



VIOLATION OF LGBTI RIGHTS IN CRIMEA AND DONBASS:

**THE PROBLEM OF HOMOPHOBIA
IN TERRITORIES BEYOND UKRAINE'S CONTROL**

**Violation of LGBTI Rights in Crimea and Donbass:
The Problem of Homophobia in Territories Beyond Ukraine's Control.**
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On the cover is the picture of USSR matchbox label

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INTRODUCTION

Discrimination on the grounds of sexual orientation and gender identity (SOGI) continues to be an issue in today's world, despite the fact that in recent years this topic has started to reverberate for the first time: same-sex marriage has been legalized in more than 20 countries, and more and more states are enshrining it in their laws. Meanwhile, however, same-sex relationships are still punishable by death in some African and Asian countries, and a number of states stipulate life imprisonment for LGBTI people. Society's outsized reaction to the emancipation of LGBTI people frequently takes the form of outbreaks of homophobia. Perfect examples of this are the homophobic laws that have been adopted in the Russian Federation and that have unfortunately spread to territories controlled by the Russian government, including in neighboring countries.

In these circumstances, it is particularly important to understand what is happening in regions of Ukraine that are under de facto Russian control. This question has not been examined in any great depth by any human rights group. In fact, the situation for LGBTI people in Crimea has only ever been mentioned once—in a 2015 report by the Ukrainian NGO Nash Mir (Our World). The Anti-Discrimination Coalition, which includes Crimea in its work, has not dealt separately with the violation of LGBTI rights there, and, like many other human rights structures, the Crimean Human Rights Field Mission does not address the LGBTI situation in Crimea in its informational materials because it has trouble obtaining verifiable information and developing regular contacts in this sphere. Russian human rights organizations (for example, the Russian LGBT Network) do not investigate the situation for minorities in Crimea, since they do not include Crimea in their (purely Russian) activities. Thus, the LGBTI problem in Crimea has not been really investigated and does not receive the amount of attention it deserves.

As we look at the situation of LGBTI people in Crimea and Donbass, it is important to understand the changes that have occurred there over the past two years. The critical phase of the conflict between Russia and Ukraine began in the first half of 2014. Numerous experts classify this as a hybrid war,¹ where military actions combined with informational propaganda led to the secession of Crimea and parts of Donetsk and Luhansk oblasts from Ukraine. These actions have had more than just political consequences—civilians have suffered more than anyone else, and the situation has particularly deteriorated for vulnerable groups that experienced difficulties prior to the conflict. People who have faced discrimination on the grounds of SOGI face an especially dangerous situation.

In early 2014, Russia inserted troops into Crimean territory and later declared it Russian territory under a special law (No. 6² of 18 March 2014 “On the Accession of the Republic of Crimea to the Russian Federation and on the Formation of New Constituent Entities of the Russian Federation—The Republic of Crimea and the Federal City of Sevastopol”). This was a critical moment for residents of Crimea, which was declared a “constituent entity” of the Russian Federation along with the city of Sevastopol. The international community did not recognize this annexation, and on 27 March 2014, the UN General Assembly adopted a resolution³ supporting Ukraine's territorial integrity. The majority of UN member states (100 out of 193) voted to adopt this resolution, and 11 countries (Armenia, Belarus, Bolivia, Venezuela, Zimbabwe, North Korea, Cuba, Nicaragua, Russia, Syria, Sudan) voted against it, thus recognizing Russia's annexation of Crimea.

¹ <http://www.svoboda.org/content/transcript/26731166.html>

² http://www.consultant.ru/document/cons_doc_LAW_160618/

³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/19/PDF/N1345519.pdf?OpenElement>

Beginning 18 March 2014, Russian laws began to be applied de facto in Crimea. These laws included the homophobic norms of administrative law that had been condemned by the international community.

In 2013–2014, Ukraine experienced historic events (Euromaidan, which called for greater integration with Europe, mass protests against corruption, etc.) that led to a change in power, the flight of the former president Yanukovich, and the arrival of new leaders. Southeastern Ukraine was ambivalent about the new reality: many people spoke out against the events in Kiev, criticized the Ukrainian government, and lent their support to the rhetoric of separatism. In February 2014, the Verhovna Rada attempted to repeal the law “On the Principles of State Language Policy” of 3 July 2012 no. 5029-VI,⁴ which granted Russian the status of “regional language,” a move that was viewed in an extremely negative light by residents of southeastern Ukraine. Even though this hasty decision was revoked just two days later, it provoked a growth in anti-government and separatist attitudes in the Russian-speaking regions, where residents were apprehensive about the possible loss of their language rights.

In a situation provoked by Russia’s propaganda campaign and direct support, parts of eastern Ukraine ended up under the control of self-proclaimed republics (DNR and LNR): military actions were launched in Donetsk and Luhansk oblasts, and on April 6 protesters seized the administration building in Donetsk and adopted a “declaration on the sovereignty of the DNR.” In Luhansk, the building of the Ukrainian security service was seized on April 6, and the “LNR Republic” was proclaimed on April 28. This all took place in a situation of de facto war, where government troops faced both local separatist fighters and numerous “volunteers” from Russia, who were under the direction of active Russian soldiers.

The self-proclaimed republics, however, were not recognized by Russia: besides themselves, the only entity to recognize them was South Ossetia, which is also not recognized by most countries.

The so-called DNR and LNR adopted their own constitutions and laws. Many of the norms in effect in these territories copy RF laws in whole or in part. At the same time, there are many relationships that are not regulated by law, and in fact Russian norms and Ukrainian procedural law are frequently in effect in the same branch of law at the same time. Even though these “laws” are not considered legitimate, people in areas of these oblasts that are not under Ukrainian control are forced to obey the new rules. Thus, it is extremely important to analyze both the norms of Russian law and the “laws” of the self-proclaimed republics in the context of examining the problems LGBTI people face in Crimea and Donbass.

It must of course be acknowledged that homophobia exists in Ukraine as well, in spite of the persistent efforts of the human rights community and the appearance of anti-discriminatory norms. According to research conducted by the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), from 2014–2016 the index reflecting compliance with LGBTI rights in Ukraine remained extremely low (in the range of 10–13 percent⁵). There are regular manifestations of violence against LGBTI people both at public events⁶ and against individuals identified by their outward appearance. Homophobia, which had previously existed in Ukrainian society, intensified in eastern Ukraine with the start of conflict there, and the military actions supported by Russia did little to improve the situation. To begin with, the appearance of armed people developed into a free-for-all that threatened the life and well-being of people from vulnerable groups. As a result of anti-European rhetoric, widespread homophobia, and the transfer of power to armed people, shootings and torture on the grounds of SOGI became a reality throughout the territories of the self-proclaimed republics of Donetsk and Luhansk. Violence against LGBTI people became the norm and was encouraged by representatives of government structures.

Another order of circumstances that arose in these territories as a result of their “secession” from Ukraine included a worsening economic situation and the inability to purchase food and other necessary products. For transgender people, a particular problem was the lack of medication required for hormone therapy. Also, transgender residents were denied humanitarian aid because their documents did not match their appearances. Finally, entry into and departure from these territories became not only more dangerous, but also more expensive and several times slower.

⁴ <http://zakon5.rada.gov.ua/laws/show/5029-VI>

⁵ <http://www.ilga-europe.org/rainboweurope>, http://www.ilga-europe.org/sites/default/files/Attachments/side_a_rainbow_europe_map_2015_a3_no_crops.pdf, <https://rainbow-europe.org/country-ranking>

⁶ <https://amnesty.org.ru/2015-06-06-ukraina/>

In Crimea, many small businesses and pieces of real estate were not restructured in accordance with the requirements of Russian law. As a result of this, and also of the blocking of Visa and MasterCard payment systems, many people lost their jobs. Residents of Crimea state that buildings that could have been rented previously are frequently abandoned, making it difficult to find locations for LGBTI events or offices for NGOs working in thematic areas, especially against a background of the sharp rise in homophobia.

All of the circumstances listed above have led to a significant deterioration in the situation for LGBTI people in Crimea and Donbass. This situation is worse in comparison not just with Ukraine, but even with Russia due to lawlessness, political changes, economic problems, and the presence of armed formations.

However, even in these difficult circumstances, people have been able to find the strength in themselves to remain in their homeland and even gain the acceptance of people close to them. For example, a medical worker from Luhansk recounted how colleagues who knew about his orientation started to respect him for staying after the start of the war and continuing to provide people with medical assistance.⁷ In another case, a gay man living in the so-called LNR reported that people he knows who work for the republic's administration are aware of his orientation but respect him and do not persecute him.⁸ Finally, a woman from Crimea, whose orientation became known to her relatives shortly before the annexation, spoke about how her relatives first threatened to kill her for being a lesbian, but then came to recognize that in doing this they were ceding to the influence of propaganda calling on people to reject European values, including LGBTI rights. Two years later, this woman's sister asked for her forgiveness and accepted her.⁹ Many people interviewed spoke about how the opinions of their family members changed over time, with some family members even acknowledging that they had fallen under the influence of propaganda, including homophobic propaganda. Some LGBTI people have participated in the war, even though they fully recognize the risk of "exposure" among armed people. There have been instances of this in the so-called LNR and DNR, and also in Ukraine. One gay man admitted that he was fighting on the side of Ukraine because he and his partner decided that the first one to be called up would go to fight. None of his fellow soldiers know about his orientation, so he knows his comrades will help because of their team spirit. If they did know about his orientation, however, their relationship would change. Even though this man cannot come out right now, he is ready to participate in gay parades side-by-side with veterans groups when the war is over.¹⁰ These and many other cases describe the complexity of the situation surrounding the conflict between Russia and Ukraine.

It is particularly alarming that Russia's interference in the internal affairs of another country has caused the formation of so-called grey zones and has greatly increased the risk that the conflict in Donbass will continue to simmer. A situation where these territories remain beyond the control of Ukraine is disturbing both in terms of continued violations of human rights and in terms of the worsening situation for LGBTI people. In this respect, a particular cause for concern is the harsh reaction Russian authorities had to Ukraine's statement of its intention to "retake Crimea and Donbass": without concealing their support for separatism in eastern Ukraine, senior RF officials did not allow even for the thought that "Russia's territorial integrity" could be violated and that Crimea might not be recognized as one of its regions. "Separatist leanings" displayed by Crimean residents who do not recognize the annexation is punishable by criminal prosecution and years in prison.

Below we will attempt to examine the realities of life for LGBTI people in this new legislative environment. The situation of people remaining in these areas is complicated by armed conflicts, persecution of dissenting views and the overall authoritarian environment, the power of armed people, homophobic violence, and an atmosphere of fear and terror. All of this will lead to a rise in denunciations against LGBTI people in Crimea and the parts of Donbass that are not under Ukrainian control.

⁷ Interview with S., Luhansk Oblast

⁸ Interview with A., Luhansk Oblast

⁹ Interview with M., Crimea

¹⁰ http://upogau.org/ru/ourview/ourview_3308.html

Chapter 1

THE SPREAD OF HOMOPHOBIC LAWS IN ANNEXED CRIMEA AND EASTERN UKRAINE

Russia and Ukraine have historically had similar legal norms relating to same-sex relationships. Recently, however, these norms have taken different directions: laws in Ukraine are generally becoming less discriminatory, while laws in Russia and their application are becoming more homophobic in nature.

Accordingly, the situation for LGBTI people has deteriorated in both annexed Crimea, where Russian laws and enforcement practices are now in effect, and in the so-called DNR and LNR, whose laws usually mirror Russian laws and are sometimes even more discriminatory.

Even though the Minsk Protocol labels the DNR and the LNR as “certain areas of the Donetsk and Luhansk regions of Ukraine,”¹¹ approved laws in these territories differ from Ukrainian laws. The authorities of the so-called DNR and LNR nominally follow laws adopted by the “republics” themselves that frequently copy Russian laws, with a mix of Ukrainian norms that were previously in effect in the Donetsk and Luhansk regions of Ukraine (there are also laws that do not have any direct analogues in Ukraine or Russia, for example DNR Law No. 23-INS “On Special Legal Regimes” of 24 April 2015). However, in practice DNR courts continue to use Ukrainian norms of procedural law. The possibility to conduct cases in this way was enshrined in Resolution of the DNR Council of Ministers No. 9-1. The first version of this resolution was adopted in June 2014. Given the absence of a legal framework in the DNR and the need to regulate legal relationships, this resolution established that courts could, at their own discretion and in the absence of DNR laws, “apply the laws of Ukraine or the laws of other states insofar as they do not contradict the Declaration of Sovereignty of the Donetsk Peoples Republic or the DNR Constitution.”¹² However, this clause was amended in early January 2015. The current version of this resolution establishes the absolute precedence of Ukrainian laws in effect “in the territory of the DNR before the DNR Constitution entered into force”¹³ to the extent that they do not contravene the Constitution.

In general, justice in these so-called republics is administered haphazardly. The over 160 prisoners held in illegal prisons in these territories are testimony to this¹⁴ (there are no police officers or prosecutors, “people’s courts” are held sporadically and spontaneously, “field commanders” or members of the administrative staff of the DNR and LNR make decisions on an arbitrary basis). The population is poorly informed of current laws and rules. According to one member of the LGBTI community in Luhansk, “*when laws are adopted in a normal country, the press writes about them, there’s a constitution, some kind of register. We had all of that, but now it’s all based on rumors*” (L).¹⁵

¹¹ <https://www.facebook.com/events/26367163706645/permalink/266891303654231/>

¹² <http://gkgtn.ru/info/ukazy-postanovleniya/> Resolution No. 9-1 of 2 June 2014 “On the Application of Laws in the Territory of the DNR during the Transition Period,” <http://www.gb-dnr.com/normativno-pravovye-akty/204/243/>

¹³ <http://www.gb-dnr.com/normativno-pravovye-akty/204/>

¹⁴ <http://jfp.org.ua/rights/analitika/reports/coalition>

¹⁵ From this point onward, quotes are from interviews conducted by ADC Memorial with members of the LGBTI community recorded in December 2015–March 2016. The relevant region is given in parentheses (D – Donetsk Oblast, L – Luhansk Oblast, C – Crimea). With certain exceptions, the informant’s information is not given due to safety concerns. Complete recordings of the interviews are kept in ADC Memorial’s archives.

A COMPARATIVE ANALYSIS OF THE LAWS OF RUSSIA, UKRAINE, THE DNR, AND THE LNR WITH RESPECT TO DISCRIMINATION ON THE GROUNDS OF SOGI AND THE PROBLEMS OF PROTECTING LGBTI RIGHTS

General constitutional norms of equality

In general, most legal acts in Ukraine and Russia establish a ban on limiting the rights of an individual based on a certain ground. The fundamental law of the state, the Constitution, proclaims that everyone is equal before the law and the court in both Ukraine (articles 21 and 27 of the Constitution) and Russia (Article 19 of the Constitution). Even the constitutions of the so-called DNR and LNR contain similar norms (Article 13 of the constitutions of both republics), which were copied from the RF Constitution. It is true, however, that none of these normative acts list SOGI as grounds for inequality or use the term “discrimination.”

Neither Russian nor Ukrainian laws have norms that are explicitly homophobic or that would prosecute same-sex relationships as such. In Soviet times, criminal liability for “sodomy” was on the books in all Soviet republics, and in the almost 60 years of its existence (Article 154, and later Article 121 of the RSFSR Criminal Code) almost 60,000 people in the RSFSR alone were sentenced for same-sex relationships.¹⁶ This article was frequently used as a tool of repression against dissidents.¹⁷ Even though after 1991 the criminal codes of the RSFSR (Article 121) and the USSR (Ukrainian Soviet Socialist Republic) only stipulated punishment for “sodomy” and “lesbianism” combined with violence or threats of violence, these terms continued to be perceived in a negative light. The formulations “sodomy” and “lesbianism,” which have historically had a negative connotation in the criminal laws of both countries, are still used in Russia (Article 132 of the RF Criminal Code) and are reminiscent of the notorious Article 154 (Article 122) of the RSFSR Criminal Code. In Ukraine’s Criminal Code, however, these words were replaced with the formulation “violent unnatural gratification of sexual desire” (Article 153 of the Ukrainian Criminal Code), which is of course still not quite right.

A return to the Soviet practice of prosecution for same-sex relationships can be observed in the DNR and the LNR. Even though for the most part their laws copy Russian and Ukrainian laws, where there is no ban on same-sex relationships, and even though Article 14 of their constitutions establishes each person’s inalienable right to life and bans torture, violence, and harsh treatment, a proposal was made in the LNR in September 2014 to introduce the death penalty for homosexual sex. This initiative was not approved, but it cannot be excluded that this failed “legal norm” has not been applied in practice.¹⁸

Witnesses to the events of 2014 who were interviewed by ADC Memorial stated that people in the DNR and LNR were prosecuted for same-sex relationships:

“Flyers were put up all over Gorlovka: ‘Homosexuality is an abomination and must be prosecuted under DNR laws’” (D).

“Homophobic norms and punishment for sexual orientation were introduced into the draft of the Constitution [DNR]” (D).

“There was an article for LGBTI people, people were shot during the first wave [the period of the spring and summer of 2014, when armed people seized power and there were frequent acts of arbitrary violence]” (L).

¹⁶ Valery Chalidze (The Advocate, December 3, 1991) and Sergey Shcherbakov (Collected Materials of the Sexual Cultures in Europe Conference, Sexual Cultures in Europe, Amsterdam, 1992)

¹⁷ Khili, D. Gomoseksual’noe vlechenie v revoliutsionnoi Rossii. Moscow, 2008, p. 297.

¹⁸ Based on interviews conducted by ADC Memorial with LGBTI people living in the DNR and LNR, December 2015–March 2016.

“A ban on non-traditional sexual orientation was enshrined in the DNR ‘Constitution’.”¹⁹

The ban on same-sex relationships was later removed from the DNR “constitution,” and this article is not present in the current version²⁰ of this document.

Currently, Article 48 of the DNR and LNR “constitutions” (versions of 14 May 2014 and 24 September 2014²¹, respectively) establishes that: “human and civil rights and liberties may be restricted [...] only to the extent required for the protection of the foundation of the constitutional system, morality [...]” This norm mirrors the text of Article 55 of the RF Constitution.²²

Ukraine’s new anti-discriminatory law and the lack of an analogous law in Russia

With the exception of the Constitution and several normative acts establishing the basic principles of equality for all citizens, Russia lacks any special anti-discriminatory law.

In Ukraine, however, Law No. 5207-VI “On Principles of Prevention and Combating Discrimination in Ukraine,”²³ has been in effect since October 2012. In May 2014, normative act No. 1263-VII²⁴ introduced additions to this law and defined the terms of direct and indirect discrimination. According to Article 1 of the law, discrimination is defined as “decisions, actions, or inactions aimed at restrictions or preference in relation to an individual and/or group of individuals... if these restrictions or preferences make it impossible for human and civil rights and liberties to be realized and exercised on equal grounds.” The law established the principle of non-discrimination in the laws of Ukraine regardless of “certain grounds” (Article 2). Even though the adoption of this non-discriminatory law must be viewed as a positive step, it is unfortunate that the list does not include discrimination on the grounds of SOGI.

Clause 105.1 of Ukraine’s “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020”²⁵ envisages adding a ban on discrimination on the grounds of SOGI to the list of grounds, introducing the concept of victimization, and regulating a ban on multiple discrimination and discrimination by association. According to this document, these changes were to have been developed in the first quarter of 2016, but no information about this has been made available to the public yet. Therefore, methods of protection against discrimination envisaged in the law like the abilities to appeal decisions and discriminatory actions or inactions and to receive compensation for material and emotional damages caused as a result of discrimination (articles 14 and 15 of the law) unfortunately do not apply to LGBTI people in Ukraine.

RF administrative laws: laws on “propaganda” and “harmful information”

In Russia, homophobic norms entered federal law with the adoption in 2013 of Federal Law No. 135-FZ (similar regional laws emerged prior to this), while amendments were made to a number of normative acts at the same time. Law No. 436-FZ “On Protecting Children from Information Harmful to their Health and Development” was supplemented with wording about

¹⁹ Svyatoslav Sheremet, director of «Gay Forum Ukraine» <http://www.depo.ua/rus/life/gei-rasskazali-za-chto-ih-nenavidyat-terroristy-dnr-24062014152700>

²⁰ <http://dnrsovet.su/zakonodatelnaya-deyatelnost/konstitutsiya/>

²¹ <http://lug-info.com/documents/one/12>

²² <http://www.constitution.ru/10003000/10003000-4.htm>

²³ <http://zakon3.rada.gov.ua/laws/show/5207-17>

²⁴ http://search.ligazakon.ua/l_doc2.nsf/link1/T141263.html

²⁵ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

harmful information “promoting non-traditional sexual relations.” At the same time, Article 6.21 “Propaganda of non-traditional sexual relations among minors” was added to the RF Code of Administrative Offences.

These homophobic norms of Russian law spread to Crimea at the time of its annexation and, somewhat later, to the DNR and LNR. The DNR law “On Protecting Children from Information Harmful to their Health and Development” No. 79-INS of 2 October 2015 mirrors Russia’s law No. 436-FZ of the same name.²⁶ Under Article 5 of both laws, information “rejecting family values” and “promoting non-traditional sexual relations”²⁷ cannot be distributed to minors. The current version of a similar LNR law does not mention these kinds of bans,²⁸ but draft law No. 146-PZ/15 of 6 November 2015 “On Amendments to the Law of the Luhansk People’s Republic ‘On Protecting Children from Information Harmful to their Health and Development,’²⁹ proposes additions related to “propaganda of non-traditional sexual relationships.”³⁰

The term “promotion of non-traditional sexual relationships among minors,” which is enshrined in the RF Code of Administrative Offences (CAO), is intended to describe actions “expressed in distribution of information that is aimed at the formation among minors of non-traditional sexual attitudes, attractiveness of non-traditional sexual relations, misperceptions of the social equivalence of traditional and non-traditional sexual relations, or enforcing information about non-traditional sexual relations that evokes interest to such relations.” An individual prosecuted for committing a violation under Article 6.21(1) of the RF CAO faces punishment in the form of a fine in an amount ranging from 4,000–5,000 rubles, while legal entities face a stiffer fine in the amount of 800,000 to one million rubles or suspension of activities for a period of 90 days.³¹ Committing any of these actions with the use of the media is treated in part 2 of this article, while parts 3 and 4 address the commission of these actions by a foreign citizen.

Even though the self-proclaimed republics lack important norms necessary for regulating various spheres of relationships, these absurd bans on gay propaganda and so forth were adopted in the DNR and LNR. In March 2016,³² the LNR adopted its Code of Administrative Offences. This document copies the RF CAO, including Article 6.18, which sets liability for violating the law to protect children from “harmful” information, and Article 6.22, which matches Article 6.21 of the RF CAO and sets liability for distributing propaganda of non-traditional sexual relations among minors. Additionally, in the LNR “foreign citizens” must pay a large fine for committing these actions: at 50,000 rubles, the upper limit for this fine is 10 times higher than the Russian limit. Even though the DNR uses Ukraine’s Code of Administrative Offences (in accordance with Resolution of the DNR Council of Ministers No. 2-22 of 27 February 2015),³³ which does not contain any provisions on “the propaganda of relations,” it has still established punishments for these actions. Clause 5–8 of Article 24 of the DNR Law “On Protecting Children from Information”³⁴ (which matches Article 6.21 of the RF CAO word for word) establishes liability for “propaganda of non-traditional sexual relations among minors.”

The formulations used in Russian homophobic laws is extremely vague. Under this norm, prosecution is stipulated for “distributing information” for the purpose of “the formation among

²⁶ http://www.consultant.ru/document/cons_doc_LAW_108808/9083b03e61777d3fe172fb3ef707a10e10688262/

²⁷ Law “On Protecting Children from Information Harmful to their Health and Development” No. 79-INS of 2 October 2015 <http://dnrsovet.su/zakon-dnr-o-zashhite-detej-ot-informatsii-prichinyayushhej-vred-ih-zdorovyu-i-razvitiyu/>

²⁸ <https://nslnr.su/zakonodatelstvo/normativno-pravovaya-baza/1093/>

²⁹ https://nslnr.su/upload/iblock/a16/146-ПЗ-15_06.11.15_О_внесении_изменений_О_защите_детей_от_информации_причинающей_вред_их_здor.pdf

³⁰ https://nslnr.su/zakonodatel'naya-deyatelnost/zakonoproekty/2094/?sphrase_id=69735

³¹ <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=LAW;n=197587>

³² https://nslnr.su/zakonodatel'naya-deyatelnost/zakonoproekty/2733/?sphrase_id=83571

³³ <http://supcourt-dnr.su/postanovlenie-soveta-ministrov-doneckoy-narodnoy-respubliki-o-vremennom-poryadke->

³⁴ <http://dnrsovet.su/zakon-dnr-o-zashhite-detej-ot-informatsii-prichinyayushhej-vred-ih-zdorovyu-i-razvitiyu/>

minors of non-traditional sexual attitudes.” But Russian law does not contain such a concept as “non-traditional sexual attitude,”³⁵ so the objective element of this action is ambiguous, which means that courts interpret this norm arbitrarily.

Higher courts have repeatedly commented on these questionable norms: in its decision No. 151-O-O of 19 January 2010, the RF Constitutional Court denies that these norms are discriminatory: “Such limitations do not in any way fortify measures to ban homosexuality or formally condemn it and do not contain any grounds for discrimination.” Ruling of the Judicial Division for Administrative Cases of the RF Supreme Court No. 1-APG 12–11 of 15 August 2012 established that not all public actions can be viewed as propaganda and indirectly recognized the right to discuss LGBTI issues in the open: “The ban on gay propaganda does not prevent exercise of the right to receive and distribute information of a general and neutral nature on homosexuality, or hold public events following the procedures stipulated by law, including open public debate on the social status of sexual minorities, without enforcing a homosexual attitude towards life among minors as individuals who are not capable of assessing this information independently due to their age.”³⁶ In its judgment in the case “Aleksyev v. Russia” of 21 October 2010,³⁷ the European Court for Human Rights noted that there is no scientific evidence of the negative consequences of mentioning of homosexuality, or of having open public debates about sexual minorities’ social status.

However, in practice this law is used as a tool of repression against organizations and individuals who robustly express their rejection of homophobia. The consequences of the adoption of homophobic laws created a threat to virtually any public LGBTI actions. Thus, any actions taken in this field can be deemed propaganda due to the vague and ambiguous nature of the law. Even people who are not LGBTI can be charged with violating the “gay propaganda” law:

In January 2014 in Khabarovsk, A.A. Suturin was convicted under Article 6.21(2) of the RF CAO of publishing the article “History with Gayography” in a newspaper. This article described how the geography teacher A. Ermoshkin was fired from his job due to his sexual orientation and in disregard of the norms of labor law and the RF Constitution. A professor at the Department of Special Psychology and a doctor of pedagogical sciences “explained that, as a member of the public expert council under the children’s rights Ombudsman for Khabarovsk Krai, she participated in the study... publication..., which, in her opinion helps draw the attention of adolescents to this problem, and, since they do not have a mature sexual identity because of their age, it is possible that this might raise doubts about their own sexual identities. She believes that this publication committed a violation of freedom to choose sexual identity.”³⁸ The court was critical of Suturin’s arguments that “the publication did not contain any promotion among minors of non-traditional sexual relations and that the goal of the article was to call society’s attention to discrimination and violation of the law”³⁹ and sentenced him to a fine in the amount of 50,000 rubles.

The so-called “promotion among minors of homosexuality” has also become a reason to carry out repressions against civil society: almost all the leading NGOs in Russia working on LGBTI rights have been entered in the foreign agent register. Others have been forced to work in a more closed format to protect themselves from administrative prosecution resulting in large fines or suspension of activities. Since the activities of LGBTI activists in public space—debates, viewing and discussion of films, criticism of homophobic laws—may be interpreted as “propaganda,” the possibilities for activists advocating for LGBTI rights have dwindled.

The situation stands differently in Ukraine, where NGOs are not persecuted and have a voice they can use to criticize legislation. The “Action Plan to Implement a National Human Rights Strategy for

³⁵ <http://www.garant.ru/ia/opinion/havanskij/479268/#ixzz47srKAWb7>

³⁶ http://www.gay.ru/misc/docs/0/92_913558.pdf

³⁷ http://www.gayrussia.eu/campaigns/echr_alekseyev_russia.php

³⁸ <https://rospravosudie.com/court-sudebnyj-uchastok-25-centralnogo-rajona-g-xabarovska-s/act-213787391/>

³⁹ <https://rospravosudie.com/court-sudebnyj-uchastok-25-centralnogo-rajona-g-xabarovska-s/act-213787391/>

the Period up until 2020,⁴⁰ which has a number of clauses aimed at expanding anti-discrimination laws, was the result of work done by civil society. Also, an anti-discrimination coalition has been active in Ukraine over the past several years. Its goal is to protect the rights and interests of vulnerable categories of people and to further and develop anti-discrimination laws.

Criminal laws: the problem of protecting victims of homophobic violence

In both Russia and Ukraine, hate is practically never considered as a motive during the classification of violent crimes committed against LGBTI people, and in these situations these people are especially vulnerable.⁴¹ Even though Russian law lacks a *corpus delicti* for inciting hatred against LGBTI people, Article 282 of the Criminal Code does provide for classification on the basis of social group. A similar classification is contained in Article 328 of the DNR Criminal Code and Article 343 of the LNR Criminal Code. Article 161 of Ukraine's Criminal Code, which establishes liability for inciting enmity and hatred, contains no direct mention of discrimination on the grounds of SOGI and does not stipulate classification on the basis of social group. Since 2012, police officers and investigators have been required to enter information on statements about crimes, including a brief description and the relevant articles, in the Ukrainian register of pretrial investigations. However, they usually leave out information on hate motives on purpose—they try to avoid reflecting this in their paperwork and investigating hate crimes. Instead, as is the case with Russian practice, the case is classified as hooliganism, which results in a lighter punishment and a total lack of information on hate crimes based on homophobia.

Even though it is virtually impossible when classifying crimes to prove that LGBTI people belong to a social group that incites hatred on the part of aggressors, the defendants themselves sometimes make a statement to this effect. In the case of the murder of the journalist D. Tsilikin, which occurred in Russia in April 2016, the suspect admitted he killed Tsilikin because of his hatred for gay people. There are also more pragmatic calculations: the killers of a gay person in Kiev in 2015 stated they specifically picked an LGBTI person to assault because society does not accept gay people, which means that gay people will not appeal to the police for help.⁴² One of the measures included in the Ukraine's "Action Plan to Implement a National Human Rights Strategy for the Period up until 2020"⁴³ envisages establishing liability for hate crimes committed on the basis of a number of characteristics, including sexual orientation and transsexuality. The plan proposes adding this text to a number of Criminal Code articles.⁴⁴ There are no proposals to make similar changes to Russian laws in the near future.

Decisions issued by both Russian and Ukrainian courts generally do not take the motive of hatred for sexual minorities into account, which results in an increasingly vulnerable situation for LGBTI people and a sense of impunity for people who commit homophobic violence.

Laws regulating family relationships

Current Russian and Ukrainian laws do not permit same-sex marriages. Under Article 21 of Ukraine's Family Code, marriage is a "family union between a woman and a man, registered with a bureau of vital records." The parties to a marriage are considered to be a woman and a man, a

⁴⁰ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁴¹ Interview with O. Guz, expert at the NGO Insight

⁴² Ibid.

⁴³ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁴⁴ Article 67(3), Article 115(2), articles 121, 122, 126, 127, 129, and 293

husband and wife (Article 7(3) of the Ukrainian Family Code). Article 12 of the RF Family Code specifies that “to enter into a marriage the voluntary consent of the man and the woman entering into it is necessary.”

In practice, it is not possible to enter into a same-sex marriage in Ukraine or in Russia, even though it has been attempted.⁴⁵ In cases where a marriage was officially registered, the people getting married had different genders listed on their documents. For example, in 2014 a biological woman was able to marry a transgender woman because, according to her documents, the latter was still a man⁴⁶ (there is a risk that this marriage certificate will be declared invalid after the male documents are exchanged for female ones). A similar marriage between a transsexual woman and a biological woman was registered in Ukraine in 2015.⁴⁷

Norms of Ukraine’s Family Code are in effect in the territories of the so-called DNR⁴⁸ and LNR.⁴⁹ The question of developing its own Family Code was raised in the DNR in the fall of 2015, but a draft was never created. A draft of the LNR Family Code, which was adopted in July 2015, mirrors the RF Family Code in many ways, namely Article 12, which is identical to the corresponding article of the RF Family Code that defines a man and a woman as the participants in marital relations. In October 2015, deputies of the People’s Council introduced amendments to the draft law stipulating an explicit ban on same-sex marriage and the adoption of children by foreign citizens in same-sex marriages.⁵⁰ These amendments cannot be found on the official website of the LNR People’s Council, even though articles about them in the media are accompanied by statements of LNR government representatives to the effect that “Same-sex marriage will be explicitly banned. It is amoral and incorrect.”⁵¹

In July 2015, the Provisional Regulations on Rules for Registering Vital Events entered into effect in the so-called DNR.⁵² These regulations envisage the procedure for entry into marriage by a man and a woman (articles 3.31, 3.32) and stipulate that an application for state registration of a marriage can only be submitted on behalf of a man and a woman (Regulation No. 7 of the Provisional Regulations). A similar document adopted in the LNR — LNR Resolution No. 02-04/403/15 of 22 December 2015 “On Handling the State Registration of Vital Events in the Luhansk People’s Republic”⁵³ — approved provisional rules for registering vital events, which regulate the procedure for entry into marriage after “a woman and a man” submit an application (Article 1, Chapter 4). This is exactly the same as the procedure envisaged in the DNR’s Provisional Regulations on Rules for Registering Vital Events. This norm is copied from Article 14(1) of Law of Ukraine No. 2398-VI of 1 July 2010 “On the State Registration of Vital Events.”⁵⁴ These provisional regulations of the DNR and LNR differ from one another, although they do have some similar clauses borrowed from the abovementioned Ukrainian law. The norms of RF Law No. 143-FZ of 15 November 1997 “On Vital Events” look somewhat different.⁵⁵ Only Article 28(2) of this law, which relates to the recording of last names, indicates that a husband and wife must be the participants in a marriage.

⁴⁵ There have been at least three attempts in Russia—in 2005, 2009, and 2013.

⁴⁶ <http://www.rosbalt.ru/piter/2014/11/07/1335428.html>

⁴⁷ http://news.siteua.org/Украина/575668/ФОТО__В_Киеве_зарегистрирован_первый_нетрадиционный_брак

⁴⁸ Information from the law company Advokat Donetsk, advokat-donetsk.com.

⁴⁹ Interview with E.V. Tuzhilkina, head of the Department of Vital Records, LNR, <https://xxivek.net/article/40784>

⁵⁰ [Lug-info.com/news/one/proekt-semrinogo-kodeksa-lnr-predusmatrivaet-zapret-odnopolykh-brakov-karyakin-7544](http://lug-info.com/news/one/proekt-semrinogo-kodeksa-lnr-predusmatrivaet-zapret-odnopolykh-brakov-karyakin-7544)

⁵¹ <https://lnr.today/index.php/news/lnr/6882-novyj-semejnyj-kodeks-lnr-predusmatrivaet-zapret-odnopolykh-brakov>

⁵² http://makeyevka.ru/images/docs/DokumentyDNR/DokumentySovetaMinistrovDNR/Postanovlenia/PostanovN13_17_22.07.2015.pdf

⁵³ <http://sovminlnr.su/akty-soveta-ministrov/postanovleniya/941-ob-obespechenii-provedeniya-gosudarstvennoj-registracii-aktov-grazhdanskogo-sostoyaniya-v-luganskoy-narodnoy-respublike.html>

⁵⁴ <http://pravocenter.com/zakonodatelstvo/1016-o-gosudarstvennoj-registracii-aktov-grazhdanskogo.html>

⁵⁵ <http://www.varna.mid.ru/doc/z8.htm>

Even though current Ukrainian laws regulating family relationships remain limited in terms of LGBTI rights, the adoption of the “Action Plan to Implement a National Human Rights Strategy for the Period up until 2020”⁵⁶ as a result of the advocacy efforts of NGOs and activists is without question a positive development. Clause 105.6 of this plan envisages the introduction of anti-discriminatory norms, including the development of a draft law on same-sex marriage by the summer of 2017.⁵⁷

Unfortunately, it does not appear that similar norms will appear in Russian anytime soon. On the contrary, against the background of the state’s encouragement of homophobia and its failure to apply ideas of equality on the basis of SOGI, draft laws are being proposed that would place even greater limits on LGBTI rights. These include “bans on coming out” (introduction of administrative liability for the “public expression of non-traditional sexual relations”, 2015)⁵⁸ and deprivation of parental rights for those who “have non-traditional sexual relations” (proposed addition to Article 69 of the RF Family Code, 2013).⁵⁹ Russia has also criticized Ukraine’s proposal to legalize same-sex marriage, and authorities in Crimea have expressed their homophobic position separately.⁶⁰

Labor law

Labor relations are a sphere that does not contain direct bans on the grounds of SOGI, but the reality is that LGBTI people frequently face discrimination when searching for employment or in certain positions.

For a long time, Russian and Ukrainian labor laws only contained general bans on discrimination in the sphere of labor. Recently, however, Ukraine has seen positive changes in the law: since November 2015, Article 2-1 of the Ukrainian Labor Code (Code of Labor Laws) has directly banned any discrimination “in the sphere of labor, namely violation of the principle of equal rights and opportunity and a direct or indirect limitation of the rights of workers based on race, skin color, political, religious, or other beliefs, gender, gender identity, sexual orientation, ethnic, social, or foreign origin, age, state of health, disability, suspicion or presence of HIV or AIDS, family and material situation...”

These amendments were finalized after letter No. 10-644/0/4-14 of 7 May 2014 of the Supreme Court of Ukraine for Civil and Criminal Cases was issued. In this letter, the Court clarified that “in order to properly ensure equal labor rights for citizens during the resolution of disputes arising in the sphere of labor relations, we must bear in mind that the list of grounds on which no preference or limitation can be placed on the exercise of labor rights is not exhaustive.”⁶¹

RF laws proclaim only general principles of non-discrimination in the sphere of labor corresponding to Article 26 of the International Covenant on Civil and Political Rights, which establishes the equality of all persons before the law and prohibits “any discrimination.” The position of the RF Constitutional Court is that: “In its decisions regarding the labor and social rights of citizens, the Constitutional Court of the Russian Federation has repeatedly noted that compliance with the principle of equality, which guarantees protection from all forms of discrimination, signifies, inter alia, a ban on introducing such differences into the rights of individuals belonging to one and the

⁵⁶ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁵⁷ http://search.ligazakon.ua/l_doc2.nsf/link1/KR151393.html

⁵⁸ <http://www.interfax.ru/russia/476299>

⁵⁹ [http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/D0D578378D6D92F343257BDD002A705F/\\$File/338740-6.PDF?OpenElement](http://asozd2.duma.gov.ru/addwork/scans.nsf/ID/D0D578378D6D92F343257BDD002A705F/$File/338740-6.PDF?OpenElement)

⁶⁰ <https://lenta.ru/news/2016/03/11/bluelight/>

⁶¹ <http://obozrevatel.com/politics/61702-otnyine-v-ukraine-seksualnaya-orientatsiya-cheloveka-ne-mozhet-byit-priznakom-ogranicheniya.htm>

same category for which there is no objective or rational justification.”⁶² But unlike the Ukrainian Labor Code, the RF Labor Code (Article 3) does not contain a direct ban on discrimination on the grounds of SOGI (even though it does list other grounds for discrimination).

Existing general norms establishing equal rights are not applied to protect people from discrimination on the grounds of SOGI in the sphere of labor: in recent years many instances of violations of the labor rights of LGBTI people have been documented in Russia, along with refusals to hire them and illegal dismissals.

For example, LGBTI people have trouble getting hired for jobs requiring a medical examination: homosexuality was classified as a “psychological illness” in Russia until 1999, and many medical institutions are not prepared to remove diagnoses recorded in documents issued prior to 1999 and declare the candidate mentally healthy.⁶³

There are also examples where LGBTI jobseekers have been arbitrarily denied employment:

In July 2015, D. Oleinik was refused a job because of his sexual orientation. The employer, who understood from postings on social networks that Oleinik was gay, stated that “the ideology of the program and the management is such that we adhere to a traditional point of view on a number of issues.”⁶⁴ A court did not find this discriminatory rejection to be illegal.

The situation is much more complicated for teachers who work with children and young people (including teachers at institutions of higher learning whose students are under the age of 18). Homophobic activists bully them by compiling a dossier on them and submitting this to the city administration and the head of the educational institution. In recent years teachers have been persecuted by the aggressive “activist” Timur Isayev (real last name Bulatov), whose illegal actions have already caused several people to lose their jobs. Increasing homophobic propaganda in the media has also played a negative role and turns parents against LGBTI teachers.

In the summer of 2013, O. Bakhayeva, a schoolteacher from Magnitogorsk, was forced to resign because of the homophobic bullying she was subjected to for her social media posts. The principal stated that Bakhayeva had to “disappear from all LGBT groups, stop adding this information to her wall, and stop participating in discussions on this topic,” and to “choose what is more important — the profession of teacher or activist opinions.”⁶⁵ A statement was filed against Bakhayeva at the prosecutor’s office, and an unknown woman asserted that her minor son was subjected to “propaganda of non-traditional sexual relations” when he read his teacher’s social media posts.

In September 2013, LGBT activist A. Ermoshkin, a schoolteacher from Khabarovsk, was subjected to bullying. The “Social Movement against the Propaganda of Sexual Deviation” (MPSD)⁶⁶ appealed to the Khabarovsk Krai Ministry of Education and Science: these “social activists” were outraged that “school principal N.S. Polyudchenko has no intention of firing this gay activist because he is a good teacher.” Numerous complaints had their effect on the school administration, and Ermoshkin was forced to sign a statement that he was resigning voluntarily. The statement was backdated. When Ermoshkin tried to complain that he was not able to retract his statement, the court decided that an audio recording of his conversation with the principal, who urged Ermoshkin to backdate his statement, did not qualify as sufficient evidence.⁶⁷

62 <http://www.garant.ru/products/ipo/prime/doc/12054561/>, Decision of the RF Constitutional Court of 15.05.2007 No. 378-O-P

63 <http://www.gay.ru/news/rainbow/2005/09/22-5938.htm>

64 <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

65 <https://www.facebook.com/straights.for.equality/posts/405262122908700>

66 https://vk.com/club56667484?w=wall-56667484_40

67 <http://www.gayrussia.eu/russia/9712/>

In 2014, at the initiative of the prosecutor's office and the Federal Security Service Directorate, teachers O. Klyuyenkov and T. Vinnichenko were fired from their jobs at Arkhangelsk Northern Federal University for their work with the LGBTI NGO Rakurs. Vinnichenko was told that if she wanted to work at the university, she would have to stop participating in any and all social activities.⁶⁸ Klyuyenkov was fired for allegedly skipping work, but the real cause for his dismissal was pressure applied to the university's administration.

In December 2014, a music teacher at a special school in Saint Petersburg was fired after homophobes reported her to the district and school administrations. The ground for her dismissal was her sexual orientation — this was labeled “an immoral deed making it impossible for her to continue her job functions” (Article 81(8) of the RF Labor Code). A court supported the employer's position and stated that its decision was justified due to “immoral and unethical behavior in the music director's private life,”⁶⁹ which was allegedly recorded in photographs that had been uploaded to the internet.

Professional activities that do not show any bias against LGBTI people have also become grounds for dismissal. In the summer of 2015, D.D. Isayev, the head of a commission on sex change and the head of the Department of Clinical Psychology, was fired from Saint Petersburg State Pediatric Medical University after a bullying campaign resulted in an inquiry by the prosecutor's office and pressure on the rector.⁷⁰ Later, this medical commission working on transgender issues as dissolved.

Even though employers never give sexual orientation as an official cause for dismissal, in reality sexual orientation is a reason for being passed over for a job or for dismissal. Many LGBTI people are forced to conceal their orientation in fear of being fired. As a result of discriminatory practices, the rights are violated not just of LGBTI people themselves, but also of a wider circle of people that includes staff members at LGBTI organizations and activists advocating for non-discrimination on the grounds of SOGI and working on issues of the LGBTI community.

Russian labor laws that are imperfect in terms of non-discrimination of LGBTI people (and the accompanying homophobic practices) are now being implemented de facto in Crimea and also in the DNR and LNR, where laws regulating labor relations mirror Russian laws. In March 2015, the LNR's own Labor Code took effect, replacing the Ukrainian Labor Code. Even though Article 3 of this Code formally prohibits discrimination in the sphere of labor, like its analogous article in the RF Labor Code, it does not mention SOGI as grounds. In the DNR, labor laws are limited to a series of adopted laws that do not make any provision banning discrimination.⁷¹ Meanwhile, the DNR Labor Code is still in the stages of development and will apparently mirror the RF Labor Code, at least in regards to discrimination.⁷²

In conclusion, it appears the LGBTI rights will be expanded in Ukraine: an anti-discriminatory approach, including on the grounds of SOGI, has been added to recent Ukrainian laws regulating labor relations; in the area of family law, a deadline has been set for developing a draft law on same-sex partnerships (by the summer of 2017), and an anti-discrimination law has been adopted, even though it does require some tweaking. In Russia, on the other hand, years of efforts by civil society and experts to create a comprehensive anti-discrimination law have remained fruitless.

⁶⁸ <http://www.lgbtnet.org/ru/content/grazhdanskiy-aktivizm-kak-prichina-dlya-uvolneniya-prepodavateley-severnogo-arkticheskogo>

⁶⁹ <https://www.zaks.ru/new/archive/view/140299>

⁷⁰ <http://comingoutspb.com/upload/iblock/8ab/8ab4975b7c17329fa4f08d2fbec3e7b4.pdf>

⁷¹ http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_oplate_truda.pdf (Law on Compensation), http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_okhrane_truda.pdf (Law on Occupational Safety and Health), http://dnr-consulting.at.ua/Trudovie_otnosh/Zakon_DNR_Ob_otpuskakh.pdf (Law on Leave)

⁷² <http://dnrsovet.su/komitet-po-sotsialnoj-i-zhilishhnoj-politike-prodolzhaet-rabotat-nad-trudovym-kodeksom/>

The discriminatory norms of Russian laws spread to Crimea from the moment of its annexation, and these norms are mirrored or even tightened in the laws of the so-called DNR and LNR. Residents of these territories, where more progressive Ukrainian laws should be in effect, cannot assert their rights in accordance with the law to combat discrimination.

RF, DNR and LNR laws, which do not aim to protect people from discrimination on the basis of SOGI, are not the only causes for concern—the homophobic practices that have spread with these flawed laws are also extremely worrying.

Chapter 2.

THE SITUATION OF LGBTI PEOPLE IN CRIMEA AND DONBASS

This chapter describes the situation of LGBTI people in Crimea and Donbass based on the materials from interviews conducted by ADC Memorial with experts and LGBTI people from Crimea and Donetsk and Luhansk oblasts from December 2015 to March 2016 (many of these people were forced to leave their places of residence for other regions of Ukraine). Except in certain cases, information about the source is not provided after excerpts from the interviews due to safety concerns. The region is referred to with the letters D (Donetsk Oblast), L (Luhansk Oblast), and C (Crimea). Complete records of the interviews are stored in the ADC Memorial archives.

THE SITUATION IN DONBASS PRIOR TO THE MILITARY CONFLICT AND IN CRIMEA PRIOR TO ANNEXATION

The situation for LGBTI people in Donbass and Crimea prior to Russia's expansion into these territories was already quite vulnerable and the level in homophobia was quite high. People rarely displayed their sexual orientation or gender identity openly.

According to experts and LGBTI people interviewed, in Donbass it was difficult to openly display one's homosexuality, and in general any "irregularity" was greeted with animosity.

"...even informal groups of Anime fans and cosplayers were harassed for being unusual. Most of the guys in those groups were gay, but no one spoke about this openly." (L).

"It was impossible to display your orientation in public" (D).

"While you're still in the closet, everyone puts up with you, you don't bother anyone."⁷³

Even though a famous "gay resort of the CIS" was located in Crimea, attitudes towards LGBTI people there were far from tolerant. According to people interviewed, open displays of homosexuality were more the exception than the norm and occurred only among women. However, respondents noted that a neutral attitude towards the fact that, for example, women were holding hands was based not on tolerance for LGBTI people, but on the fact that holding hands was not viewed as proof of a same-sex relationship between women. There was only one openly gay person among those interviewed in 2016, and this person did not know any other openly gay people in Crimea. Respondents from other cities in Crimea confirmed this: *"I have never seen gay men on the streets, I don't know anyone who's out" (C).*

In Donetsk and Luhansk oblasts, the level of openness was lower among women too. A respondent who fled Donetsk Oblast explained: *"When my girlfriend in Zaporozhe took my hand, I hid it and said, 'Don't touch! People will get ideas.' In Donetsk, I wouldn't even allow myself to do that" (D).*

"Our neighbors asked who we were, why were we living this way, why we were together. I didn't say anything about how we couldn't even allow ourselves to hold hands. Because the closet is the norm here." (D).

"I would have never thought that I could speak openly [about my orientation]. I felt like this would be punishable somehow in Donetsk. It wasn't like it was in Kiev there" (D).

⁷³ Opinion of the expert Yu. Frank (NGO Insight) on the situation in Donetsk.

Feeling constant animosity, LGBTI people were forced to carefully hide their orientation, not just by refraining from living openly, but also by creating a “cover.” Gay people from Donetsk Oblast reported that speaking about their orientation *“was simply not possible for many people: some people had connections, someone had a father somewhere. You lead a double life—some people had fictitious marriages, some people didn’t”* (D).

Attempts by men to live more openly have resulted in threats to life and well-being. A gay man who later left Luhansk Oblast described incidents that occurred when he and his partner were walking hand-in-hand: *“We were stopped and asked ‘How are we to understand this?’ I said that my leg was hurting and that he was helping me walk. I didn’t risk it again after that. I was sorry for myself and for the authorities”* (L).

LGBTI people who did not live a secret life were subjected to harassment, scorn, and abuse:

“The abuse and threats started when I was still in school. Shouts followed me when I walked around the city” (L).

A woman living in Donetsk spoke about how “people mocked me, said that I was a shameless lesbian.” At the gym, young men would point her out, saying, “Look, there’s a lesbian” (D).

Buyers regularly threatened a young female store worker: “What, are you with your girlfriend? Can I be your third? I would love to hold both of you down” (D).

Respondents stated that their labor rights had been violated in the form of illegal dismissals and rejections of applications for work:

“Speaking openly [about my orientation] would have guaranteed a conflict and problems. Some of my friends were able to turn their back on me. Some people are frightened by this, shocked, either someone in the collective or someone from management. If you worked at a metallurgical factory, you could be fired” (D).

“In 2012, a gay person was refused a position. He had almost all his papers in order, but one woman said she had seen him at a theme party, and she told the director that he was gay. The director objected, saying that he needed a good specialist, but then he ended up not hiring this person” (C).

People interviewed reported numerous hate attacks against LGBTI people. These were generally committed by “regular” local residents with no particular political views or ideologies:

“The young people, they took me into the corner, beat me” (D).

“They’re just plain-old thugs. They say homophobic slurs, they don’t like how you look” (D).

“It’s harder for gay men, because they’re surrounded by a thug culture” (C).

Homophobia mixed with racism was the cause of a number of attacks committed against gay foreigners in Donbass and Crimea.

“This Arab, they started messing around with him, asking why he wasn’t hanging out with women, how many women he’d had. There’s a very negative attitude towards Arabs in Donbass, they get beaten up all the time. It was Airborne Forces Day, the paratroopers wanted to show off. The Arab was wounded, the police were summoned, but they said “It’s Airborne Forces Day, what did you expect?”

A gay man who was beaten in Crimea said that his attackers shouted homophobic and racist slurs. “I felt them hit my neck with a stick, they beat me and called me a nigger” (C).

The victims rarely appealed to law enforcement for protection out of fear for their safety if the true motives for the attacks—their sexual orientation or gender identity—became known.

Transgender people are in a particularly vulnerable position because it is difficult for them to hide signs of their identity. An expert from a human rights LGBTI organization described the difficulties transgender

people face in society: “You have a greater chance of being beaten, rejected, and fired.”⁷⁴ Transgender people interviewed for this report asserted that “the level of transphobia is quite high” (D).

Several transgender people forced to flee Donetsk Oblast complained that they were not accepted by society or even their own families:

“I wasn’t even able to go get diagnosed, because all the top doctors know each other and my father [also a doctor] would have found out within five minutes” (D).

“I got a job in Donetsk. I came out to my mother. She helped me quit my job, and then came to an agreement with the department head that I would be given a false diagnosis that would prevent me from transitioning. We appealed this in Kiev” (D).

People interviewed believed that one of the causes of homophobic behavior was lack of information, especially in small towns. They noted that neither Donbass nor Crimea have large-scale awareness projects for questions about SOGI. According to an LGBTI person from Donetsk, “no one here has ever even worked on this, has worked on providing some more or less quality information. There just weren’t any specialists who could dispel homophobic myths. The saddest thing is that even young people repeat these stereotypical phrases and this is transmitted from mouth to mouth” (D).

THE SITUATION FOR LGBTI PEOPLE IN CRIMEA AFTER THE ANNEXATION AND IN THE SO-CALLED DNR AND LNR

In early 2014, the situation for LGBTI people in both Crimea and Donbass changed abruptly. According to one person, “the situation was on the brink, it was emotionally very draining” (D).

Many LGBTI people saw the annexation of Crimea as a tragedy because it signified the spread of the homophobic norms of Russian law and discriminatory practices to the area. The LGBTI community saw the day Crimea was officially declared a part of Russia—18 March 2016—as a line marking the end of their ability to live openly:

“On March 18, I took off my rainbow bracelet when they passed FZ No. 6⁷⁵ [“On the Accession of the Republic of Crimea to the Russian Federation and on the Formation of New Constituent Entities of the Russian Federation — The Republic of Crimea and the Federal City of Sevastopol”]” (C).

One informant from Crimea described that a result of this was “that the LGBTI community became more secretive after the ban on same-sex relationships came out” (C).

According to people interviewed, Crimean society changed under the influence of Russian homophobic propaganda:

“A large group of people started to get worked up and treat [LGBTI people] aggressively because of this propaganda. Everyone started using veiled speech, started fearing that someone would find out that something was being organized somewhere. Again, thanks to the TV, thanks to Milonov, this topic was raised and homophobia started to grow” (C).

A main component of homophobic propaganda became the juxtaposition of “traditional values” with “European pseudo-human rights.” An informant from Crimea stated that “At the start of Maidan, posters appeared reading ‘Europe is same-sex families.’ I was even afraid to take a picture. My sense of self-censorship was activated” (C).

Anti-European homophobic rhetoric continued to spread in Crimea after the events of the spring of 2014. Sources reported that “even in [our small town] there were small posters: ‘We won’t have another Maidan like in Kiev; We don’t need Gayrope.’”

⁷⁴ Interview with Yu. Frank of the NGO Insight

⁷⁵ http://www.consultant.ru/document/cons_doc_LAW_160618/

Sources from Donbass also reported heightening homophobia in society as the result of well-directed propaganda: public opinion began to express negative feelings about European values, the most odious of which was declared to be freedom of sexual orientation and gender identity. According to one person from Donetsk, *“slogans about Slavic values naturally influenced everyone. These values were drummed into everyone’s heads, and even pro-Ukrainian or pro-Russian people who were neutral about the LGBTI issue started saying: “No, just not Gayrope!” And once they notice something about you, once they guess about your sexual orientation, their relationship naturally starts to change”* (D).

A source in Luhansk also reported that society was changing under the influence of homophobia: *“Television has worked great miracles: they reported about everything, they showed everything, and now everyone understands right away who you are”* (L).

The situation in Crimea since the spring of 2014

In Crimea, which has been poisoned with homophobic propaganda, aggressive groups have moved from threats to violence with the encouragement of the homophobic authorities.

Nationalists from Russia began to appear in Crimea right before the referendum. According to sources, *“these groups used violence against foreigners”* (C). International students were warned that it was unsafe for them to be in the city. One of them reported: *“We were told not to go outside alone and to always take our passports with us”* (C). Since the people who commit racist attacks are usually the same ones who commit homophobic attacks, many LGBTI people *“were scared to be in the city”* (C). We know of some LGBTI people who suffered from these attacks. According to one man, in the spring of 2014 his *“friend was caught on his way home. He was beaten, punched, the attackers shouted homophobic slurs. He had to stay in the hospital with a head injury and broken ribs. Nobody ever found anyone. Nobody even looked”* (C).

The level of homophobia in Crimea dropped after the summer of 2014, when nationalists from Russia left the area. One source from Crimea said that *“before the referendum, people didn’t pay attention [to open displays of SOGI], it was normal to kiss a woman. But now people notice things, they start getting upset and shouting homophobic slurs”* (C). The *“imposed trend of homophobia”* (C) noted by people interviewed resulted in more frequent hate speeches and new attacks. LGBTI people in Crimea asserted that they were *“frequently beaten on the streets”* (C). Members of the LGBTI community who have remained in Crimea report that intolerance of gay men is greater: *“The aggression starts right away when they see two guys together, they usually don’t react like that to girls, but they throw themselves at men and beat them”* (C).

People interviewed recounted several typical stories that describe instances of violence against gay people.

[In mid-2014], “my boyfriend and I were walking in the park. He took my hand. A group of people came up to us. They started fighting, screaming homophobic words. I became more frightened after that” (C).

[In the spring and summer of 2015] “a gay couple was taking a walk, these idiots decided to beat them because they saw them holding hands. This couple was thinking about leaving Crimea because they were apprehensive about how people would start reacting to LGBTI people here. They left Crimea after this attack” (C).

[In October 2015 in a park] “a couple of young people were following us. They could see us embracing. Then there were six of them and they attacked us. They pushed A. and he fell into the river. I helped him out of the water and took him to the hospital. I was very cold. He was freezing and his hands were shaking. He had some bad bruises and cuts on his shoulder. When the doctor asked what had happened, we said that he had fallen into the river himself. When the police came, we didn’t know what to say. We ended up having to say that it was an accident” (C).

Women also frequently encounter manifestations of homophobia in Crimea. One woman from Crimea recounted an event from the spring of 2016: *“people came up to me at work and started to offend me, they confused me with a guy and said homophobic words (C).* Two lesbians living as a family were repeatedly addressed with homophobic slurs and were taken to be gay men. Hate speech quickly grows into violence against these women. As one victim reported, in March 2016, *“I rented a room in a dorm in [a Crimean city]. Some guys who knew about my orientation and didn’t like it approached the landlord. They forced their way onto our floor, one thing led to another, and I was hit in the face” (C).*

Violence against “unusual looking” people who could be LGBTI (Crimea, DNR, LNR)

LGBTI people are not the only ones who encounter manifestations of aggression. People who, in the opinion of others, resemble LGBTI people in some way or could be LGBTI also face violence. This problem occurs in both Crimea and Donbass. Crimean residents assert that *“now even guys with unusual hairstyles are the objects of homophobic slurs” (C).*

Sources described typical cases of homophobic aggression related to the victims’ external appearance. For example, in Crimea in April 2016 P. was attacked because *“he was wearing an earring. This guy noticed and started with him: ‘What? Are you one of them? What are you? A fag?’ P. answered: ‘What difference does it make? That’s personal.’ The guy started beating him up” (C).*

One source spoke about the immediate homophobic reaction people in Donetsk had to her friend’s brightly colored pants: *“He was called a fag five times in 10 minutes” (D).*

With the appearance of armed people in Donetsk in the spring of 2014 *“anyone who somehow didn’t look normal was beaten.”*⁷⁶ A witness from Donetsk Oblast described how he *“saw people beating a boy with dyed hair. They beat him because he was somehow not dressed right. They classified this as gay. I’ve heard at least five similar stories: someone wasn’t dressed right, someone looked at someone else the wrong way, someone was wearing an earring. Everyone tried to look as ‘normal’ as possible until they got out of there.”*⁷⁷

According to an expert, *“there [in the DNR] they can beat you and assault you because it seems to someone that you’re homosexual” (D).*⁷⁸

Violence by organized groups of homophobes (Crimea, DNR, LNR) tracking LGBTI people through social media

Most of the attacks described in Crimea were committed by “regular” residents who were prejudiced against people of a different SOGI. But there is another group of homophobes that tracks LGBTI people on the streets and online. An example of this is the so-called movement Occupy Pedophilia, which has been active in Crimea, and LGBTI people remaining there say that *“attempts were made to track and find people through social networks” (C).* In particular, gay people were set up on false dates and beaten and humiliated when they arrived. Frequently the attacks were even recorded on video.

There was one case when a gay man was tracked and attacked near his home. He and his partner left Crimea after this.

One source living in Crimea spoke about an incident during a false date that was made online: *“There were five aggressive homophobes in the apartment. They undressed him, took him to the shower, beat him, forced him to lick the toilet bowl, to drink vodka, and they recorded all of this on a camera. He was a foreigner. He didn’t know what to do. Then they uploaded this video online. This traumatized him greatly” (C).*

⁷⁶ Interview with Yu. Frank from the NGO Insight.

⁷⁷ Interview with Yu. Frank from the NGO Insight.

⁷⁸ Elena Shevchenko, head of the NGO Insight, <http://www.depo.ua/rus/life/gei-rasskazali-za-chto-ih-nenavidyat-terroristy-dnr-24062014152700>

There is also information that similar groups exist in the DNR and LNR. During dates arranged by these groups, victims may be beaten or handed over to armed people:

“There were rumors that Occupy Pedophilia was operating at a new level in the LNR. Cossacks were supposedly involved in this. Two or three people wrote me through V Kontakte, hinting they wanted to meet for sex. I didn’t even respond to this purely out of a sense of self-preservation. So I haven’t had any sexual contact in over a year, but I’m alive” (L).

LGBTI people noted that some members of the Muslim community had displayed homophobic aggression: *“They started to react very aggressively... they attacked LGBTI people” (C)*. One woman living in Crimea said that she *“spoke with a Crimean Tatar who said that the guys were trying to meet people on social networks using fake pages so they could track LGBTI people surreptitiously” (C)*. When he learned that this woman was a lesbian, he started to threaten her over the phone and online. In the summer of 2015, he wrote her: *“I will find you, cut you up, and kill you, I will rape your girlfriend” (C)*.

Violence committed by armed fighters in the DNR and LNR

In the current situation of lawlessness and impunity, all residents of the so-called DNR and LNR face the risk of aggression from armed formations, but these fighters pose a special and absolutely real threat to LGBTI people. According to one witness, this was a *“territory of anarchy, they can do whatever they want with you, the risks grow to the level that they can just take you and shoot you” (D)*. Most people interviewed stated that their lives and well-being would be in danger if they returned to the DNR or LNR: *“My parents stopped inviting me because they’re scared for me. I won’t go there because I’m scared for my own well-being” (L)*. In addition, the homophobic actions of armed fighters provoke homophobic aggression in people who previously had a neutral attitude towards LGBTI people.

There are several reasons why information about violence against LGBTI people in Donetsk and Luhansk oblasts is so scarce. The primary reason is the threat of death if fighters learn about a witness’s sexual orientation or sympathy for LGBTI people. According to LGBTI people remaining in Luhansk Oblast, *“any activity that even tangentially alludes to LGBT is dangerous” (L)*; *“they’re scared that they’ll be stabbed around the corner and that will be that” (D)*. An informant from Donetsk stated: *“I lived each day in fear for my life. They dug a trench at the exit of my house, they were gathering to meet the Ukrainian army. They were wasted, drunk, vile-smelling, with automatic weapons. I thought before I said anything. You could lose your life like that” (D)*. Many LGBTI people remaining in Donbass have stopped having any communication whatsoever with other members of the community, with the exception of their closest friends. While secret meetings of LGBTI people were possible in Crimea, they were not possible in the DNR and LNR.

Another problem was the lack of electricity and communication lines from the spring to the fall of 2014: *“Say I knew for a fact the V. was beaten, that he was taken off to a basement, but I couldn’t communicate this to anyone because we didn’t have any communication lines” (D)*.

A final reason for the scarcity of information is the psychological difficulties that a person experiences after living through violence and degrading treatment. As one witness to this situation said: *“Who wants to brag about that?” (L)*.

Nevertheless, there is information about the violence and harsh treatment that LGBTI people have suffered at the hands of armed people. One informant who left Donetsk asserted that *“my friend witnessed how one gay person was shot and buried in some vegetation behind the Yasinovatsky checkpoint” (D)*.

A witness from Donetsk Oblast who travels periodically to the DNR recounted how illegal formations tracked LGBTI people and took them “prisoner.”

“How did they catch people? If you’re gay, that means you’re a fan of Europe. Ukraine wants to be part of Europe, so that means you’re for Ukraine. Some people are caught easily on the street, and some people inform on others, tell where they live. Then a car drives up to the

building, they wait in the entry, than take the person, and that's it. One person was taken in late November 2014, near the cathedral, on the street, where people gather in the evening. Another person was informed on. Armed people grabbed a young boy when he was smoking. Instead of punishing him, they told him: 'Bring us two people.' And he gave up his two brothers. They were taken at different times" (D).

A source who left Donetsk said that if armed people learned about a person's orientation, they took that person off to *"a basement, they put him there to scare him, to get ransom for him, to get free labor. They debased and humiliated him there in that cellar" (D).*

Former residents of Donetsk reported that *"if there was no ransom paid, people were sent to the trenches" (D).*

"To the trenches—that means you're cannon fodder. There are checkpoints with snipers, they send these people there to dig trenches. That's how these people left [died]. A person could come back from the trenches after a couple of months, frozen, starving. They were generally released after this, but they were no longer people, they were broken inside and outside" (D),

"I had a friend, he had an operation on his kidneys. Three months later he was taken to the basement because he was informed on. He was held in some sort of basement, where he was fed like a dog, in some bowls that they shoved at him with their feet. The prisoners were treated terribly. They beat him with a metal stick and humiliated him because he was gay. He said he would have died if they had hit him on his kidneys. When they used homophobic slurs against him, his brother, who had also been informed on, learned about his orientation. Maybe they harassed him sexually too, I don't know. I don't think any of us would actually talk about such things. He spent a month and a half there starting in late October or early November [2014]. You had the feeling they were just trying to exterminate such people" (D).

According to sources, FEMEN activist S. Nemchinova was subjected to persecution: *"She is openly gay. There were attempts to persecute her, but she was able to avoid them. One person on patrol took her passport and found out her address, but she escaped to friends and lived with them for a month. They dressed her up as an old woman when they drove her out. Her wanted poster was put up on poles..." (D).*

People interviewed noted that some armed formations were notable for their extreme homophobia: *"There were tons of groups, each one had its own laws" (D).* A source from Luhansk Oblast reported that *"Chechens were at Nikitovka, 'the Russian Orthodox Army' was at Peski, Oplot was at Yasnivatsky, Cossacks were at Gorlovka. They were the strongest in the south of the oblast (Krasny Luch, Rovenki, Anratsit, Sverdlovsk, part of Krasnodon). Even before the war, all the gay people tried to leave these districts as quickly as possible" (L).*

People interviewed also asserted that LGBTI people served in the ranks of armed formations of the DNR and LNR:

"That there are gays in the militia—we know about that."⁷⁹

"Naturally, they conceal this. It's also really easy to get a bullet in the back from your own people" (D).

"Some guys [gays] joined the DNR. They're there with their machine guns, their uniforms, it's pretty, it looks good. I saw something about two of them on Facebook, but I don't know how many there are" (D).

"An LGBT person I knew even fought for this republic, so to speak. They killed him. He hid his orientation" (D).

Because she needed money, one young woman "joined the DNR, but then they just took her and beat her so badly that she couldn't leave her house for two weeks. She wanted to leave for Ossetia, but one of the DNR people was from there himself. He found out and beat her. If they had found out the she was gay as well, they would have just shot her" (D).

⁷⁹ Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.

The people interviewed asserted that if any members of the armed formations had found out that one of their members was gay, that person would have been “*used as cannon fodder*” (D).

According to sources who used to live in the DNR or LNR, all the LGBTI people remaining in these territories have no choice but to hide their orientation and their lives are in constant danger. All the people interviewed said that the greatest risk was from fighters. The power of these armed gangs means that criminals can operate with impunity and victims become increasingly vulnerable, especially considering the absence of a functioning legal system.

Homophobic propaganda spread by the authorities in Crimea, the DNR, and the LNR

Representatives of government structures in Crimea and the self-proclaimed republics have repeatedly expressed their homophobic views. According to Yu. Frank, an expert at the NGO Insight, “*homophobic speeches have been given by DNR and LNR officials, by members of the militia, there were publications, video recordings.*”⁸⁰ Here, for example, is a statement made by the head of the so-called DNR Alexander Zakharchenko: “*...this generation is being raised on democracy, which implies that a family can have two fathers or two mothers. To me, this is categorically unacceptable.*”⁸¹ Even more bigoted is this statement by the deputy minister for political affairs of the so-called DNR: “*A culture of homosexuality is spreading... This is why we must kill anyone who is involved in this.*”⁸²

Crimean leaders have stated outright that violence must be used against LGBTI people. V. Ilichev, a deputy of the Simferopol city council issued a call to “*shield children from gays,*” “*to shut off the oxygen supply to people with a non-traditional orientation,*” to hit them “*right in the eye.*”⁸³ Protecting children is the pretext for promoting openly homophobic views. For example, the Crimean leader Sergey Aksenov stated: “*Government bodies will not allow the promotion of anything that contradicts the moral values of the Crimean people and arouses revulsion and disgust in the majority of Crimeans. There’s no discrimination here at all—we’re not trying to intrude on their personal lives: let them live how they want. But we must shield people, particularly young people, from actions aimed at destroying the moral health of our nation.*”⁸⁴

Tentative attempts to hold public LGBTI events have aroused particular antagonism on the part of the Crimean authorities. The Crimean vice-premier D. Polonsky recommended that LGBTI people “*set off for freedom-loving Gayrope and walk calmly through the streets of European capitals, which are teeming with tolerasts.*”⁸⁵ S. Menyailo, governor of Sevastopol, said that as long he holds the position of governor, he intends to “*protect the true values of the Russian people. We will not allow gay parades in our glorious hero city.*”⁸⁶

Speeches made by government representatives also contain clear threats against LGBTI people. For example, S. Aksenov stated in this regard that “*Crimea doesn’t need people like this, and they will never hold any public events. The police and the self-defense forces will quickly... explain to them what orientation they should have.*”⁸⁷

Local residents cannot help but be influenced by the homophobic rhetoric employed by government representatives. The fact that homophobia is not only not condemned by the authorities

⁸⁰ Interview with Yu. Frank of the NGO Insight

⁸¹ <http://dnr-online.ru/my-dolzny-donesti-svoim-detyam-tradicionnye-cennosti-glava-dnr-aleksandr-zaxarchenko/> official website of the DNR

⁸² Deputy Minister for Political Affairs of the so-called Donetsk People’s Republic, July 2015 <http://www.ridus.ru/news/191031> Ridus Civil Journalism Agency

⁸³ https://tvrain.ru/news/stohotvoreniye_deputat-408417/ Dozhd’ TV channel

⁸⁴ <http://www.c-inform.info/news/id/37995> Krym-inform News Agency, S. Aksenov, head of Crimea

⁸⁵ <http://www.c-inform.info/news/id/37983>, Krym-inform News Agency, D. Polonsky, vice-premier of Crimea.

⁸⁶ <http://echo.msk.ru/blog/amountain/1754460-echo/> Ekho Moskv Radio, S. Menyailo, governor of Sevastopol

⁸⁷ <http://thekievtimes.ua/society/397424-v-krymu-geev-net.html>, The Kiev Times

but also actively supported by them instills a feeling of impunity in homophobes and encourages them to commit new acts of violence against LGBTI people.

Fear of openness. "Double life." Firings.

All the people interviewed noted that the homophobic propaganda and rhetoric of the authorities, "ordinary" people's growing hatred of LGBTI people, and the risk of violence and even death have all forced members of the LGBTI community to hide their sexual orientation and gender identity more than before.

"No one says 'LGBT' in public. You can't speak about this around other people" (C).

"I used to be more open on the streets and in public places, but I'm not now" (C).

"You can only see people walking with their arms around each other in Simeiz, and then only in the evening" (C).

"Many lesbians used to be open, but now almost everyone tries to hide her orientation" (C).

"Anyone who's unhappy with this, anyone who wants to live more openly, emigrates" (C).

"Deep down you understand that you could really suffer if you're not careful. So I take more precautions." (L).

"People tried not to broadcast their orientation, they only talked with people in their circle; they left when this started to become dangerous for their lives."⁸⁸

"If I came out to my parents, I would either be killed or sent to the nuthouse with a diagnosis of schizophrenia" (transgender woman, D).

People interviewed said they felt apprehensive around outsiders who knew about or guessed at their orientation and that this feeling intensified around armed fighters. Many started to fear their colleagues, neighbors, and relatives, because they were the ones who most frequently voiced homophobic threats, including threats to tell the militia about their orientation.

There have even been cases where homosexual people were evicted by their roommates: *"...I lived in a communal apartment in Donetsk, and at one point my roommates said, 'We'll hand you over to the DNR fighters.' And one roommate said: 'Get the hell out of here'" (D).*

There is evidence that LGBTI people themselves have informed on their acquaintances in an attempt to hide their own orientation out of concern for their personal safety. According to one source, *"if the threat of discovery is hanging over them, they'll give up their own, point their fingers at them. People who were betrayed were sent to 'the hole,' which is the basement of the state security building in Donetsk" (D).*

Lesbians face the risk of violence if they refuse to have relations with men, especially if this is due to their orientation. A lesbian who fled Donetsk reported that: *"Even the most ordinary neighbor, who lived across from me, joined the militia. He used to get offended if you didn't notice how handsome he was, but later you had to pay attention to him, otherwise—I have a gun" (D).*

A gay person who lived in Luhansk Oblast said: *"We have inherited memory in our veins, after all, there was recently a criminal prosecution, and we all remember that very well. As soon as these actions started it became clear that there was no joking with these people" (L).*

To avoid suspicion, LGBTI people who have remained in Crimea and the self-proclaimed republics have stopped communicating with other members of their community and frequently fake or actually enter into heterosexual relationships. According to people who fled Donetsk, *"many guys [gays] started meeting with women, and women [lesbians] started seeing men. And they all knew everything. If they hadn't done this, they would have been shot" (D).*

⁸⁸ Interview with Yu. Frank from the NGO Insight

Sometimes people who are both LGBTI pretend to be in a heterosexual relationship. One lesbian from Crimea reported that her girlfriend went out with a gay man “for cover”: *“These gay friends we had were having problems with their parents. We went out with them as if we were two couples. Our parents spoke with each other and didn’t suspect anything”* (C).

Right now, many LGBTI people in Donbass and Crimea are entering into heterosexual marriages under pressure from society and their family. A gay man living in Crimea spoke about marriages he knew were “for cover” that have taken place over the past two years: *“Five or six young people got married because they ‘had to.’ The mother was pressuring, the father was pressuring. Why upset your parents? Two of these couples already have children.”*⁸⁹ An activist from Crimea noted that: *“There are people who get married to mollify their parents. Some got married because their parents would never understand. V. (a gay man) and S. (a lesbian) want to raise children, but they each have their own personal lives and share the child. People who are a bit younger are in a different situation: one dad promised his son that he would give him an apartment after he got married. His lesbian friend decided: ‘I’ll help my friend, and things won’t be bad for me either’”* (C).

People forced to live a double life experience tremendous stress. In spite of any “covers” they have, there is still a risk that their sexual orientation or gender identity will become known. If this happens, the results can be terribly tragic and range from psychological trauma caused by a break with their parents or the betrayal of close friends and family members to violence committed by armed formations and homophobes, evictions, and deprivation of the ability to see their own children.

Another cause for concern is that LGBTI people may be dismissed from their jobs if their employers learn about their SOGI. Many LGBTI people are warned of the possibility of losing their jobs by their close friends and family: *“you won’t be able to work, and if people find out worse things will happen than losing your job”* (C). A source from Luhansk Oblast that *“if they learn [about your orientation] at work, you’ll probably lose your job. There have been precedents for this”* (L). A gay person living in Crimea reported that *“everyone leads a hidden life. These laws add pressure to the atmosphere, the situation. Before you could pretty much openly say who you were and no one had the right to fire you or do something else to you. Now they can”* (C).

Some of the first people to experience homophobic hysteria and its consequences were people who could not conceal their SOGI: *“If I had tried to come out as transgender, I would have been fired right away”* (D). According to an expert, a transgender person from the so-called DNR *“was forced to resign. Their management changed and the new owners were Russian. They said: ‘You understand, we’ll have problems, it’s better for you to leave on your own.’ He was scared that there would be physical violence at work. He heard something about someone threatening him.”*⁹⁰

Teachers and education workers are another group that is in an exceptionally dangerous situation, especially considering the Russian practice of applying homophobic norms against “propaganda” and the spread of these laws to Crimea and the so-called DNR and LNR. An egregious example is an incident that took place in Crimea in 2014, when *“students saw their university professor on the street holding hands with his partner. They attacked him, undressed him, and started asking him homophobic questions and taking pictures of him. Then we was fired just because of the person he chose to love”* (C).

In Donbass, the danger for teachers is not just connected with dismissal, but, to a greater extent, with the high risk of violence. LGBTI people working in education explained that in Crimea *“teachers are being baited online. We have deleted all our information on social networks. We have moved to a closed regime”* (C). Dismissal for sexual orientation, even if there is no prosecution for propaganda, means that teachers will not be able to work again in education.

Government workers in these territories face the same repressions that teachers do. Right now, this kind of work has prospects and is stable in both Donbass and Crimea, so people really do not want to lose their jobs. According to sources who have remained in Crimea, *“government agencies get*

⁸⁹ Interview with V., Crimea.

⁹⁰ Interview with Yu. Frank from the NGO Insight

the best funding right now. Government workers are obviously living better. Everyone can see how small business is dying. Most freelancers are without work. This makes people dependent on the government” (C). A lesbian from Crimea recounted: “My acquaintances who work for the government are all single [LGBTI women who refuse to communicate with the LGBTI community], because they are desperately scared that they will be fired and then they’ll lose everything: a stable salary, social guarantees, a job with a future” (C). Some of the potential sources in Crimea refused to be interviewed because they feared that their orientation would become known at their places of employment in government agencies.

LGBTI people have stopped socializing as much in fear of violence and repressions

One of the most important problems in Donbass and Crimea is the difficulty LGBTI people have communicating. Members of the LGBTI community have been forced into hiding—informants from Crimea assert that *“it is only possible to meet in secret places, and only when it is dark” (C)*. One place where gay people in Simferopol were able to meet was destroyed by unknown people presumed to be homophobes (C). In the so-called DNR and LNR, meetings were possible only at home and with extreme caution. A gay person living in the so-called LNR reported: *“I try not to go outside at all. And if it were only me. Luhansk shuts down at 7PM. The streets are empty, even though the curfew is 10PM” (L)*.

LGBTI people have started to feel apprehensive about socializing with unknown people, not just in real life, but online as well. They fear that they will be spied on and persecuted by unofficial aggressors and groups, as well as by government representatives, who could apply homophobic norms against them.

A founder of the Vkontakte group “Simferopol LGBT” said: “At first there were a few posts...now, after one and a half years, nothing has changed” (C).

“They monitor Facebook, we try not to write anything there” (C); I used to be able to post about [LGBTI] topics, but I can’t do that now” (C).

“I try not to post anything honest on Facebook, especially since some of my friends have positions in the propaganda sphere of the LNR” (L).

Lesbians from Crimea fear “guys who monitor social networks” (C).

Participants in a video on society’s reaction to a gay parade were forced to restrict access to this video, “because they were afraid of the repercussions of Russian law” (C).

“Maybe there’s a man sitting there in epaulets. You come to meet him and he beats you, blackmails you, etc.” (L).

“My sister said to me: “But you survived somehow in Soviet times, you hid,” But in Soviet times, I was still able to meet people, and now I can only set up a date with someone online. So I get there, and maybe someone’s waiting for me” (L).

“Maybe they won’t shoot me. They might ask for ransom, make fun of me, send me to perform hard labor with no pay” (L).

According to sources, the fact that members of the LGBTI community had varying political views led to irrepressible conflicts and made further interaction impossible. LGBTI people are afraid of surveillance, denunciations, violence and harassment, even on the part of members of their own community:

“When the lights came back on, we were all afraid to talk to anyone. My next door neighbor, I know he’s gay. I’m bored, he’s bored, he said: ‘Come over, let’s hang out and have some tea.’ Well, will I really go over to his house? How do I know what his position is? We will of course talk about how everyone is doing, but I’m half-Ukrainian. Maybe he will call his friends and say: ‘There’s a pro-Ukrainian, and they’ll come to me at night and arrest me’” (L).

“Meeting friends from the Facebook group in real life is just not possible. You just can’t shake the feeling that a person might be an agent who was planted to monitor the group” (L).

“We corresponded, but we were never able to meet. We have been pro-Ukrainian for a long time. But now there’s no one to talk with. You’re for Ukraine, I’m for Ukraine, let’s get together, but he always refuses. Because LGBT people who are pro-Ukraine have twice as much fear of meeting anyone at all” (L).

“A guy online set up a meeting with me. I said: ‘So, it’s dangerous to meet there, Russian soldiers are there.’ He wrote: ‘Oh, so you’re a Ukrop [pro-Ukrainian]? Why don’t you take a hike to your Ukropia? You’re a fascist, I’ll stab you to death when I see you.’ So how can you say that you can meet with someone?” (L).

“Even if an actual gay person wants to meet, I’ll meet him and then he’ll start going on about the great Luhansk People’s Republic. What will I do with him?” (L).

[A gay person who supports the separatists] “recognized me from a photograph on another site and started threatening me because I support Ukraine. I decided that I wouldn’t meet or socialize with anyone” (L).

LGBTI people in Donbass and Crimea are more isolated than ever. People interviewed stressed that *“an important way to survive these kinds of situations is to have people you can speak honestly with, people who have been checked out so you can unburden yourself” (L).* But this is precisely the opportunity that most LGBTI people in the DNR and LNR are missing. Meeting with other LGBTI people could have various negative consequences ranging from homophobic slurs to violence. The never-ending pressure on LGBTI people leads to psychological difficulties, depression, nervous breakdowns, which were observed as this research was being collected. The following statement made by an informant in Crimea characterizes the situation well: *“You’re haunted by paranoia that someone is following you. I feel how much energy I spend trying to get myself out of this panicked state” (C).*

The situation of transgender people

The situation of transgender people, whose appearance and documents do not always match, is cause for particular concern. These people are constantly risking their lives and well-being. For example, in the DNR and LNR, officers regularly check IDs, particularly those of men, and documents are required to cross the line of demarcation. This means that transgender people have had to remain in the conflict zone: *“I couldn’t go anywhere because of the discrepancy between my appearance and my documents. I had no opportunity at all. Regular patrols started in the city, there were lots of soldiers” (D).*

People who had valid documents in Crimea were supposed to obtain RF passports. Obviously, though, this is impossible to do when appearance and documents do not match. In a situation like this, many people choose to remain without documents, which can have tragic results: *“I had to show my new registration, who I was, what I do. But what can I show them? The documents of a woman? They would have just called the patrol officers and I would have been taken in.”⁹¹*

There have also been documented cases of the arbitrary arrest of transgender people: *“This boy from Khartsizsk, he’s transgender. His documents identify him as female, but he looks like a man. He spent three months sitting at home with his mother. He went out once—and soldiers grabbed him. Maybe his acquaintances, his neighbors gave him up. He left with assistance from the UN.”⁹²*

A transgender person forced to remain in Donetsk described the danger and poverty that he had to live with. *“I had to run away several times. I had confrontations with patrol officers. There was an exchange of fire. They shot because I was running. I was scared that if I stopped,...they could pick me up. People were disappearing. I ran, I sat in a filthy, stinking ditch. In the middle of the night, when I was already freezing, dirty, I crawled out and went home taking small lanes and alleys. There was a second confrontation...they started asking me: ‘Show us your documents.’ One of them was able to hit me in the stomach with the butt of his gun, breaking some of my ribs...I ran*

⁹¹ Interview with M. from Donetsk Oblast conducted by the NGO Insight.

⁹² Interview with Olga Olshanskaya, Shelter project coordinator for the NGO Insight.

away without even understanding the situation. I could feel blood flowing...it was very difficult to run, I had a sharp pain in my abdomen. I understood that my ribs were broken. But, again, I couldn't go to the hospital" (D).

There was even a case when a transgender person in the so-called DNR was denied humanitarian aid: *"Registered people were given rations. OK, they were small. OK, it was only once a month. But I was not able to receive them. I had to show...my passport. They said: 'What, are you joking? Bring a girl and she can receive it.' They starting looking at me with closer attention: whose documents are these, where did you get them, you probably stole them, where is this girl? I had to run away somehow" (D).*⁹³

Some transgender people started the process of changing their gender and documents before the war, but are unable to continue this process in Crimea, the DNR, or the LNR:

"If it hadn't been for these events in eastern Ukraine, I would have done the operation, and, of course, I would have changed my documents without any problem. But terrible things started happening, and the DNR checkpoints went up. They started checking documents" (D).

"We couldn't behave the way we wanted, we couldn't start treatment openly. So we were treated in secret" (D).

*"There are virtually no medicines, forget about hormones (D).*⁹⁴

"V., who had been receiving hormone therapy since 2012, was getting ready to transition. She stayed there and went into denial [stopped taking hormone therapy], because, first of all, it was dangerous, second of all, it was expensive, third of all, there wasn't enough medication. Finally, she used to work out, but she stopped because she could be taken [armed people could detain her] for her sexual orientation" (D).

Transgender people in the Donbass region suffer serious psychological difficulties from the horrors they have lived through:

*"The first...shooting, when I went down [into the bomb shelter] in desperation, for the first time in my life. And these whisperings started: who am I, what am I. I sat there in the corner like a baited animal" (D).*⁹⁵

"I had no job, my passport didn't match my appearance, I planned to commit suicide" (D).

[A transgender woman who arrived from the DNR for several days] "had perpetual fear in her eyes. This was a totally different person. She had become so closed, so tense, she was scared to say anything at all. It was really a deep depression. She came to Kiev to breathe some fresh air, but she had to head right back. These people are fundamentally alone because they can't show their individuality there" (D).

The situation for LGBTI children and children from LGBTI families

LGBTI children have been extremely vulnerable since the annexation of Crimea and the formation of the so-called DNR and LNR. They have no way of receiving suitably prepared information about "non-traditional" sexual orientation: propaganda demonizes LGBTI people, there are no specialists qualified to provide information or psychological assistance to these children, and their parents rarely have the right skills to help these children and may even be in the grips of the prejudices conveyed in the media. In the opinion of one source, *"the formative years are much more complicated and difficult for this generation. But now it's an entirely different situation when they say on television that LGBT people must be burned, their hearts must be torn out, like Kiselev in his columns" (L).* An informant from Crimea recounted how *"The*

⁹³ Interview with M. from Donetsk Oblast conducted by the NGO Insight.

⁹⁴ Ibid.

⁹⁵ Ibid.

parents of a minor female named K. prevented and forbid her from talking with a girl, they took away her phone. So she ran away from home. Thanks to psychologists from an NGO in Kiev for returning her home” (C).

Government representatives have declared organizations for LGBTI children outside the law, thus depriving children of the right to receive the information and support they so desperately need. For example, on 28 April 2016 the round table “Threat to Traditional Families—Children-404” was held in Simferopol. Meanwhile, Children-404 is the only project in the Russian Federation aimed directly at LGBTI children. It has continued its activities online in spite of numerous bans.

Teachers and psychologists who have built trusting relationships with children cannot make up their minds to speak about LGBTI problems with them because of the risk of being prosecuted under homophobic laws on “gay propaganda among minors.” According to one respondent, *“children just have nowhere to go. There is no center like the one I want to set up. And an adolescent isn’t going to raise this topic himself. How can children manage this situation? They can’t. They remain by the wayside. They need good psychologists, and we have them. But they won’t take this on in their offices” (C).* According to a teacher from Crimea, *“teachers are torn between their duties as human beings and teachers and the administrative code” (C).* People interviewed spoke about the lack of any real mechanisms to help children: *“Even if a child tells a psychologist about this, because of the laws, the psychologist can only show sympathy” (C).*

The ability of teachers and psychologists to help children is limited even when a child’s life or well-being is in danger:

“When a child is bullied, a teacher can’t stand up for him, that will be propaganda” (C).

“There is suicide among LGBTI children. Children get information from peers or from the media. And it says online that if you’re not a certain way, that’s bad. As the saying goes, where there’s propaganda, there’s pressure on these children, who somehow don’t feel quite right and don’t know where to go with this. The question of personal identity is not reflected anywhere” (C).

People interviewed predicted that the situation for LGBTI children will worsen: *“They’re transmitting this idea of a strict norm, and if anyone doesn’t fit into it, they will remain alone with themselves. So we get suicides and all the rest of it. Adolescents don’t have positive role models. This kind of child will look for an organization, a group of friends, a gathering of other adolescents who will understand him. I’m not talking about some human rights organizations. He will find something not very good [drugs, promiscuity], because he doesn’t have any other options. So then he’ll have to hide it even more. And then LGBTI children will be associated with fringe scenarios because they don’t have any support” (C).*

In the DNR and LNR, there is such a wall of silence around this issue that even members of the LGBTI community do not have any information about the situation for minors.

Children from LGBTI families also face difficulties. Two gay men living as a family spoke about how they sensed “warning signs” of the growing homophobia and of the dangers for their son as the child of LGBTI parents. They said that there were being treated differently by friends and neighbors: *“People write denunciations of their neighbors just to show how patriotic they are... These are all signals for us. They tell us that we may become the target of attacks” (C).* Even the most run-of-the-mill situations are fraught with dangerous consequences for LGBTI children: *“you have to describe your family at school. You end up lying because you can’t tell the truth. This is terribly painful for a child” (C).*

Limited opportunities for LGBTI activism

Prior to the military conflict, Donbass and Crimea lacked virtually any specialized NGOs working to protect human rights on the grounds of SOGI, although activists did operate in these areas.

The Luhansk-based human rights center Our World, founded in 1998, moved to Kiev several years ago, thus putting a stop to its work in Luhansk. According to one expert, *“In recent years I*

*haven't heard about anything going on there. Activism was the only thing holding things together.*⁹⁶ Existing human rights organizations in Crimea were not active in supporting LGBTI people, and the only thematic NGO mentioned was Gelios: *"they provided psychological help, organized parties at their office. The organizers left exactly when Russia arrived because people were starting to point fingers at them"* (C). Members of the community turned to NGOs in Kiev and Kharkov for help when they needed it.

With the arrival of Russian power, LGBTI people were not only deprived of any support from NGOs, they also found themselves living in fear of homophobic actions by pro-Russian groups. In comparing the situation before and after the annexation, Crimean activists noted: *"The situations were totally different before and after: before you could connect with human rights defenders, but now it's all different, now they can hunt down social activists"* (C). In Donbass, there was some activism in regards to LGBTI rights before the war, but this kind of activism became impossible after the war began. According to one source in Donbass, *"before the war started, there was a YouTube channel Voices of LGBT.*⁹⁷*This was like a little piece of the European world, where we would be accepted. But it ended as quickly as it started because of the situation. The project had to be cancelled because it was too difficult to work"* (D).

The change in power also meant that NGOs could not find premises to rent due to the conversion of property. For example, an HIV prevention organization in Yalta has not been able to find an office for over a year. NGOs must have a lease agreement to open a settlement account, so this organization—the only organization that has held events in support of LGBTI people—cannot obtain funding or operate, including on technical grounds. An activist from this organization reported that: *"The head of the Social Services Center for Family and Youth said: 'I would advise you not to try to apply for state support for LGBTI issues at first'"* (C).

Places where LGBTI people could gather informally have ceased to exist. For example, in June 2014 armed bandits vandalized the Babylon night club (also known as California)⁹⁸ in Donetsk, and visitors were beaten and robbed. According to one informant, *"in the middle of the night, around 3 or 4 AM, people ran in in military uniforms, fighters with automatic weapons, screaming 'lie on the floor.' They took everyone's money, memory cards (from their phones), in case someone was recording. The most amoral thing they did was when they took everyone out onto the street, they arranged them in a line, turned on their video cameras, and ordered everyone to kiss. If you don't want to, we'll shoot you. Anyone who can't run away in the next 10 seconds gets a bullet in the back. After that all these kinds of establishments shut down. People tried to come up with something, to lease some space, but nothing worked out. All you can do there is be silent. It's terrifying"* (D).

According to informants, the establishment Kunderbunt in Donetsk closed because of threats of violence against LGBTI people: *"When organizers started to understand that this was utter lawlessness, that there were no laws whatsoever, that the police were on the DNR's side, that they [the aggressors] would be treated with impunity, there were no more cultural events"* (D). Informants said: *"There was no question of any parties. Lots of young guys arrived. They walked around the city in balaclavas, carrying bats"* (D).

In Donetsk, the art space IZOLYATSIYA, which supported artists and activists fighting for LGBTI rights, was ransacked. According to one member, *"We had several projects about LGBT rights with Masha Kulikovskaya. Her sculptures were on our territory. One was the distinctive figure of a woman cast from the artist's body.*⁹⁹*The people who had taken the territory started destroying it right away. It probably offended them. Masha's performance connected with these sculptures was held at the Saatchi Gallery, and DNR fighters left some feedback on it.*¹⁰⁰

⁹⁶ Interview with A.M., a coordinator at the Our World center.

⁹⁷ <http://novosti.dn.ua/details/228117/>

⁹⁸ https://www.lgbt.org.ua/ru/news/show_1520/

⁹⁹ http://www.mariakulikovska.com/homo-bulla/nggallery/image/dsc_9917/

¹⁰⁰ Interview with A., IZOLYATSIYA Foundation, Donetsk

Indeed, criticisms of M. Kulikovskaya's performance appeared almost immediately on the online media outlet *Russkaya vesna*, and the article was tagged with "homosexuality and propaganda" and "perverts."¹⁰¹ Kulikovskaya attracted the attention of armed people representing the DNR not least for the fact that she registered a same-sex marriage in Sweden in early 2014. This information spread quickly not just through so-called Novorossia, but also through Crimea, where this artist lived. Now Kulikovskaya cannot travel to Crimea because she fears for her life. She said: *"I see a real connection between Crimea and Donetsk. There's very little tolerance for me there. There's nowhere to run from that peninsula, there are many people who said something they shouldn't have and ended up in the sea, dead."*¹⁰²

Witnesses to the seizure of ISOLYATSIYA recounted how *"people with weapons came in and showed us a paper stating that the territory had to be handed over for DNR needs, to store humanitarian aid from Russia. Humanitarian aid—that's actually weapons and prison space where sentences are carried out. It's not just a place where people are confined and tortured, it's also a place where people are killed. The Ukrainian journalist Dmitry Petekhin served time at IZOLYATSIYA. Actually, they made a prison in the basements where we had our exhibits. Journalists from Kiev served time there, they were tortured. Now all of that is basements and bomb shelters."*¹⁰³ According to M. Kulikovskaya, *"DNR fighters shot people to death in the garden where the sculptures stood. Someone I know served three months there in the cellar. He was tortured and sent to perform forced labor: pick up the cigarette stubs and clear the garden of dead bodies. He saw parts of my sculptures in the garden."*¹⁰⁴

Kulikovskaya learned from journalists for the television station *Dozhd'* that the person in charge of shooting her sculptures explained that this was "their performance." *"That's how they showed what would happen to people who did not support the events in the DNR,"* she explained.¹⁰⁵

In Crimea, the only places LGBTI people can talk informally are thematic parties, but sources say that there are fewer and fewer chances to get together: *"Everyone is on their guard, they've gone into hiding, and nothing is going on"* (C). People have also encountered difficulties renting space for meetings, which is what happened with Q-bar: *"the building was directly across from the Rada. The club didn't advertise itself a gay club, but everyone knew that the owners were gay"* (C). *"Someone whispered to the city's new leaders that a gay bar was right under their noses. Then the bar had a visit from fire inspectors and the tax authorities. The establishment was fined and issued an official reprimand. That's when the managers understood that they were no longer welcome in the city."*¹⁰⁶ The owners left Crimea, primarily because they feared for their child's safety.

Other gay-friendly places closed in other parts of Donbass and Crimea:

"Before the war, everything was much simpler, much more open. We had places where we could meet in the open, and clubs, cafes" (D).

"It became really hard to make contacts once the cafes closed. I can't correspond with young people online, it's a different time. It was easier to meet people at cafes" (C).

"We [organizers of LGBTI parties] had the same place for several years, but now it's closed and we're looking for a new one" (C).

In Crimea, the search for meeting spaces is made all the more difficult by the intensifying homophobia (*"everyone knows that Russia doesn't like LGBTI people. No one wants to connect with LGBTI people. Only desperate people who have nothing left to lose agree to work"* (C)) and for technical reasons (*"no paperwork connected with real estate has been reissued, so even though there are lots of empty spaces, there's nowhere to hold an event"* (C)).

¹⁰¹ <http://rusvesna.su/news/1448637105>

¹⁰² Interview with the artist M. Kulikovskaya.

¹⁰³ Interview with A., IZOLYATSIYA Foundation, Donetsk

¹⁰⁴ Interview with the artist M. Kulinkovskaya.

¹⁰⁵ Ibid. See also the report by Dozhd TV: https://tvrain.ru/teleshov/i_tak_dalee_s_mihailom_fishmanom/territorija_izoljatsii_kak_donetskie_separatisty_zahvatili_sovremennoe_iskusstvo-371586/

¹⁰⁶ <http://www.gay.ru/society/phobia/time-predstaviteli-gey.html>

There is now only one meeting place for LGBTI people that is still operating in Crimea, but it is advertised neutrally as “a café for leisure activities” (C). The owners noted that the number of LGBTI people visiting the café plummeted in the summer of 2015. One source reported that the café organizers *“started having problems after the referendum: people from Ukraine were scared to come perform. Everyone was told that they might not be allowed to leave, that they would be killed at the border (C).* The number of “regular” tourists has also fallen: a vacation in Crimea has become too expensive for Russians, and people don’t visit from Ukraine for safety reasons and because of the political views. Nevertheless, the LGBTI community in Crimea greatly values this club.

Compelled departure of LGBTI people from Crimea

Many LGBTI people have felt compelled to leave Crimea and the so-called DNR and LNR. An important consideration for choosing a new place of residence became the homophobic laws in effect in Russia: *“many LGBTI people left for Ukraine so that could live in better, safer conditions. They left for a better life” (C); “some people left for Ukraine from Dzhankoy and Simferopol because they understood that these Russian laws would set the masses against us, that people would treat us with more aggression” (C).*

The mass departure of LGBTI activists from Crimea was in many ways conditioned by the government’s repressive policies: by 2014, public events supporting LGBTI rights, which had until recently been possible, were totally banned.¹⁰⁷ The well-known activist M. Khromova, who organized a number of actions, fled Crimea in 2014. The fragmentation of the LGBTI community and the lack of mutual support were also reasons for leaving. As a source remaining in Ukraine noted, *“people who previously tried to do something separately from one another found that it was easier to work together. I don’t think many people would have left” (C).* According to members of the community, it is now extremely dangerous to speak openly about LGBTI rights and get involved in activism in Crimea.

One difference for the LGBTI community in Crimea is that this community is now fairly isolated from NGOs in both Russia and Ukraine. Ukrainian LGBTI people frequently condemn people who stayed in Crimea. Sources conveyed the words of LGBTI people from Ukraine: *“they say, I’ll never come to Crimea again because now you’re Russia, you betrayed a nation” (C).* Respondents from Crimea asserted: *“Many people from Ukraine don’t want to communicate with us as if we were traitors. But no one actually asked us” (C).* As one lesbian from Crimea stated: *“if a person wants to leave, then he will. If he stays in Crimea, that means he supports the Russian government” (C).* Ties between Crimean LGBTI people and Ukrainian people are also weakening because it has become harder for Ukrainian citizens to visit Ukraine: visits are not welcomed by the Ukrainian government or by pro-Ukrainian activists (who are frequently conservative and even homophobic). There is even evidence that people returning to Ukraine from Crimea have met with violence at the border.

On the other hand, Crimean LGBTI people *“do not want to make any contact with Russia [Russian NGOs], they’re scared. Because the situation became even worse with Russia’s arrival. They’re just scared that someone might find something out, that they might be arrested” (C).* Meanwhile, Russian LGBTI organizations do not recognize Crimea’s annexation and do not believe it is possible to conduct human rights work there.

Problems LGBTI people face trying to leave the conflict zone

Most of the LGBTI people interviewed fled DNR and LNR territories because of the combat. Danger threatened the lives of all the people who escaped from the war:

[They attacked] “even the cars and busses carrying children, that didn’t stop anyone” (D).

¹⁰⁷ <http://rus.azatutyun.am/media/video/25387619.html>

“The most frightening was when we were on the train. We understood that they were blowing up the track bed. You thought maybe you should have gone on foot” (D).

“The most important thing was to get there. There was no time to be afraid. You had to react to the situation in time: when they said shut up, you shut up” (L).

During inspections at militia checkpoints, there was a risk of violence, arbitrary detention, denials to enter Ukraine, and blackmail: *“When they pull people out of the bus, well, nothing good can come of it. They’ll send you to the trenches or, if they see they can get money out of you, they will, they’ll shake you down until they shake it all out. And there is only one law — the machine gun” (D).*

People attempting to leave tried to make sure that they didn’t have anything with a Ukrainian symbol on it, and they tried to take as little with them as possible to hide that they were leaving the DNR or LNR for good. One respondent who fled Donetsk recounted the following: *“Once, in front of me, an old woman tried to intercede on behalf of one man. She said to them in Ukrainian: ‘What are you, little boys?’ And they said ‘Shut your mouth, bitch.’ And I spoke in Surchik. I thought, I’ll just shut my mouth with my Ukrainian” (D).*

Some of the people interviewed used the services of carriers. The cost of their trip was higher, but the connections they had made it more certain that they would get through the checkpoint quickly. There is also evidence that militia members were given bribes by people trying to cross the demarcation line. One person interviewed asserted that some bus companies regularly present “payments” at checkpoints. According to this informant, the bus company *“pays the militia at a checkpoint a dollar amount every month, plus they [the militia members] write up a list of what they need. Namely, this is expensive liquor and technology that must be bought. And such a list appears twice a month, when there’s a scheduled run. If something on the list is missing, then no one gets through” (D).*

Transgender people have particular difficulties departing from DNR and LNR territories because documents are checked both at DNR and LNR checkpoints and when entering territory controlled by Ukraine. It can be very dangerous if the photograph on the document does not match the appearance of the person leaving. One transgender person interviewed reported that before his departure, *“my appearance was nothing like the photographs on my documents. They could have said I was a spy, they could have shot me, they could have sent me to the cellar” (D).* When possible, transgender people tried to look like their photographs as much as they could by changing their clothes and hair and using makeup.

In some cases, the only way to get a person out of the conflict zone is by using a middleman. This is how one transgender person was saved: *“International organizations reached an agreement with the DNR to allow a convoy of its cars to escort an OSCE car, and that is how they brought him to our border. Our people were given advance notice” (D).*¹⁰⁸

¹⁰⁸ Interview with A., a volunteer who helped a transgender person leave DNR territory.

CONSEQUENCES OF THE INVOLUNTARY RESETTLEMENT OF LGBTI PEOPLE FROM DONETSK AND LUHANSK OBLASTS

LGBTI people who moved to Ukraine face the same difficulties as “regular” temporarily displaced persons, including fraud on the housing rental market and reluctance of landlords to rent to displaced people. According to one source who moved from Donetsk Oblast, *“there are landlords who have no problem renting to anyone as long as they are decent people and able to pay. But there are other landlords who adamantly refuse and don’t want anyone with a Donetsk registration”* (D).

There is also the problem of a negative attitude towards displaced persons even within the LGBTI community. An informant who moved from Luhansk spoke about his interactions within a circle of LGBTI people: *“They had a negative attitude towards displaced persons. They didn’t offend me, but they asked uncomfortable questions which I was supposed to answer for everyone”* (L).

However, it is admittedly more difficult for LGBTI people to find housing and jobs: activists from the NGO Insight spent a long time looking for a place to have a shelter (*“Again, when they learn that the displaced people are from the zone of the anti-terror operation and are LGBTI on top of that, [they refuse]”*).¹⁰⁹ A member of the LGBTI community who came to Kiev from Luhansk changed jobs in the restaurant business more than 20 times—he was fired without pay as soon as his employers learned of his orientation (L).

Transgender people continue to face problems finding work and renting housing because their appearances do not match the photographs on their documents. This situation is complicated not only by financial difficulties, but also by the fact that the commission that adopts decisions on sex changes is temporarily not meeting in Kiev in connection with changes in the law and procedures.

Many times, LGBTI people who have left decide to start working at non-governmental initiatives to assist displaced persons in need. One person interviewed explained that: *“The first thing I did after I moved was to go volunteer at a hotline for displaced people. I got the idea that I wanted to help people who had lived through experiences similar to mine.”* (D).

LGBTI displaced persons say that there is not enough psychological help available aimed specifically at them: *“No one asked: ‘Are you a displaced person? Maybe you need something?’ I don’t have anyone to talk to, anyone to hang out with. Do you think anyone talked to me?...”* (L).

¹⁰⁹ Interview with Olga Olshanksaya, Shelter project coordinator for the NGO Insight.

CONCLUSIONS

Thus, the main problems LGBTI people from the conflict zone (known in Ukraine as the zone of anti-terrorist operations and by the separatists as the DNR and LNR) and the Crimean peninsula are as follows:

- **homophobic legal norms in effect within the territories of these entities:**

In Donetsk and Luhansk oblasts, as in Crimea, more progressive Ukrainian laws were in effect prior to the events of 2014. Over the past two years these laws have undergone significant changes aimed at overcoming discrimination against LGBTI people. After the annexation of Crimea and the proclamation of the DNR and LNR either Russian laws with homophobic norms or even more discriminatory norms came into effect in these territories.

- **violence, threats, and summary punishments inflicted by armed gangs and homophobic groups:**

Armed formations in the DNR and LNR unquestionably present a danger to local residents. But given the homophobic hysteria, LGBTI people in particular have become targets for armed criminals. Consequently, their lives and well-being are under threat every day. In Crimea, hate crimes against LGBTI people and activists by organized homophobic groups have been registered.

- **consequences of violence and lawlessness in the form of the persecution of LGBTI people by people close to them—neighbors, colleagues, relatives:**

LGBTI people experience regular homophobic attacks by people close to them. This means that there is absolutely no way to live openly and it forces LGBTI people to continue living in fear. Members of this community face not just violent actions, but psychological pressure and the threat of dismissal and eviction as well.

- **difficulties leaving for other regions of Ukraine:**

Many LGBTI people cannot freely leave for other regions of Ukraine due to the risks connected with passing through demarcation zones. People can be prevented from leaving the conflict zone, and they can also be taken prisoner or treated with violence. Crimean border guards have treated some Ukrainian citizens with aggression and violence upon their return from Crimea.

- **lack of support for LGBTI children and children from LGBTI families:**

The situation of LGBTI children and children from LGBTI families is particularly alarming. Instead of educating the population in these territories about SOGI issues, government authorities spread homophobic propaganda. Any deviation from the “norm,” including being LGBTI, is condemned by society and declared unnatural. Because new homophobic norms classify any discussion of SOGI problems by teachers as “gay propaganda,” minors have been deprived of any real opportunity to ask adults for help and support. Children face rejection at home, at schools, and from their peers, which can be accompanied by depression, nervous breakdowns, and suicide. Children from LGBTI families risk bullying, rejection, and violence.

- **vulnerable situation of transgender people:**

The problem of discrepancies between transgender people’s documents and appearance is particularly acute. It is very hard for these people to get a job, rent housing, or receive benefits. People who began the transition process cannot complete it in their new places of residence due

to lack of funds, medicine, and competent doctors. In some situations, it is not possible to hide gender identity. Transgender people are forced to lead a secret lifestyle because they fear they will be subjected to threats and violence.

♦ **activities of LGBTI activists and LGBTI rights defenders in Crimea and the so-called DNR and LNR:**

Under conditions where the authorities promote homophobia, there are no longer any NGOs protecting LGBTI rights in Crimea, the DNR, or the LNR, and holding any actions to protect LGBTI rights is out of the question. Many activists and members of this community have been forced to flee their places of residence. LGBTI people who have been able to flee the conflict zone for places of relative safety are still subjected to biased treatment as both displaced persons and on the basis of SOGI: it is hard for them to find work, housing, and friends. Displaced people must invest massive efforts in creating conditions for life in other cities. At the same time, they are frequently condemned for fleeing the territories of the self-proclaimed republics.

RECOMMENDATIONS

To the governments of Russia and Ukraine:

Revoke all the homophobic norms of RF laws;

Find the laws of the so-called DNR and LNR invalid, return these territories to Ukraine's legal system;

Educate members of the Russian and Ukrainian law enforcement and judiciary communities about LGBTI rights, including by holding seminars and training sessions on recognizing and investigating hate crimes against LGBTI people;

Conduct, without delay, effective and fair investigations and trials of hate crimes against LGBTI people;

Prosecute people who have committed hate crimes against LGBTI people in Crimea and Donbass;

Ensure that human rights defenders have ready access to Crimea and Donbass, create the opportunity for collecting human rights information in safe conditions;

Create conditions for transgender people to complete transitioning, including in Crimea and Donbass, ensure that they can obtain IDs unhindered;

Provide free psychological help to LGBTI people who have fled the territories of Crimea and the so-called DNR and LNR and to those who remain there;

Ensure that Ukraine citizens can enter and depart Crimea freely by guaranteeing their security when they cross the border;

Ensure that Ukraine carries out its Action Plan to Implement a National Human Rights Strategy for the Period up until 2020 in accordance with the deadlines set forth in it, paying special attention to improving anti-discriminatory laws.

To international organizations:

Devote special attention to the situation for LGBTI people in Crimea and the so-called DNR and LNR, conduct regular monitoring of the situation with LGBTI rights, with a particular focus on the situation of LGBTI children and children from LGBTI families;

Assist transgender people with departing the territories of Crimea and the so-called DNR and LNR, devote particular attention to the situation of transgender people who have been deprived of the chance to complete their transitions and remain without valid IDs.

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Soap sculptures «Homo bulla» by Maria Kulikovska, a Crimean artist supporting LGBTI rights, in the art-space «ISOLATSIA» (Donetsk, 2010-2014). On the 9th of June, 2014, armed militants of the self-proclaimed republic DNR took and ransacked territory of «ISOLATSIA». Later a jail was organized there, then a military base and a place for execution and storage. The sculptures were shot down. (More information on pp. 31-32.)