentioned and discussed; translations from mostly German authors mentioning homosexuality were present in society. The change after 1940 had a big impact on every level of life in Estonia.

Immediately when Estonia was occupied by the Soviets the Criminal Code was taken over from the Russian Federation and the one of the republic was declared invalid. Although before homosexuality between males was not punishable, in the Russian Federation's Criminal Code it was amerceable and sentenced with up to 5 years in prison. The laws changed but the changes penetrated society much more than just the law about homosexuality. Veispak (1994) mentions in his article that the Soviets attempted to regulate the whole sexual society. He mentions an article published just after World War II that mentions: "*no man or woman who is liable to change partners*

can be respected in Soviet society. They can only be condemned in the society in which they stick out as exceptions. An honest person in the family is also honest towards society. A soviet citizen is able to control his passions and to redirect his energy to creative work for the welfare of society, which at the same time, is a source of joy and passion for them. There is no eroticism in art or other spheres of life in Soviet society; the relations between men and women are pure and sincere.” In articles published mainly in the 40s and 50s the authors have tried to suggest that sexuality is something not inherent in the new Soviet person, it is something that belongs to the West. (Veispak, 1994, p.105-114). Homosexuality was simply not mentioned as it was not present and if it turned up ‘it would be treated according to the law’. During communism, as during Nazi times, thousands of homosexuals were sent to camps. In 1972 an Estonian physician wrote, “There are people who love people of the same sex. Such people with anomalous disposition are called homosexuals. (...) And when he won the youngster’s trust he casually invites him over to his place. (...) And then starts what is called pederasty – sexual relations between men. There are very few young men who would not have an inborn disgust and uncompromising intolerance towards pederasty; boy-lovers like those must be exposed immediately. Pederast know that what they do is punishable according to the Criminal Law” (mentioned in Veispak, 1994).

In the 80s and 90s, as also visible above, the topic of homosexuality was debated more. The Estonian society was more tolerant in comparison to Russia. Estonian media started mentioning the first articles about homosexuality. There was no LGBT organisation actively present before the independence.

Theory of discrimination

Homophobia

If we want to understand discrimination towards homosexuals, it is important to understand what homophobia is. Homophobia is expressed in many ways and is also discussed on many levels. We can broadly define homophobia as a dislike or hatred towards homosexuals. This can include a cultural dislike, as in 'born in a society that dislikes the homosexual and taking over this believe' or a more personal bias towards the homosexual. There are two forms of homophobia that can't be overlooked: the first one is the internal homophobia. This is homophobia that is present within the homosexual himself, believing that the feelings he feels is not right and immoral. The second part is the general homophobia, coming from 'mainly' heterosexuals within society and condemning the homosexual lifestyle. (Fyfe, 1983, p.549-554)

External homophobia is a feeling of dislike towards the homosexual. There is more external homophobia with men than with women. (Sullivan, 2004, Journal of Human Behaviour in the Social Environment) The external homophobia is often gender related; the role of the men and the role of the women are being attacked because of the change in behaviour and roles that a homosexual expresses. Internal homophobia is not related to gender specific expectations. Internal homophobia is more visible in a person who is raised in a more conservative family and has no support within the educational system (Lock, 1998; Radkowsky & Siegel, 1997).

The reason why homophobia is more related to education and youth is because a general believe that discussion of gay issues will confirm the acceptance of the topic and expend the number of gay adolescents and young adults. (Sullivan, 2004, Journal of Human Behaviour in the Social Environment)

Homophobia towards male homosexuals is expressed in looking at gay guys as 'sissy's', perceived as not a real man or as child molesters. Pedophilia is often put on the same level as homosexuality in homophobic speech.

Homophobia goes beyond the general hatred in hate speech, homophobia is already expressed by a general feeling of dislike towards a person with a different sexuality without knowing where to 'pin' this feeling. It is to be compared with the dislike towards certain ethnicities. There is not a personal argument of dislike but the born dislike and way of educating creates this homophobic feeling. Often rationalization of the emotional dislike is used. Rationalization expressed by dislike towards other areas of homosexuality, as openly expressing it, prides, activism, female (for gay guys) or male (for lesbian girls) behavior. "We don't have anything against homosexuality but do they have to act like women?" is a general argument or "We accept homosexuality but why do they need to show it so much?" (Interviews with LGBT people)

Discrimination legally defined

Discrimination is not completely defined, not even in the Universal Declaration of Human rights, but one can distinguish between two forms of discrimination: direct discrimination and indirect discrimination. This is the definition given in the publication from the European commission: "Developing Anti-discrimination law in Europe. The 25 EU member states compared." (2007)

Direct discrimination is defined as follows in the Directive of EU equal treatment: "Direct discrimination shall be taken to occur where one person is treated less favourable than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation." Indirect discrimination is defined in the Directives as follows: "Indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or

practice would put persons of a racial or ethnic origin, or those having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation, at a particular disadvantage compared with other persons, unless:

- that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving this aim are appropriate and necessary, or
- as regards persons with a particular disability, the employer or any person or organisation is obliged to take appropriate measures to provide reasonable accommodation in order to eliminate disadvantages entailed by such provision, criterion or practice. “ (European handbook on equality data , November 2006)

In the manual Compass (2002), meant for youth to explain them about human rights, it is put forward slightly more understandable:

- Direct discrimination is characterised by the intent to discriminate against a person or a group, such as an employment office, which rejects a job applicant based on his sexuality, or a housing company, which does not let flats to a same-sex couple. "Direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin." (Council Directive 2000/43/EC, 2000)
- Indirect discrimination focuses on the effect of a policy or measure. It occurs when an apparently neutral provision, criterion or practice puts de facto a person or persons of a particular minority at a disadvantage compared with others. Examples may range from a minimum height criterion for fire-fighters (which may exclude many more female than male applicants), to the department store, which does not hire persons with long skirts, or the government office, or school regulation, which prohibits entry or attendance by persons with covered heads. These rules, apparently neutral with regard to ethnicity or religion, may de facto disproportionately disadvantage members of certain minority or religious groups who wear long skirts or headscarves.

The social attitudes towards homosexuality

A homosexual person leads the same life as a heterosexual. They go to school, find a job, fall in love, start a relationship, have friends and family and lead their lives as anyone else. Or don't they? What makes the social position of LGBT people different? How do people of this minority go through school; is there more bullying? How do they fit in the workplace? Are they close to their colleagues? How does their relationship go? What is the effect on a person if he/she is prevented from marrying or openly expressing their love for each other? And how is their friendship and family position?

There is not so much research done about the social position of LGBT people within Estonia. This is why I will start by explaining these aspects based on Flemish research done by Dewaele, Cox & Van den Berghe (2006) which explains the social position of LGBT people in Flanders. Based on these theories I went to do interviews with 10 LGBT people in Estonia (some in person, some by mail).

When speaking about bullying, people's reactions and how the majority of society looks at the social position, I did not get much negative response from my interviews. This was because most people did not mention their different sexual orientation within their work place and/or family, and if they did, they had already chosen friends who were more alternative and accepting. I was quite amazed by the lack of openness towards this theme, but even more by how the LGBT people themselves felt it was not necessary to be open in this, as it was part of their private life and not to be known by outsiders. I will examine this in more detail in the last chapter.

Attitudes in the society

Here I will talk about attitudes in society concerning homosexuality, attitudes are defined here as those values and norms that people have towards homosexuality. I will use the Eurobarometer and research done by Judit Strömpl and colleagues to show how homosexual people feel in the present Estonian society.

Within Estonia, the biggest problem is the hidden world in which LGB people live. Judit Strömpl's research (Strömpl, et al., 2008) shows that LGB people within Estonia feel they can be themselves in society as long as they hide their sexual identity. Many LGB people also consider this hiding as 'normal'. The highest level of discrimination within Estonia is this ignorance and the unspoken non-acceptance towards people of a different sexual minority. The common line is: 'I accept homosexuals, as long as they don't show it'.

Research done for the Eurobarometer in 2008 about discrimination within the EU shows that discrimination based on a different sexual orientation is the second most widespread form of discrimination in the EU (after ethnic origin). For example, while 34% of respondents from the rest of the EU have homosexual friends, only 14% of the Estonian respondents have a homosexual friend. Showing this number means that homosexuality is much more closeted in Estonia in comparison to the rest of the EU. When asked about having a neighbour who is homosexual, 52 % of respondents from Estonia would not mind having a homosexual neighbour. In Belgium, for example, we are speaking about much more tolerance, as 82% wouldn't mind a homosexual neighbour.

Another interesting point raised by this resource is that only 1% of LGB people in Estonia have faced discrimination based on their sexual orientation, in comparison to

Sweden, where there are reports of discrimination from around 14% of LGB people. Obviously, this shows that you have to be careful with statistics and making conclusions, because more acceptance in a society creates more visibility of homosexuals and also more people who come out, and this act leads to more harassments towards openly gay people and this also creates more reporting of hate crime towards police. Within Estonia, reporting hate crime means coming out in your sexual orientation to the police. This is another big fear for many gay men as the police are often seen as very homophobic towards them.

In Estonia, most people hide their sexual orientation from the most important people in their daily life: family, friends and colleagues. 55-65% of Estonian LGB people hide their orientation towards their parents, 64-85% towards other relatives, 58-81% hide their sexuality at their work place and 15% report harassments at their work place. (Lilian Kotter, 2002)

In this research, there are also statistics that address the forced resignation from your job, the denial of a promotion and the refusal for a job based on sexual orientation. These numbers are to be distrusted because it is hard to define the reason behind the refusals. European law forbids discrimination based on sexual orientation in employment. Still, fear of discrimination, is an every day reality in Estonia and this fear leads to a lack of people willing to come out and this leads to a lack of trustworthy statistics because the number of respondents is so low.

The lack of people willing to come out often leads to a disconnection from the individual's family, because they are hiding such an important part of their everyday life. This is also more common for people living in the countryside. The lack of people willing to come out here is higher than in the bigger cities. Many LGB people move to bigger cities, the reason behind this could be the anonymity that a city gives you, but also a presence of gay bars and clubs. In Tallinn, there are two gay clubs and a gay bar. This feeling of belonging, of fitting in somewhere, is needed for LGB people and the search for people 'like them' leads them to the bigger cities.

Fake tolerance

While there is not much research done in Estonia about how people accept homosexuals as parents, in Flanders it was visible that people, although accepting homosexuals, still look very negatively at homosexuals as parents. While 38% find it okay that two women raise a child, only 30% find it okay that two men raise a child. 53% of the same respondents find it okay that a single mum raises a child. It is very interesting to see that people are more supportive of one parent raising children than they are of two parents of the same sex.

In the Netherlands, homosexuality is seen in society as something equal to heterosexuality, and the general belief is that homosexuals should lead their lives as they want to lead them. (De Graaf et al., 2000) The level of social tolerance decreases, however, when talking about same sex couples that raise or adopt children. Also, when homosexuality comes closer to their personal sphere, in their own family or friendship circle, this tolerance decreases again. (De Graaf et al., 2000) This ambivalent attitude is described as fake tolerance, meaning that homosexuals can behave and act how they want, as long as it fits in the norms given by the heterosexual society. (Dewaele, et al., 2006)

LGB people are more often 'tolerated' than actually accepted and this as long as they are not too visible in everyday society (Borghs et al., 2000). This attitude becomes stronger in societies where homosexuality becomes a part of political correctness. In joining the EU it was forbidden to discriminate against people on the grounds of their sexual orientation (art. 13, treaty of Amsterdam).¹ This also creates a general atmosphere within EU countries that homophobic behaviour is wrong and so politicians and public figures need to be careful in their openness. This 'forced' EU influence leads to even more fake tolerance in countries where society still looks very negatively at same sex relationships. The discrepancies between attitudes (negative feelings towards homosexuals and seeing this group as a threat) and behaviour (being positive when

¹ EU policy, article 13, Treaty of Amsterdam.

speaking about homosexuals because they know it is not accepted to do otherwise) become stronger. This fake tolerance will become even stronger if homosexuality in society becomes more political correct. In Flanders, most people are of the belief that homosexuals deserve the same rights, but when it comes down to marriage for same-sex couples or raising children, the belief in equality decreases. (Dewaele et al., 2006)

For Estonia, there is no research done about these attitudes of fake tolerance and so we can only assume that this fake tolerance will grow even more when society becomes more accepting of homosexuality. Already joining the EU creates a space for more acceptance in public speech. When we compare Estonia with Russia, it is visible that Russia does not yet feel the pressure to accept homosexuality, and open hate speech towards homosexuality is much more common. We can see this in the ban on the gay prides year after year, or the denial of certain LGBT NGOs based on their ‘immorality’ or the need to protect the values for Russian citizens, as will be mentioned in the next chapter. (Petrov et al., 2007-2008)

Heteronormativity

Heteronormativity is defined as the institutions, practices, and attitudes that make heterosexuality the privilege system of the dominant culture. Basically, it means that we, as a society, assume things from a heterosexual point of view. We will assume someone is heterosexual, until proven otherwise. This heteronormativity is a logical presence in society if the homosexual community is still invisible and unknown. When people have no idea there is such a thing as an LGBT community, how can they include them? If people are not confronted with the homosexual theme, nobody will assume that there is actually such a thing as homosexuality.

Based on my own interviews, it was also clear that LGB people don’t come out as often because of this heteronormative behaviour. People assume they are straight and for the homosexual it is easier to follow this pattern. They are afraid of what effect their coming out could have and don’t feel very welcomed to mention something that nobody

expects from them. It is hard to prove whether or not this fear is justified. If the LGB community stays hidden, people assume we live in a heterosexual society, but when people assume everyone is heterosexual, people are more afraid to come-out and break their main belief. Can we speak about the chicken and the egg here?

Also in the education, heteronormativity leads to many problems. Children are raised with a heterosexual way of thinking. Already in literature in schools, starting from a young age, people learn about men and women, how this is the norm and there is not much space to include homosexuality in textbooks.

In the Flemish research (Dewaele et al., 2006) the authors explain also that a society is not necessarily homophobic, meaning they are against homosexuals. The biggest intolerance is towards people who do not fit into the prevalent heteronormative society. You can be a lesbian, as long as you fit in the stereotypes that are given by society for a woman. In my interviews, when I asked about visibility it was clear that most LGBT people try to fit into society, still believing in the stereotypical role of how a woman should look. When I asked about the reason behind this, it was because they feel it should be like this, and also that it would create fewer problems if they at least look like the norm.

Work field

LGB people are still excluded from certain aspects of the world of work. The Flemish research shows that LGB people are not always reaching the highest functions of a company, and are often excluded from promotions. Also, there are huge amounts of LGB people who start their independent businesses and run away from the corporate structure. (Dewaele et al., 2003) Flemish research done by Deloitte (2006) showed that homosexuality was not included as a separate topic in the health sector. Not much attention was given to problems that homosexuals face and separate social care was not included as much. Research done in Switzerland (Häusermann et al., 2005) has shown

that LGB people have more physical health problems², which shows that care for specific LGB issues is a priority as this leads to more absence from work. Research done by Lenaerts (2006) shows that LGB people suffer more often from chronic health problems (34%) in comparison with heterosexuals (21%).

School

From the Flemish research we get quite a negative image of how discrimination takes place within the school context. In Flanders, young people attend high school from 12 to 18. The research shows that discrimination takes place in the form of bullying behaviour. People who come out, or who look different from the stereotypical man/woman role, are called names like faggot, dyke but also just the word 'gay' is seen as an insult. In school, there is a sex education that talks about sexually transmitted diseases and mostly HIV/AIDS in relation with homosexuality. The topic of homosexuality is not mentioned much in high school.

In 'The risk of becoming a victim of school bullying: A gendered aspect' (2006) Judit Strömpl states 'According to our respondents the heterosexual identity is extremely important among teenagers.' Not much research is done within the Estonian society, but when Judit Strömpl was doing research around bullying she discovered a high form of homophobia. The sexual orientation of a youngster has a big effect on whether he or she is likely to be bullied and youths with a different sexual orientation get bullied much more than those who fit in with the heterosexual norm. The biggest problem in Estonian society still remains the lack of people willing to come out and the invisibility of homosexuality, whether in the workplace or at high school, it is hard to find concrete data to show how homosexuality is received.

² Physical health problems like back pain, tiredness, headaches and insomnia.

Development of homosexuality in the legislation

European legal system

Sexual orientation is already used in many anti-discrimination laws on the European level. In the Treaty of Amsterdam, article 12 and 13, “discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.” is prohibited. Although the European Convention on Human rights (ECHR), as interpreted by the European Court of Human Rights (ECtHR) does not directly prohibit discrimination based on sexual orientation, it does include sexual orientation among the prohibited grounds of discrimination. ECtHR in its interpretation of non-discrimination provision includes sexual orientation; further on certain gay rights fall within the scope of Article 8 ECHR (private life). (Mojškerc, 2008, p.5)

The European Court of Justice (ECJ) is not always clear-cut. It has changed its position time and again and is often not ready to move forward in a more pro-gay direction. It is dependant on case law and is not always decided on the same line. One of the examples is the directive 2004/38/EC on the free movement of citizens. It does not include the recognition of same sex unions in other countries than the ones where the same-sex unions are recognized. It will prevent same-sex couples to move around freely as it takes away some of their housing rights, it creates health care issues as a couple, it can lead to a lack of recognition of their children and so on. In this way the ECJ is preventing the free movement of homosexual couples (Kochenov, 2007).

While on a European level there is a general prohibition against discrimination based upon sexual orientation, there is still a lot of homophobia present, certainly in a number of post-communistic states. It was only a few years ago that the council of Europe created a publication called ‘Compass’ (2002). This is a manual on human rights

education with young people. While it was published in all languages and was meant to work around human rights, Poland refused to implement the chapter about sexual orientation in their Polish publication. In 2006 Miroslaw Sielatycki, Director of the National In-Service Teacher Training Center (CODN), was dismissed from his job after implementing the manual that stated that same-sex relationships are equal to the matrimonial relations between a man and a woman. A lot of force by the council was used against Poland to fully implement the manual and to stop the open homophobia. With the change of government, the open homophobia finally began to decrease. This is only a warning that sexual minorities are never secure vis-à-vis certain policies and not even the EU can fully protect the actions taken within a country.

Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation, prohibits discrimination on the grounds of religion or belief, disability, age, or sexual orientation as regards employment and occupation with a view to putting into effect in the Member States the principle of equal treatment. It is obligated for any member state to implement this directive in its legal system.

At this moment the EU is also working on a directive banning discrimination against people on the basis of age, disability, sexual orientation, belief or religion in the areas of education, social security, health care and goods and services. This would mean that all EU member states will have to include an anti-discrimination law in their legal system based on all grounds, not just employment. This directive still needs the approval of the 27 member states and will be decided on by the end of 2009.

Estonian legal system

For the Estonian legal system I went to talk with Reimo Mets and Lisette Kampus. Reimo Mets is a lawyer and a well-known Estonian gay activist. He is one of the very few openly gay public figures in Estonia, in defiance of the prevailing homophobic

prejudice in the country. In 2006 he established MTÜ SEKÜ, a non-governmental organisation undertaking legal advocacy for the rights of sexual minorities in Estonia. Lisette Kampus is a well-known Estonian lesbian activist. She has been working as an assistant under Marianne Mikko, and has been actively lobbying for LGBT rights.

Estonia has currently three laws that protect sexual orientation. The first one is the general protection in the constitution. Chapter two for Fundamental Rights, Freedoms and Duties, paragraph 12 states *“Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds. The incitement of national, racial, religious or political hatred, violence or discrimination shall, by law, be prohibited and punishable. The incitement of hatred, violence or discrimination between social strata shall, by law, also be prohibited and punishable.”* There is no specific mentioning of sexual orientation but other grounds could include sexual orientation.

The second mentioning is in the Estonian Criminal Code. In chapter 10: Offences against Political and Civil Rights we find in Division 1: Offences against Equality paragraph 151:

§ 151. Incitement of hatred

(1) Activities which publicly incite to hatred, violence or discrimination on the basis of nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, or financial or social status if this results in danger to the life, health or property of a person are punishable by a fine of up to 300 fine units or by detention.

(2) Same act, if

1) it causes the death of a person or results in damage to health or other serious consequences, or

2) it was committed by a person who has previously been punished by such act, or

3) it was committed by a criminal organisation, - is punishable by pecuniary punishment or up to 3 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

(4) An act provided for in subsection (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

§ 152. Violation of equality

(1) Unlawful restriction of the rights of a person or granting of unlawful preferences to a person on the basis of his or her nationality, race, colour, sex, language, origin, religion, sexual orientation, political opinion, financial or social status is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed:

1) at least twice, or

2) significant damage is thereby caused to the rights or interests of another person protected by law or to public interests, is punishable by a pecuniary punishment or up to one year of imprisonment.

§ 151 Incitement of hatred

Activities which publicly incite hatred or violence on the basis of nationality, race, colour, sex, language, origin, religion, political opinion, or financial or social status are punishable by a fine or by imprisonment of up to three years.

This says that it is forbidden to encourage hatred on the grounds of all areas and sexual orientation is mentioned here as one of the areas. In my interview with Lisette Kampus she stated that there were around 30 complaints of LGBT people around Estonia who have been confronted with hate speech and hate crimes. However the police neglect to take the complaints serious and have answered many times ‘the police investigation didn’t identify a realistic treat to the persons life’ Lisette also spoke about a personal complaint towards a threat against her life by internet, she additionally had the IP address and details of the person. The police contacted the person in question and informed him about Lisette’s complaint with her number and details included. It shows that the police in Estonia is often not willing to help the LGBT people in the first stage

of their harassment or verbal abuse, while it often prevents LGBT people to stand up for their rights.

The third mentioning of sexual orientation in the legal system is in the equal treatment law. The new equal treatment law protects all areas of life based on all forms of discrimination. This would mean that the Estonian legal system protects discrimination based on sexual orientation in all areas of life. But the law is marked with a little * behind sexual orientation that states * for this ground of discrimination it is only protected in employment. While all the other forms of discrimination are protected in all areas of life, sexual orientation is knowingly put aside and is not fully protected. Here the EU law has been taken over and people with a different sexual orientation are protected in the area of employment. This was a condition for Estonia to join the EU. We can't see this as a step that Estonia has taken in the right direction because it was a forced change from outside. But it does help for people not to be openly discriminated when searching for a job.

Estonia has a better legal system than Russia. The question arises if this is because the Estonian politicians want to make a change and protect the sexual minority group more, or because it is forced by the EU to include sexual orientation in protective areas like employment. When I asked this question from Reimo Mets he stated that since the independence nothing has changed, because the penal code can't ever be used in cases of hate crime and hate speech in Estonia, he showed many examples of where it has been neglected by law and is moved to civil law. He says that the employment directive comes from the EU and does not show any initiative from Estonia. The only new mentioning of sexual orientation is in the equal opportunities law and also here discrimination is visible because it is the only ground of discrimination that has been marked with a star to exclude it from other areas.

When I asked about the future prospective of the inclusion of LGBT people in the legal system I sensed a bit of hope and a lot of doubt. Partnership law has been discussed for years now, most politicians have never been openly negative towards the idea of equal partnership and parental rights but not a single politician dares to take action or take

initiative to make this law happen. The fear that LGBT people have to come-out is also visible within the political system, a fear of losing votes, a fear of being looked at as 'gay', a fear of not being accepted within their own party. Fear of standing up, creates discrimination in every day life of an LGBT person in Estonia.

Russian legal system

For comparative reasons I will focus on the legal system within Russia, more specifically the anti-discrimination law of Russia. Only in April 2009 the Russian LGBT Network published a report that talks about the discrimination based on sexual orientation and gender identity in Russia. (Petrov et al., 2007-2008) I will use this report to shortly explain and display the present LGBT legal protection in Russia.

The constitutional law of the Russian Federation (RF) states in several articles that Russia is a democratic law-bound state (art. 1), a social state (art. 7), where human rights and freedoms are the supreme value, and the recognition, observance and protection of such rights and freedoms shall be the obligation of the state (art.2). Important provisions are also stipulated by art.13 (recognition of ideological diversity, equality of public associations), 14 (official separation of religious associations and the state). (Petrov et al, 2007-2008)

In article 19 it is mentioned that there has to be equality of human and civil rights and freedoms, regardless of "sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances." There is no specific mentioning of sexual orientation and 'other circumstances' can be interpreted differently. Mostly it is based on other social factors that can cause discrimination. The problem with homosexuality is that it is not always seen as a social problem, more an immorality or something that 'endangers society'. Under this definition, discrimination against homosexuality is not protected in the Russian constitution.

That's why showing the social nature of homosexuality is stated as so important in the report of the Russian LGBT Network. In many areas of the constitution homosexuality would fall out of protection. One of the examples given in the report is the one of the human rights organisation "Commonwealth of Homosexual Youth "Gayzer"" that applied as a registered organisation but was refused by the constitutional court based on protection of common values and to protect the interests of the Russian citizens.

The report goes in deeper on every area of the legislation of Russia. The article includes many interesting facets of a so-far unprecedented legal analysis and I will shortly review the general conclusions of the report. The Russian legislation did not develop strictly negatively. There has been positive developments recognised by the Council of Europe and the European Court of Human rights. Positive development is seen in the decriminalisation of homosexuality in 1996 and the equality in age of consent between hetero- and homosexual relations. The three aspects that need more development are the anti-discrimination law that does not specifically mention sexual orientation, the specific measures for equal opportunities for people with a different sexual orientation for example marital unions and parental rights of homosexuals and finally the study around the social understanding of homosexuality, this by including stakeholders, working with human rights organisations, with the community, public debates and so on.

Human rights development

To understand discrimination better it is important to look at what is mentioned in society about it, legislation is not always a good representation of the acceptance in society. In my believe a society that deals with open homophobia, in politics, in public talks, in media, and so on, is already a step beyond a society that is still in an ignorant phase. The first step to full acceptance is showing there is a group of people who have a different sexual orientation, who are doing this without harming anyone, who are no

threat to society and to inform people about this. After the informative process, there is a chance to create an open dialogue about the topic and this also creates anti-reactions, people with a different believe, people who stand on the other side of the piquet. The second step is to debate about the theme and try to make the majority of people understand your minority issue. The third step is the step of tolerance. When the debate of homosexuality leads to understanding, laws will change in favour of the minority group, majority of society will not be against the different sexuality and human rights will be preserved leading to arrests for people who attack the homosexuals, leading to a legal system that allows freedom of speech and association.

Within the Russian system we see that their constitutional law is not perfect but also not as bad as in countries like Lebanon, Namibia, Iran, ... where they still criminalize homosexuality and it still leads to imprisonment and death penalty. (ILGA, world map) The Russian Constitution is in that way much more 'Western' based and has developed after the fall of communism. The question now arises, does a law system include a sexual minority or is it society that first needs to accept the minority before the constitution can follow?

In Belgium acceptance before the legalisation of marriage between same-sex couples was lower than after the legalisation. People started to be more confronted with it and the visibility led to more acceptance. Still local initiative is necessary and registered LGBT organisations are a first step towards inclusion in society.

This is why it was a big step in the Russian society when the first LGBT organisation 'Coming Out' of St. Petersburg was officially registered. It creates opportunities to start working on a local level and to create more inclusion. This specific organisation, 'Coming out', works around projects to create more inclusion in the society, one of the projects is called "St Petersburg life" where they create a social guide to events of cultural and social life, as well as science, sports, and more, that take place in St. Petersburg. A big step for Russian LGBT life as it can be of interest to the LGBT community and the society at large.

Those local initiatives can also arise in Moscow and in other cities in Russia. At least the first registered LGBT group is a sign within Russia that things are possible and that development is possible starting locally.

Interviews with Estonian LGBT youth analyzed

Methodology

The idea behind these interviews was to gain an understanding of the personal experiences of the people around me. In previous chapters I used a lot of literature and an analysis of Flanders and Estonia but it is important to include personal experiences from LGBT people around me in this thesis. In this way, I could use some quotations, gain some understanding and see how they perceive Estonian LGBT society.

I based my questions on the hypothesis I had from writing the previous chapters. I based a part of my questions on the visibility of homosexuality in society and the coming-out process and a part of the questions on discrimination and Estonian LGBT life.

My first hypothesis is that discrimination in Estonia is very high, because it has almost no protective laws and it doesn't allow equal partnership law and adoption rights.

My second hypothesis concerns visibility of homosexuals in society. In Belgium, I am often confronted with LGBT people around me; on the street, in the media, in TV series, in politics, in friendship circles, in family life. There is a lot of research done, LGBT organisations have a lot of public attention, and the government always includes the theme. In Estonia, I have not seen public appearances by members of the LGBT community; LGBT couples on the street, big organisations and so on. So my second question was about coming-out, whether it is common and why it still remains so invisible.

I interviewed ten people, between the ages of 18 and 32. My search was done through the LGBT youth organisation Eesti Gei Noored (EGN) and by some people I met in the university myself. In general, it was harder to find male interviewees than female ones. I interviewed three guys and seven girls. All of them have already told some friends about their sexual orientation, but four of them have not told their family yet. Six of them have been actively involved in the LGBT organisation. All of the interviews have been done in English, all of them were Estonian-speaking Estonians, three came from Tallinn, two have lived all their life in Tartu, and five come from other places in Estonia.

I am aware that these interviews do not represent the whole of LGBT life in Estonia. I have talked only with young people who speak English, people who in a way already are aware of their sexuality and are able to talk about it. As I am active myself in the LGBT organisation in Estonia, I did try to find people with a divergent experience in their coming-out process.

Results of interviews

Understanding of discrimination

When asking the question ‘Have you ever been discriminated against because of your sexual orientation?’, I received the following answer from 9 out of the 10 interviewees: no, not really, not often. When I started talking about this more, and asked the second question ‘Have you ever had to lie about your sexual orientation?’ I received answer ‘yes’ with every interviewee. When I asked why they lied, it was because of the fear of discrimination. When analyzing these two questions, I come to the conclusion that as an LGBT person in Estonia discrimination is not very visible. Since my interviewees are not open about their sexuality when the chance of discrimination is present, there is also a lot of self-protection.

One of my respondents is an LGBT volunteer in the organisation EGN and very open about his sexuality. Still, when I asked about him hiding his sexuality he answered that: yes, he did lie about being gay, 'when a group of drunken Russians passes by,' because mainly it is Russian people who are homophobes'. What is interesting here is not just that another nation is being pointed at, but also that when he believes to be more likely, he will deny his sexuality.

Another thing that came out of my interviews was that people search for friends that accept them even when they did not come out yet. My 18year old respondent answered that 'I have always had more 'alternative' friends'. With my gay respondents I got the answer that they have mostly girls who are straight as friends and not straight guys 'because girls are more tolerant and they like the same things'.

So in the end, when asking the interviewees about how other people reacted to their coming-out, their answers were positive. Most people who they told accepted their different sexual orientation, in the beginning they were a bit shocked, but after some time they were fine with it. I did get the answer that our LGBT respondents don't always talk in the same way with their straight friends as with their LGBT friends. The topic of homosexuality is often not so openly defined. Certain feelings of love that are the same as those which straight people feel could be discussed, but things that were too different, like sexual feelings, were hard for our LGBT people to talk about with their straight friends. I must include one of the lines of one of my respondents, because it also expresses a cultural difference. When I asked if they talked on the same level with their straight friends as with their LGBT friends, they first said not really, as mentioned before, but also ended with 'but we are Estonians, we only talk when asked, and the straight friends just don't ask'.

Coming-out & Visibility

My interviews talked intensely about the topic of coming-out. I asked about when they came out, to whom, how people reacted and so on. I have learned from the research that coming-out in Estonia is a big problem. Many people have a fear of doing it, or don't feel the need. I asked my respondents how they felt about it and the ones who didn't come out also explained their reasons behind it.

For the people who came out it was an important part of their lives. They told me that when people knew about it, their lives became easier in a way. They didn't have to lie anymore, make up excuses, or feel hidden in who they were. It wasn't discussed that much after they came out but the realization that the people closest to them knew, helped them.

For the people who hadn't come out yet there were a few arguments. One of the reasons was the fear of the reaction. Certainly towards their grandparents, who are older, there is a fear that they will not be able to handle it. Towards their parents, they feel the need to tell them eventually but have not seen the right time yet. The second reason is their own belief that their sexuality is a private part of themselves and isn't anyone's business. They don't feel it is something to discuss with the parents until they have made a serious commitment to someone, they also don't feel that this is something you would mention to work colleagues. When I asked the interviewees if they knew about the private life of their work colleagues they mostly answered yes, they had told them about it when they had had a bad day or something. The people I interviewed who were active in the LGBT organisation also said they would never lie if they were asked a direct question about their relationship.

It is also important to know that in Estonia the word for he/she is gender neutral.³ Many respondents say that this also contributes to hidden behaviour. They never have to

³ He/She in Estonian is Ta.

correct people in asking, certainly not when they are single. The language gives them a space to be more closeted.

In the end, people come out to others who are the same age, who they feel comfortable with and who are less likely to be discriminating. Even people who have been activists in the Estonian Gay Youth organisation are still careful concerning whom to tell. Certainly, elderly people and family is the hardest group to whom to explain the different sexuality. In the end, all the interviewees conclude their interview with hope, most respondents say they don't feel the right time yet. They see Western Europe and believe that it will take more time in Estonia for full acceptance; time and understanding will make people change their mind and all the respondents believe that it is a development that will come automatically. Their needs are mainly of meeting other people, having an LGBT place to go, having activities and parties and feeling a sense of belonging somewhere. 'Society will follow us' one of the respondents said, "if we believe we are equal and there is nothing wrong with us, and speak about our sexuality openly, everything will be ok."

Conclusions

Not much is known about homosexuality. In Belgium, the relation between suicide and homosexuality has been proven; there is also a relation between migration and homosexuality. All this is not yet put in numbers in Estonia, so I couldn't focus on it in this thesis. I hope this thesis can/will make people within Estonia interested in the topic and make them aware about the situation of LGBT people. This could also create interest and lead to more discussion about the – highly unknown – topic of homosexuality.

My thesis is not meant as an advocacy paper, but could probably sometimes feel like it. As the issue is not much debated yet, many people still feel that mentioning the topic of homosexuality is not necessary and in many law systems it is just 'forgotten'. The visibility is so low in countries that the moment you start talking about it, you are already seen as an advocate. It is very interesting how many attempts I made to talk with politicians about this and how many emails have gone unanswered.

When I look at the development history I come to the conclusion that there are three steps in a society. You have the first level, where homosexuality is not discussed, not mentioned, not being talked about. This happened during communism in the Soviet Union, this happens in present day Iran and even in Estonia it is still not much debated. The second level is when visible homophobia arises. In history, we have already seen that the creation of homophobic law leads to the mobilisation of the LGBT community. It is only by making homosexuality visible and showing that it exists that people will start forming opinions. Those opinions can be good and bad, but discussion has started within the country. The active formation of LGBT organisations because of homophobic speech gives a face to the LGBT community; homosexuals become a part of civil society. This face is often being blamed even more for showing it too much.

Arguments are not directed anymore to homosexuality but to people who stand up for it, who talk about it, who show it to explicit. In some countries, they are allowed to form legal organisations, in others there is no place for them, but every attempt to form an organisation is a form of development. Such a development in a country either leads to strong laws that prevent homosexuality from being discussed, as in Lithuania, or creates visibility in society and understanding of the topic.

The theme about sexual minorities is never an easy one to talk or write about. Present day still believes in the immorality and the unnatural act of homosexuals. In Europe and the EU legal system they are working around a better recognition and protection towards sexual minorities. There is article 13 of the Amsterdam treaty that for the first time mentions sexual orientation as a field that requires enhanced attention and protection. A lot still depends on the interpretation and this is also visible in the fact that certain EU laws include protection and others don't mention the subject at all (like recognition of marriage of same-sex couples within the EU countries).

When accepting 12 new member states, there were also a lot of post-communistic member states where for example Romania only decriminalised homosexuality in 2001. This also comes with a conservative wind and holds back certain developments around homosexuality.

Discrimination is not an easy thing to define and is not always very visible. When a person loses his job with the reason that he is not a good team worker, whom is he to prove that it was because last week the boss saw him kissing his boyfriend on the street? Nobody knows how deep discrimination actually goes and it is often so hidden that it is hard to fight against. A good law system and a social acceptance are the first step.

Russia is not yet working on much acceptance, the developments they made, were made when they wanted to show themselves as a new Western Russia after the fall of communism. Since then the topic has been ignored or forbidden. One positive step stone was the acceptance of the first registered LGBT organisation "Coming out". Although the LGBT pride was forbidden this year, it still shows that within the country there is a place now for LGBT people to come together.

In present day Estonia, the biggest problem is the process of coming-out. Neither the general society nor the LGBT community itself feels the need to talk about this process with others. The mentioning of a fear of reactions and also the lack of necessity when not being in a long-term relationship are the general reasons. The discrimination level in Estonia is perceived by the LGBT community as not so high; of the people the interviewees told about their sexual identity, most reacted positively and others didn't know. In my interviews, it was also mentioned that when you showed your sexuality so much, it was basically your own fault that you were discriminated against. This puts Estonia in the first step of development; the place where there is not much visibility, not much mentioning of the topic and mostly ignorance within society. The process is there, with law making where sexual orientation is mentioned, with media that includes LGBT topics, with a new organisation that is trying to raise awareness in Estonian society. It could lead in the process of development to the second level: visible homophobia. This is not a lack of development, but a normal process if we look at history. When Estonian society becomes more visibly homophobic, there is a possibility that the LGBT movement will stand up together and try to advance the topic further. This is a potential for the future development if the path of history is followed.

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