

Cold Treatment

Case Studies in Violence and Discrimination against Lesbian, Gay,
Bisexual and Transgender People

Hungary 2002 to 2007

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Hungary 2002 to 2007

Patent – People Against Patriarchy

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Executive Summary

The Research

This publication is on the results of a research conducted by Patent in 2007 on violations against lesbian, gay, bisexual and transgender (LGBT) people over the past five years. The research consisted of interviews with 20 persons, who related the events of over 30 violations, based on which 15 case studies and 2 analyses were included in this publication.

Typical Cases

Several discrimination cases can be considered typical based on earlier research in Hungary and internationally. Discrimination by a service provider when a gay couple was told to leave a concert because they had been kissing, or when a teacher attacked a student physically because the student was transsexual, and the case of a bisexual woman who was harassed by her colleague because of a lesbian personal ad, and who finally quit her job.

The significant events and facts of two cases that drew much public attention in Hungary were also included in the publication. The case of a questioning student who was expelled from a Calvinist university in 2003, and the attacks against the 2007 pride march and the police negligence related to it.

Neglected Issues

The research directs attention to several issues that have not been in the focus of the work for LGBT people's equality. One such area is domestic violence against LGBT children. In the case study in this publication, a lesbian woman is forced to move to another city to hide from threats from her parents.

Another issue unexamined so far, is the fact that single young healthy women, including such lesbian and bisexual women, may not receive medically assisted reproduction in Hungary. The case in this publication portrays a lesbian woman who finds loopholes in order to access these reproduction techniques. She tries to find a way to have a baby without any men being legally the child's father. The real solution would be to change Hungarian law to allow her female partner and her to be both parents of the child legally.

The human rights situation of HIV-positive people is especially serious in Hungary, which has not received due attention so far. HIV-positive people regularly face violations of their right to information and self-determination, degrading or even inhumane treatment, denial of medical treatment or breach of professional confidentiality. One HIV-positive man was denied medical treatment on grounds that he had no insurance while medical treatment is free to patients with a lethal condition and the Act on social care provides for free medical treatment to the unemployed. The effect of these violations is multiplied by the fact that in Hungary, professional HIV/AIDS care is provided by a single hospital in Budapest. Because of this monopoly, HIV-positive people's freedom to choose their doctors is limited, and they are unable to flee from the violations related to their HIV/AIDS treatment to another health provider.

Relationship with Discrimination against Other Groups

The research has highlighted forms of discrimination that are related to perpetrators' ideas about the social standing of other disadvantaged groups and/or legal problems faced by other

social groups. In the domestic violence case portrayed in this publication, the male perpetrator disapproves not only of his daughter's being a lesbian but is generally against women's and children's autonomy. Bosses perpetrating mobbing, discrimination and sexual harassment against their LGBT employees not only object to LGBT people, they also think that their inferiors are to be obedient beyond the tasks defined in their contracts.

Other areas that are likely to affect other social groups: degrading treatment of patients in health care, violation of the right to information and self-determination, which are ensured by the Act on health, the practice of police identity checks, the widespread problem of unlawful employment, access of young and healthy women to assisted reproduction.

Areas for Further Research

In some areas, further research is needed to fully ascertain the existence of discrimination. For instance, the research raises the issue of whether the police discriminate transgender persons when they conduct identity checks and, as shown by the queer bashings related to the pride march, that the police reacts, or rather does not react, to emergency calls initiated by LGBT people in a discriminatory way.

And based on two cases, in which the Immigration Office and the Pension Payment Office interpreted regulations that are not in themselves necessarily discriminatory in a discriminatory manner, the study concludes that even where the legislator takes measures towards the greater equality of LGBT people (such as opening partnerships for lesbian and gay couples) those applying the provisions may take the law in their own hands to restore the discrimination. Therefore it is important to research the application of laws, even when regulations themselves are not discriminatory.

Recommendations

- The decision maker should initiate the extension of marriage to lesbian and gay couples on an equal basis. For that purpose the decision maker should initiate the following:
 - to make it possible for lesbian and gay couples to adopt children...
 - to open assisted reproduction to young single healthy women and women living in lesbian relationships...
- The decision maker should put an end to the monopoly of the hospital providing HIV/AIDS care in Hungary and should create regional HIV/AIDS-specialist centres...
- The decision maker should issue a transparent code of conduct for the police regarding the protection of pride marches:
 - the police should provide adequate protection to the marchers;
 - it should be the express task of the police to protect participants of after-events;
 - the police should be obliged to react to emergency calls...

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Introduction

This publication documents cases of discrimination and violence against lesbian, gay, bisexual and transgender (LGBT) people in Hungary between 2002 and 2007. It is based on a research conducted by Patnet Association in 2007, which was funded by the Human Rights Violations Documentation Fund of ILGA-Europe.

In some cases, earlier violations have been included where the context makes it clear that a similar pattern of violations has continued to this day. The report consists of the description of cases and their commentary. Thus, it portrays the kinds of discrimination and violence against LGBT people and is less useful in determining how widespread discrimination and violence is. Therefore, it may inform NGOs and state decision makers of the areas where interventions may be needed to ensure the equality of LGBT people.

It was important to document these cases because discrimination and violence against LGBT people often remain covert. On the one hand, LGBT people are so used to being discriminated against that they do not classify the events they suffer as discrimination or violence. Just as the transvestite who has “never suffered discrimination” and then goes on to give an account of how a police officer threatened him with violence when performing an identity check. And some forms of violence, such as verbal violence and harassment, are generally not regarded as violence and that is why they remain invisible.

On the other hand, LGBT people are invisible themselves. Thus discrimination lacks dramatic manifestations often because LGBT people prevent more severe violence and discrimination through self-limitation. One of the most pervasive form of this self-limitation is that lesbian and gay couples do not walk hand in hand in Hungary. But such a self-limitation can be discerned in the case in which a gay and HIV-positive man refrained from a promotion to avoid a thorough health check which would have revealed his HIV-status to his boss, who was openly homophobic. And according to the results of this study, many cases of discrimination did not reach court and did not come to public attention because those discriminated against are afraid of the stigma that comes with publicity and do not trust the legal system.

Documented cases of discrimination and violence are needed for the public to believe LGBT organisations that LGBT people are discriminated against in their daily lives. Thus the organisations may use this publication to prove, to the public and decision makers, that violence and discrimination against LGBT people exist and need intervention. The publication sheds light on some problems that have not ranked high among the priorities of LGBT organisations. Such as the discrimination against HIV-positive people that has grave effects on their lives, the area of verbal violence and harassment against LGBT people, and the legal regulation of assisted reproduction that puts lesbian and bisexual women at a disadvantage.

Method

The research on which this publication is based was conducted by Patent in 2007. Various sources (internet, LGBT organisations and groups, participants and organisers of the pride march, individual acquaintances etc.) were used to access those LGBT persons who may have suffered discrimination or violence during the last five years. A semi-structured interview was conducted with these persons. One interview was taken not with the victims of violations but with their legal representative. Altogether 20 persons were interviewed who related over 30

violations against them or their clients. Out of these, 15 specific cases and 2 more general descriptions of situations were included in the publication.

The two main aspects of processing and commenting the cases were the kinds of legal rights and human rights that were violated in a given case and what the given case says about the patriarchal social order.

Assumptions and Definitions

The aspects of legal rights and human rights need no further explanation; the effective Hungarian regulations affecting LGBT people and international human rights norms (such as the Universal Declaration of Human Rights) are meant by these.

By patriarchal social order, the researcher understands a social order in which men and heterosexuals have more power than women, children and LGBT people. Extra power is marked by such privileges as men making more money than women and heterosexual couples being able to get married as opposed to lesbian and gay couples, to mention only two.

The commentary also assumes that violence against the oppressed groups is needed to maintain the patriarchal social order. This form of violence is called patriarchal violence, it is directed against women, children, LGBT people and men endangering the patriarchal order and its aim is to maintain mainly men's power over women.¹ Violence is not only physical but includes emotional and verbal forms. Its perpetrators are primarily men, but even where the perpetrator is a woman, she often represents men's interests. Just as in one of the following cases where the mother demands that her daughter move home to restore her husband's power. In many of the cases below, it cannot be separated if violence is directed against a woman or a transgender person because of their sexual orientation or gender identity, or because the person will not meet men's expectations related to male power. Indeed, to be a lesbian or a transgender person is to go against these patriarchal expectations. This reflects the nature of patriarchal violence: it can be directed against anyone who questions the patriarchal social order, in effect men's power.

The patriarchal social order also means that scapegoats are needed so that the dominant group need not take the responsibility for inequality and violence. If it were clear who has more power and whose interests are served by the violence and discrimination, it were more difficult to maintain power. It is more useful for those in power if the victims blame each other or perhaps themselves and think that they deserve violence and discrimination, as seen in some of the cases below.

Structure

The publication discusses one type of violence and discrimination in each chapter. All chapters contain case descriptions and some chapters start with general conclusions drawn from the research. Although the case and the researcher's commentary are displayed separately within the case studies, the facts are of course described from the researcher's perspective.

The table on page 7 shows which case study covers which type of violence or discrimination. On the request of the participants, the names of victims and perpetrators have been changed

¹ Gerd Johansson-Latham *Patriarchal violence - an attack on human security*. Swedish Government Offices, Stockholm, 2006. See: http://www.sweden.se/templates/cs/Publication____13675.aspx

except for cases *Dismissal of a questioning student from a religious university* and *Family as prison*.

Terminology

The author intends to call lesbian, gay, bisexual and transgender (LGBT) people by terms that are not derogatory and that the participants of the interviews used for themselves. The first three letters of LGBT and their use needs no further explanation.

Transgender is a cover term that pertains to people whose appearance differs from the sex assigned to them at birth, thus it covers transsexual and transvestite or cross dresser people. Transsexual people, in the words of one of the participants, live with a male soul in a female body or with a female soul in a male body; they often feel they were born into the wrong body. As opposed to them, many transvestites or cross dressers do not feel their bodies or the sexual characteristics of their bodies are alien to them but like to dress in the clothes of the other sex.

When transgender people are mentioned in this study, the sex of the participant displayed is always the sex that the person feels to be his or hers. Thus, a transsexual woman is a woman who was born with a male body but in spirit, or in body if any sex reassignment has taken place, is a woman now. A transsexual man is a man who was born with a male body but is a man in spirit, or already in body as well. For the only transvestite or cross dresser participant in the study, the sex “man” is displayed as this man considers himself a man although he likes to wear female clothes and makeup. Similarly, terms describing the sexuality of transgender participants, such as heterosexual, lesbian or gay, are from the perspective of the transgender person’s preferred sex.

Cases in the study according to the kind of violation

Case	Perpetrator	against lesbian or bisexual women	against gay or bisexual men	against transgender	against questioning	domestic violence, honour crime	verbal violence	mobbing	physical violence	sexual harassment	school discrimination	work discrimination	discrimination by service provider	police violation	institutional discrimination	partnership
Family as prison, 8. o.	parents	X				X	X									
Hindering the immigration of a man living with a man, 13. o.	Immigration Office		X												X	X
Disputing the Right to Survivor's Pension, 17. o.	Pension Office		X												X	X
State Ban on , 19. o.	legal regulation	X													X	
Repeated police harassment against a transvestite 22. o.	police			X			X							X		
Dismissal of a Questioning Student from a Religious University 24. o.	Calvinist university				X						X				X	
Violence by a teacher against a transsexual student, 26. o.	teacher			X			X	X	X		X					
Discrimination by a service provider against a queer man, 28. o.	security personnel		X				X						X			
Discrimination against HIV-positive people in health care, 29. o.	health providers	(x)	X	(x)	(x)		X		X				X		X	
Repeated violations against an HIV-positive gay man, 35. o.	doctor, employer		X				X					X	X		X	
Intimidating workplace , 38. o.	employer		X				X	X				X				
Repeated discrimination at work against a transsexual man 39. o.	employer			X			X	X		X		X				
Harassment and physical violence against a bisexual woman at work 41. o.	colleague	X					X		X							
Physical violence in the street against a transsexual man, 43.o.	unknown			X			X		X							
Verbal violence against transgender women 44. o.	unknown			X			X									
Attacks against participants of the pride march 46. o.	unknown, police	X	X	X	X		X		X					X		
Street violence during the night of the pride march 50. o.	unknown, police		X						X					X		

Domestic Violence

Psychic and verbal violence, which characterises the following case, is often not considered violence or at least Hungarian society condemns it very lightly. However, it is necessary that the actors working on LGBT people's equality take a stand. Often it is not just that LGBT people's parents "do not understand their children" or "have difficulty a hard time their children's homosexuality" but also that they harass and threaten their children and make their lives impossible to live. Parents and other relatives would have the right to have difficulty in coming to terms with their family member's homosexuality but in the case described here, the parents perpetrate psychic and verbal violence. If we do not recognise that these cases are not simply about coming to terms but about violence, the perpetrators will never be called to account and LGBT children and other family members will never be protected from violence. This case calls attention to the idea that women's organisations are potential strategic partners of LGBT organisations as they have already recognised the various forms of domestic violence and with whom legal sanctioning of domestic violence may be a joint interest.

Family as prison

Victim: Gabriella Kovács

Victim's sex: female

Victim's age: 23 years

Victim's education: university or college

Work: entrepreneur

Transgender identity: none

Sexual orientation: lesbian

Place of residence: Miskolc

Place of violation: Miskolc

Date of violation: from November 2006 to end of 2006

Keywords: psychological violence, child abuse, domestic violence, honour crime, violence against women, violence against lesbians

Gabriella's father always had conventional, patriarchal ideas about family, women's place in society and the family, and homosexuality. All through his daughter's life, he ruled over the family and never took no for an answer. He wanted her to pursue a traditional female course of life; to marry after university, have children, stay at home to rear the children, to create a large, multi-generational family over which he could continue to preside. Gabriella once mentioned that she did not like this idea but his father quarrelled with her for two days afterwards so she never defied him again.

However, she started to collect money secretly from an early age to escape one day. „I was going to primary school, first or second class, and when someone had a birthday and they brought in biscuits and cookies the others ate theirs, but I sold mine during the break, and saved the money.” She became conscious of the fact that she was attracted to women during secondary school and she realised during university that “there will be a brutal difference between what dad planned and what I could imagine for myself.”

Gabriella's father hindered her independence in various ways. Although she would have been accepted to a university in Budapest, his father made her attend a less prestigious university in Miskolc, where they were living. When she inherited a flat from her grandparents, he spent the money coming from the sale of the flat. He forbade Gabriella to work, so she worked secretly during university.

Her mother did not support her independence either: „If any verbal abuse or psychological harm came, she looked after my soul, but too bad nothing happened actively, so mum helped dad’s rule considerably.” „Interestingly, my mum didn’t like the fact that I didn’t agree with dad’s principles and wanted to move away from home.”

Gabriella decided to move from her parents in the summer of 2006:

‘My relationship with [my partner] reached a point that I wanted to go public with it but if I had said so at home [...] there would have been forced isolation.’

‘Would they have locked you up?’

‘Yes, that’s my guess. Dad would have done everything to keep me not only from my partner but also from this subculture altogether and would have deployed anything to achieve this goal. And mum would have supported him, I’m sure about that.’

Gabriella moved away from home in secret during a single morning when her parents were not at home. She wrote them a letter saying she was a lesbian and that she cannot meet their future expectations. She also wrote, „I know that if I cannot meet these, I cannot exist at home.”

She only dared to meet her parents in public afterwards. When it became clear that she really would not move home, her mother became violent. She started to pull her coat, pressed the phone to her ear to force her talk to her father. She threatened Gabriella that if she will not give her address, she will find out but “that won’t be good” for Gabriella. This is when she decided to move from the city. She knew that her father had had people beaten up and had abused her mother earlier and knew he carried tear gas and a knife.

She made precautions at her next place of residence. She told her landlady that her father may track her down. She left pictures of the perpetrator, herself and her partner with friends in case they disappear. Because she thinks that the police do not appear when there is a domestic violence case, she made acquaintances with a local police officer who took notice of her problem and promised to send her colleagues in a few minutes if Gabriella calls her personally.

„My biggest crime was to defy his expectations, but I guess that being a lesbian added to it. He has homophobic principles because of his conservative political ideas and he always made these known at home.”

Comments

This case is a good example of the fact that perpetrators of domestic violence use similar methods and follow similar scripts irrespective of whether they abuse their children or their partners.

Domestic violence is based in the male perpetrator’s patriarchal convictions whether his victim is his partner or his child, whether the victim is heterosexual or lesbian. The literature on intimate partner violence perpetrated by men against women describes that abuse results from the man’s conviction that whatever he wants should happen. These ideas usually go together with other beliefs about women’s place in society and the family. That it is the woman’s job to stay at home, to rear children and that she should not pursue a public career. In heterosexual relationships, the man often starts to use more severe violence or switches from verbal to physical violence when the woman revolts against the man’s power. She no

longer wants to meet his expectations, sets the condition that the man should also take his share of housework or wants to get a divorce. This is what men, and often public parlance, but sometimes even lawyers call “provocation”; when the woman no longer wants to meet the man’s patriarchal expectations.²

This woman, by choosing to live with another woman, fully defied her father’s patriarchal beliefs about family. Just as in the case of heterosexual women, violence escalated when the parents realised that their daughter will not live the life they imagined for her. The parents started out with verbal violence here, too, such as homophobic remarks by the father at home, and physical violence, such as pulling her clothes, pressing the phone against her ear, came later.

The only reason why this case did not end in severe physical violence is that Gabriella accurately assessed her situation, her partner supported her in her escape and she collected enough money with years of work that she had somewhere to escape. It is well known from cases of partner abuse that such harassment and threats are often the preliminaries to physical violence. It is also a conclusion drawn by the literature on domestic violence that victims can usually estimate very accurately when and what kind of acts the perpetrator is going to perpetrate against them. Therefore Gabriella’s conclusions that her parents would have locked her up and that she took the threat seriously that it “won’t be good” for her if her mother finds out about her address, were probably sound and accurate. No one should be misled by the fact that no serious physical violence took place: the perpetrators switched to the next gear of violence.

In this case, it is difficult to separate if the parents are violent because the woman is a lesbian or because she defies her father’s patriarchal expectations. The woman herself cannot separate these, as the last quotation shows. To be a lesbian goes in itself against the father’s patriarchal beliefs. Therefore, perhaps it is better not to separate violence against lesbians from violence against women here but it is worth talking about patriarchal violence.

Patriarchal violence encompasses all the forms of violence that aim to create, maintain or revenge the loss of men’s power. As in this example: the father and the mother blackmail, pull at and threaten their daughter, to make her move home and so restore primarily the man’s power over his family. A similar notion is male violence, which directs attention to the fact that its perpetrators are most often men. Violence against women and children, against lesbians, bisexuals, gay men and transgender people and honour crimes are usually meant by patriarchal violence.

The notion of honour crime is especially interesting in analysing this case. It denotes the kind of violence that is perpetrated when a family member or someone else is seen as violating a family’s honour. For women, it primarily manifests when a woman makes or can be suspected of making sexual contact with a person that the family does not regard a suitable partner. In the most extremely patriarchal societies, it is not the person herself or himself but the head of the family who decides who may have sexual access to his property but traces of this idea can be found in societies that are based on less extreme forms of male power. Often such violence has immediate economic motivation because a suitor with adequate economic means is considered proper for the woman, who could further increase the family’s wealth, in effect

² Péter Szil: *Why Does He Abuse? Why Can He Abuse? Domestic Violence is Men’s Responsibility*. Habeas Corpus Working Group, Budapest, 2005. See: <http://www.stop-ferfiorozak.hu/news/58/52.html>

that of the male head of the family. Of course, such limitation on women's emotional and sexual choices is against all human rights norms.

Honour crimes are usually seen as characteristic of faraway countries or perhaps immigrant or ethnic communities, or as having occurred in Europe only a long time ago. Muslim countries where women have no right to appear in public with a man who may "bring shame" to her family are often mentioned. Iran may come to mind, where homosexual men are lashed. Although in this story the father does not go as far as killing his daughter, her physical integrity is in danger for having an emotional and sexual relationship with a partner who brings shame on her family. This case of honour based violence is then different from more severe cases of honour crimes experienced in faraway countries only in its scale but not its logic. This case shows that honour crimes may occur anywhere where a man considers his family members his own property.

This case can also be compared to men who are less violent. Although not every man is so extreme in these questions as the father in the example, it is true about most men that they do not take an equal share of housework and rearing children, and although they do not forbid their partners to have a job outside the home, they do not like her to have a career that brings more money or social approval than theirs. Similarly, although many parents do not threaten their child when it turns out that she is lesbian, they do not support her either to arrange her life as a lesbian.

According to some analyses of child abuse, when women abuse their children they enforce male power interests most of the time, sometimes specifically the interests of their male partner. This is what happens in this case, too: the mother is an agent of the father's interests. She herself has no elaborate views on homosexuality, she represents the father's arguments in every discussion with her daughter. And the girl's moving home would have restored the father's rule over his family.

This case is a counterexample to the much voiced stereotype that heterosexuals are more tolerant towards lesbian women than towards gay men. One case is not sufficient to draw conclusions on the general level of social acceptance towards lesbians. Nevertheless, this example coincides with the experience of many lesbian and bisexual women that heterosexual men accept them as long as being lesbian or bisexual can be interpreted as if they were still sexually available for the men. It is a kind of pornography and prostitution when women are portrayed in a "lesbian" sexual act to actually serve the sexual arousal of men. Several lesbian and bisexual women have reported cases to the author of this study, and he himself witnessed one such case, where the men became suddenly violent towards a woman when it turned out that her being a lesbian meant she was not sexually available. It would be an interesting theme for research to see if lesbian and bisexual women are really accepted more than gay and bisexual men and if so, whether this pertains to lesbian and bisexual women who make it clear that they are sexually unavailable for men.

This case is also a good example of economic violence. The man does not allow his daughter to work and spends his daughter's heritage on himself. He does both in order that her daughter should not have the financial background to gain independence and so that his will is enforced that she should stay with the parents.

Just as victims of intimate partner violence, the lesbian woman in this case cannot depend on the intervention of the police. Just like in the case of intimate partner abuse, threats and

harassment, perpetrated by the parents, do not classify as crimes under Hungarian law. Gabriella knows in exactly what order the events follow each other and when violence can be expected to reach a degree, such as being locked in, from which it is worth moving away to another city. The same is true for victims of intimate partner abuse, and like Gabriella, they have to organise their own protection. Today, the legal system in Hungary does not provide adequate protection against domestic violence and it is characteristic of state authorities to fail the victims who have to handle their situation alone. This also means that LGBT organisations can be potential partners of women's organisations as it is likely that it is often family members who perpetrate hate crimes against LGBT persons and these can be addressed by similar legal regulations and interventions.

Discrimination by state actors

Hindering the immigration of a man living with a man³

Victim's sex: male

Victim's age: in his 30s

Victim's education: secondary

Work: cleaner

Transgender identity: unknown

Sexual orientation: unknown

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2003

Source of information: dr. József Kárpáti, the victim's lawyer

Keywords: immigration, immigration law, institutional discrimination, partnership, marriage

When someone applies for a residence or establishment permit, the Immigration Office examines whether the applicant's costs of living are covered. In examining this, the Office may take into account in particular a family member's statement to support the applicant financially. Hungarian immigration law considers ascending, descending and collateral lineage and spouses as family, but does not consider civil partners family. The word "particular" in the law means that the Office should take into account statements by family members mostly or in most cases but does not preclude the decision to be founded on someone else's statement. Furthermore, the Office may take into account any immovable property in Hungary owned by the applicant, bank accounts, and other conditions.

In this case, a Romanian citizen Henrik lived with his partner in Hungary, a Hungarian citizen, István. At the beginning of the case, Henrik had been staying in Hungary for almost 10 years, based on a legal residence permit. István, his partner, had an apartment and 10 million HUF worth of capital in stock that yielded him income. Henrik had an income over the minimum wage. He applied for an establishment permit to the Immigration and Citizenship Office among these conditions.

While residence permit is relatively temporary, easily revoked and provides few rights, establishment permit provides the right to work without a work permit, is extremely difficult to revoke and allows permanent residence; apart from voting, it provides almost the same rights as citizenship.

In its procedure of first instance, the Immigration Office did not accept István's statement of support on grounds that a partner is not a family member. In addition, it did not accept the reasoning that Henrik's accommodation is provided free of charge, because it did not think it lifelike that someone should live with someone if they are not family members. The Legal Aid Service of Háttér Support Society for Gays and Lesbians joined the state administrative procedure in the appeal phase, where they submitted a civil partnership agreement attesting the fact of the two men's joint household and they argued that it is lifelike for a partner to ensure his partner's accommodation free. In the appeal procedure, the Office accepted the reasoning that free accommodation is lifelike. However, it excluded the statement of support

³ This case was represented by the Legal Aid Service of Háttér Support Society for Gays and Lesbians. The information published here is by courtesy of dr. József Kárpáti lawyer.

from among the evidence saying that although the partner may in fact support the applicant, this fact may not be taken into consideration because a partner is not considered family under the Act on aliens. And according to the Office, the income over the minimum wage, which Henrik had by himself, was not sufficient to make a living in Hungary.

The applicants applied the case in court, asking the court to compel the Immigration Office to take the partner's statement into consideration, and to proclaim that an income over the minimum wage is sufficient in itself to make a living. The court decided in their favour but the decision did not say whether the statement by the partner must be taken into account. It simply declared that the case had not been adequately investigated, therefore it set aside the earlier decision and required the administrative authority to carry out a new procedure. Based on that decision, the Immigration Office could have investigated the case more thoroughly and refused the establishment again. But the Immigration Office appealed this decision at the Supreme Court making the justified argument that the court decision lacks a reasoning. For the same reason, the clients represented by Háttér's Legal Aid joined the appeal.

The Supreme Court required the court of first instance to carry out a repeated procedure and to take a new decision, and compelled the court to fully investigate the state of affairs, such as summoning the supporter and the applicant and examining the existence of the civil partnership between them. Thus, the Supreme Court decision implies that a statement given by the partner may be a basis for granting establishment, although this is not clearly stated in the decision. Following this, the court of first instance examined whether the clients were partners, although the Immigration Office never disputed that. Finally, it set aside the earlier decision of the Office again and ordered the Immigration Office to carry out a new procedure. After three years of legal procedures, and legal insecurity for the gay couple, the Immigration Office finally approved the applicant's establishment in Hungary in its repeated procedure in 2006.

Comments

Taking discrimination in the narrow sense, the provision of the Act on aliens that provides a list of examples of the kinds of grounds that may establish an applicant's livelihood does not seem discriminatory. Although the Hungarian state maintains a ban on the marriage of lesbian and gay couples and under the Act on aliens, spouses are family but partners are not, the Act does not preclude the possibility that the Office could accept livelihood being ensured by other than family members—as demonstrated by the outcome of this case. Thus the Act on aliens does not preclude lesbian and gay couples from the advantages provided by establishment.

At the same time, the effect of the list of examples is that it provides room for the interpretation of authorities and courts, which sometimes interpret it as if it were an exhaustive list—as happened with the first decision by the Office. That is one reason why there was much debate and lobbying related to European non-discrimination legislation in order that non-discrimination regulations expressly name sexual orientation and gender identity as grounds on which someone may not be discriminated against, so it is not only phrases like “and other conditions” that the protection of LGBT people is based on.. Therefore, the Act on aliens discriminates against LGBT people in its effect when it does not preclude but neither does it expressly name partners as persons who typically ensure an applicant's livelihood. Because there is a ban on same-sex marriage in Hungary, this is indirect discrimination against lesbian and gay couples.

It is also questionable whether the procedure of the Immigration Office is discriminatory. It may seem as if the Office especially wanted to give the gay couple a hard time, since it was not disputing the existence of the partnership or if the Hungarian partner had the necessary financial means to support Henrik. The Office did not examine the merits of the case but was trying to refuse the application on the basis of a formality. Instead of examining whether the applicant's livelihood is ensured and taking the statement of support into consideration, it disregarded existing evidence to be able to see the lack of livelihood as proven. The same applies to income over the minimum wage. It is well-known that numerous Hungarian citizens live actually on the minimum wage yet the Office considers this as the proof of uncertain livelihood. Suddenly the object of inquiry is no longer what proves the livelihood but what can be brought up against it.

The Legal Aid Service of Patent repeatedly faces situations where in procedures involving members of a disadvantaged group the subject matter of the case changes: suddenly the question is not what supports a person's statements but what contradicts them. This happens often to incest victims when the authorities start to examine not whether the case has happened but whether the child is lying. A report by Amnesty International on intimate partner rape calls attention to the same phenomenon, according to which many police officers think that women reporting rape lie, which results in the police not collecting evidence supporting the rape but examining what supports the suspicion that she is lying.⁴ When those in power see one of their privileges threatened (heterosexuals their privilege of immigration related to family, men their privilege of not having to take into account if the woman wants to have sex), they employ a strategy by which they perhaps do not openly question the credibility of the member of the disadvantaged group but act and collect evidence to support the appearance of falsity.

It is possible to imagine that the Immigration Office follows exactly the same procedure with heterosexuals in a civil partnership. Maybe the Office or some of its officials have reservations not against lesbian and gay couples but couples that do not want to marry. It is possible to imagine an official who, perhaps on religious grounds, wants to give a hard time to every couple living out of wedlock, thus everyone living in a civil partnership. Or perhaps the system or one of its workers acts on xenophobia and living in a civil partnership is just one excuse to grant establishment permits as few times as possible. Perhaps there is no discrimination at all. These are all guesses, which could be answered by monitoring the activity of the Office or analysing its decisions taken so far.

It is clear that the state wishes to deprive lesbian and gay couples of some rights, such as adoption, with the ban on marriage. This case is an example that there are laws that provide room for discrimination despite the fact that the legislator did not want to (or does not dare to) exclude LGBT people from the given right.

The lesson for LGBT organisations and decision makers to be learned from this case is that in taking any legislative measures towards greater equality it is important to examine related regulations. And even where a regulation does not seem discriminatory, the application of that regulation may put LGBT people at a disadvantage. Therefore, neither the work of LGBT organisations nor that of decision makers ends with the issue of regulations that ensure greater equality but they must devote financial and human resources to monitoring the application of laws and searching the body of law.

⁴ Amnesty International (2007) *Magyarország: Meg nem hallott segélykiáltások – A nők nem kapnak megfelelő védelmet a családon belüli szexuális erőszak ellen.* Amnesty International.

This case also calls attention to the fact that civil partnership does not provide automatic equality even in areas where the law does not deny partners the advantages granted to spouses. Because Hungarian law uses but does not uniformly define the notion of family, an authority may question whether those living together are family even in the case of a civil partnership, and it may be necessary to prove the existence of the civil partnership—as happened in the repeated first instance court procedure. It may be important to monitor the institution of registered partnership⁵ from the perspective of whether it really solves the problem that so far authorities have not considered the existence of civil partnership automatically proven.⁶

Patent has often voiced its opinion that through allowing marriage and regulating it in the same legal institution as marriage between heterosexuals the state would suggest the important message to its citizens that LGBT people are absolutely equal to heterosexuals. This case, however, shows that marriage would not just to deliver a symbolic message but would be the simplest and the most secure way of ensuring equality. Because if lesbian and gay couples were allowed to marry such hidden differences between marriage and civil partnerships could be overcome through the marriage of the parties. Countless other small rules may exist that is discriminative or provides room for discrimination despite the fact that civil partnership has been opened to lesbian and gay couples and legislator did not wish to link the given right exclusively to marriage.

⁵ Introduced in 2007, coming into effect from 1 January 2009.

⁶ Under current Hungarian law, civil partnership is factual that is it comes about through the fact of a joint emotional and economic relationship between two partners and not through registration. Therefore, authorities sometimes require further proof other than the parties' statement. Civil partnership is open to all couples.

Disputing the Right to Survivor's Pension⁷

Victim's sex: male

Victim's age: 63

Victim's education: secondary

Work: pensioner, earlier profession unknown

Transgender identity: unknown

Sexual orientation: unknown

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2003

Source of information: dr. József Kárpáti, the victim's lawyer

Keywords: institutional discrimination, partnership, marriage

In the autumn of 2003, the Pension Payment Office did not award pension to a man after the man's deceased same-sex partner. In the case of civil partnerships, survivor's pension is payable after deceased partners if the partnership existed for at least ten years, which was true in this case. According to the 1996 amendment of the Civil Code, civil partnership may come about between two persons of the same sex.⁸ According to the decision of the Pension Office, the gay man was not entitled to the pension because the provisions of the Civil Code abolishing the discrimination entered into force only in 1996. Thus, in their view, the condition that the partnership should exist for over ten years could not be met, since ten years had not elapsed between 1996 and 2003.

The Legal Aid Service of Háttér Support Society appealed the decision in court. In a joint letter with the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee written to the Pension Office they explain:

Neither the Constitutional Court nor the legislator intended discrimination between same-sex couples and heterosexual couples to end in 2006.

It is irreconcilable with the rule of law and absurd to interpret the amendment to the Civil Code in a way that disregards its essence and maintains discrimination after a decade. In addition, the Office disregarded the regulation on the entry into force of the Civil Code (§75 of Decree 2 of 1978 (Ptké.) under which the Civil Code shall apply to rights and obligations resulting from legal relationships that came about before its entry into force and that had not been subject of an effective court decision. Furthermore, withdrawing the right to pension would violate rights acquired and exercised in good will, which is an obvious breach of the Act on public administration procedures.⁹

In the end, the court decided in favour of the application and granted the survivor's pension, which the Office appealed late and therefore it became binding. After Háttér and other non-governmental organisations publicly protested against the discrimination, the government issued a decree at the end of 2003 that same-sex partners can have survivor's pension under

⁷ This case was represented by the Legal Aid Service of Háttér Support Society for Gays and Lesbians. The information published here is by courtesy of dr. József Kárpáti lawyer. In describing this case, the researcher relied heavily on the documents found on the Háttér's website: <http://www.hatter.hu/erdek/ozvegyi.htm>.

⁸ Under current Hungarian law, civil partnership is factual that is it comes about through the fact of a joint emotional and economic relationship between two partners and not through registration, and civil partnership is open to all couples.

⁹ Letter of Háttér Support Society for Gays and Lesbians, the Hungarian Civil Liberties Union and the Hungarian Helsinki Committee to the Pension Payment Office, 14 October 2003, <http://www.hatter.hu/erdek/ozvegyi.htm>, downloaded on 28.11.2007.

the same conditions as heterosexual partners thus preventing any more discriminative interpretations.¹⁰

Comments

This is an obvious example that even where the legislator has a clear intention to abolish discrimination and where the legal regulations, the regulation on the entry into force of the Civil Code in this case, would clearly support non-discrimination, those applying the regulations may take the law in their own hands and restore the discrimination. This case is a positive example of how important it is for NGOs to monitor the application of regulations, since their work forced the government to issue a legal norm that makes it clear that the regulation should not be applied in a discriminatory way.

¹⁰ §13 of Government Decree 248/2003 (XII.23.)

State Ban on Medically Assisted Reproduction

Victim's sex: female

Victim's age: in her 30s

Victim's education: university or college

Work: entrepreneur

Transgender identity: none

Sexual orientation: lesbian

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2006

Source of information: the victim

Keywords: artificial insemination, medically assisted reproduction, institutional discrimination, marriage

The Hungarian Act on health allows medically assisted reproduction only on the basis of a medical reason, „a reproduction procedure shall only be carried out for either person living in marriage or in civil partnership with a person of the opposite sex where it is highly unlikely that a healthy child should be born out of the relationship in a natural way.”¹¹ In addition, following the 2005 amendment of the Act on health, single women may also receive reproduction procedures if the woman's age or health status makes it highly unlikely that she could have a child in the natural way.

Young and healthy women may access medically assisted reproduction then, if they live in marriage or a civil partnership with a man and either the woman or the man has a problem that hinders reproduction. This is discrimination against single women, since without a health problem they have to wait until they are old enough to meet the age criterion in the law. Although the Act does not detail this, it is apparent from the decree on its application that the state discriminates between the two groups of single women. While for women who receive medically assisted reproduction procedures because of their health status the state pays the intervention, women who are entitled on the basis of their age must finance the procedure themselves. Because it is forbidden for lesbians and gays to marry in Hungary today and lesbian and some bisexual women do not want to get married or enter into a civil partnership with a man, this regulation is discriminatory against them. The case presented here is about what specific practical problems a single, and in this case lesbian, woman must face who wants to mend this discrimination.

This lesbian woman, who is in her 30s, started to work on getting medically assisted reproduction in 2006. She found a trustworthy andrologist through acquaintances. She needed an andrologist because this is the doctor who examines a man's health status and certifies that the man has not enough active sperm for insemination. Based on such a certificate, a woman can apply for insemination.

The woman told the andrologist that she is a lesbian and that is why she needs artificial insemination. The andrologist issued the document under the name of a gay male relative who undertook to play the role of the woman's partner for the time of the insemination procedures. With this certificate, the woman went to the fertility centre where the assisted reproduction procedures started.

¹¹ Section 167 (1) of Act CLIV on health.

During the procedure, she was once offered the opportunity to try to use the presumed male partner's sperm, and once the doctor asked her if she wanted him to call the man who had never once appeared, as opposed to others. But these cases were not regular and inquisitive or harassing.

The woman wants her real female partner and herself to be both parents of the child. This would solve the problem of the partner continuing as the custodian of the child even in the event of the woman's death. She chose medically assisted reproduction because this way the sperm donor is not considered the father legally and this can prevent him from having rights over the child.

Comments

This case is a good example of institutional discrimination when discrimination is realised not by persons but by law and the institutions that properly apply them. The Act on health is discriminatory when it provides that medically assisted reproduction should be provided only to married women or women in a civil partnership with a man. Therefore, this woman cannot access insemination legally but has to use all kinds of illegal means to mend the discrimination. The Act on family law is also discriminative when it does not make it possible for those who actually take care or are going to take care of a child to be the child's parents regardless of their sex, but considers a man and a woman the child's parents in all cases.

Both acts playing an important role in this case have the aim of maintaining men's power over women's body and the child (to be born) and to maintain the idea of a heterosexual family. Therefore this case is a good example of, if not patriarchal violence, discrimination based on patriarchal interests. It shows well why discrimination against women and against sexual minorities go hand in hand. It would equally endanger men's power over women and children to have single heterosexual women or lesbian women who receive artificial insemination. It would be revealed in both cases that, apart from sperm, men are not needed for children.

In reality, men have little to do with pregnancy and having children, and in many families, they play a negligible role in taking care of children later, as well. Apart from the small number of fathers who really take an equal share of caring for children and apart from the fact that sperms are needed for insemination, it is only a myth that children would not do without fathers. Society maintains this pretence in many ways, for instance through various naming regimes where male children receive sometimes even their first names from their fathers. And with laws: with the Act on health, with the provisions on custody procedures, labour rights (concerning paid holidays) and social benefits (maternity leave, maternity allowances).

The legislator regulated medically assisted reproduction in the Act on health and considers it the solution to medical problems—infertility problems. The 2005 amendment of the act opened medically assisted reproduction for healthy but older single women, presumably because the probability of reproduction decreases with age. However, assisted reproduction can be a woman's choice when she does not want to procreate or rear children with a man. It is absolutely not self-evident that medically assisted reproduction is a solution to a *medical* problem. By not acknowledging any other reason, and by maintaining medically assisted reproduction for the treatment of a medical problem, the law denies the fact that women have the possibility to have children independently of men or the man's medical problem. Opening medically assisted reproduction for single women would remove these women from men's control since they could even have children absolutely independently.

With the institution of presumed fatherhood, the Act on family law provides that first of all the man who was married to the woman at the presumed date of conception of the child should be considered the father of the child. Government Decree 149/1997.(IX. 10.) on custody authorities, child protection procedures and custody procedure provides that the custody authority establishes *ex officio*¹² an imaginary person as the father of a child who was registered without data on the father, where the position of father remains unfilled until the child's third birthday. Both these rules want to prevent the woman from having a child alone, at least before the law. If only in a fictitious way, they ensure the presence and control of a man over the woman and her children.

These laws differ from those Islamic countries where women may not leave their home alone or where even the death penalty is possible for having a child out of wedlock only in their extent but not in their logic. The logic is the same: the woman should not do certain things without the man's approval. She should especially not do things that cast a doubt on which man is the child's father, and the man's lineage should be ensured even if he is not the biological father.

In reality, there is no rational reason why a child should have a father registered as his or her parent. Law could take notice of the status quo that most women, even those who live in a relationship, take care of their children themselves, with little contribution from men. In a non-patriarchal society the adult who is living with the mother at the presumed time of the child's conception would have no right to the child, not even his or her biological parents would, but the child would have a right to the parents who actually take care of him or her.

If the state lifted the ban on the marriage of lesbian and gay couples and extended the presumed parenthood to women in lesbian relationships that would be a solution to this woman's problems. For this, however, it would be necessary to break with the idea that there must always be a man in a family who controls women and children.

¹² Without request from anyone.

Repeated police harassment against a transvestite

Victim's sex: male

Victim's age: 30

Victim's education: university or college

Work: engineer

Transgender identity: transvestite, crossdresser

Sexual orientation: heterosexual

Place of residence: small country town, Budapest

Place of violation: small country town, Budapest

Date of violation: 2002 to 2005

Source of information: the victim

Keywords: transgender, police, identity check, verbal violence

This transvestite man (a man who often wears female clothes) has repeatedly met police officers checking his documents or a controller of the public transport company that made remarks especially well audible for his environment that his gender or looks differs from the his sex in the given document.

In 2005, at a routine check-up on a country road the police officer called the transvestite driver expressly by his male name all the time, and threatened that he had a right to wash off the transvestite's make-up in order for the identification. In addition, he threatened several times: "You know I could arrest you." The transvestite threatened back that then the police officer would be treating him in a disadvantageous manner, which would not be to the police officer's benefit. The police officer agreed, and in the end did not arrest him.

As opposed to this, he once wished to cross the border wearing make-up. When he previously made enquiries with the border police, he was informed that make-up, a wig and women's clothes are no problem at all in identifying him. Women often change their hairstyle, make-up or clothing as opposed to those seen in the document photo, and this is not a problem with men either, said the border police. Indeed, there was no problem with his appearance when crossing the border.

Another time in 2005, he was walking home at dawn from a party and was not doing anything special that could have made the police think that he was connected with a crime. Perhaps only the late time of the day could have warranted the police action. At this time, he was living in Budapest and in one of the busier subways he met a group of 8 to 10 police officers, and one of them asked for his identification documents. When they finished, the officer told another one "see, that 's what I said." The man had the impression that the officers only wanted to check whether they judged him right, a man in women's clothes, and had no legal reason to check his identity.

In 2000, he was walking home in women's clothes in the dark at dawn and a police car pulled up next to him. A police officer asked him where one of the streets were. The other three officers in the car were staring out curiously. He thought it was strange that the police needed his direction in a town of 30 000 inhabitants where he was living at the time, so he thought that the police officers were not looking for the street but wanted to have a look at him.

The same transvestite says no police has ever checked his documents or initiated any other interaction when he was wearing men's clothes. He also said earlier in the interview that he had never been discriminated against.

Comments

Even if make-up and a wig make identification more difficult, the police have no right to threaten with removing these, just as they would not have the right in the case of a non-transgender woman wearing these. Comparing the behaviour of the police in the first case with the procedure of the border police, it is obvious that the police officer has no legal grounds to even ask for the removal of the make-up. The officer does nothing else but threatens the transvestite with violence. His aim with the proposed removal of the make-up and with calling the transvestite by his male name repeatedly is to symbolically eradicate the identity of the transgender woman and so restore the heterosexual world order.

Although it is not proven in the second and the third cases that the police checked the man's identity without any grounds related to checking, preventing a crime or pursuing a perpetrator, and that they asked for the direction on a false pretext, the circumstances of the cases, and the fact that the man was never stopped in men's clothes, seem to support that the police officers were satisfying their personal curiosity.¹³ Apparently, the transvestite suffered no disadvantage in any of these cases and perhaps no legal regulation was broken. Yet police action is threatening in itself since the police are an armed organisation whose authorisations are very broad concerning the searching and incarceration of suspects and persons' whose identities they have checked. Neither the Act on the police nor the Service Regulation of the Police forbids the officers to check someone's identity or ask for direction out of curiosity when on duty. Nevertheless, the police can be expected to use police procedures only in attending to their legally defined duties and not to use the authority provided by their uniforms and the police car to satisfy their personal curiosity. Although the transgender man does not say that the police intimidated him, few citizens would have the courage in Hungary to refuse giving directions to such a curious request and reprove them. It is not ethical then for the police to use identity checks and asking for directions to satisfy their personal curiosity.

The first case shows clearly that just because someone is a police officer and is paid to maintain law and order, he or she may violate the law by humiliating and threatening a transvestite car driver. The other two cases are not so much proof of discrimination by the police but calls attention that it would be worth examining police behaviour regarding transgender people, for instance police practice concerning identity checks. As a research commissioned by the Open Society Institute has revealed, Hungarian police check the documents of the Roma more often in the street than that of non-Roma people and according to the Roma, this is primarily due to discrimination.¹⁴ Out of LGBT people, transgender people are the most visible so if a practice concerning identity checks similar to that of the Roma does exist, the police will be practising it primarily in relation to them. Further research is needed to establish if a similar discriminatory practice against LGBT people and especially transgender people exists.

¹³ The check-up during which the police officer threatened with the removal of the make-up was a routine roadside check thus the officer may not have seen that he was stopping a transgender car driver. Therefore these statements do not pertain to that case.

¹⁴ Pap András László, Simonits Bori „Ahogy a lakosság és ahogy a rendőr látja. Az igazoltatási gyakorlat tapasztalatai” *Fundamentum*. 2 (2006) 125–135.

Discrimination by Non-State Actors

Dismissal of a Questioning Student from a Religious University

Victim's sex: male

Victim's age: 24 years

Victim's education: unknown

Work: student

Transgender identity: unknown

Sexual orientation: questioning

Place of residence: Budapest

Place of violation: Budapest

Date of violation: October 2003

Source of information: the press, website of Five Loaves LGBT Christian Portal, sources as indicated in the text

Keywords: school discrimination, religious fundamentalism

Gábor Cs. was studying at the Károli Gáspár University, a Calvinist university. In the autumn of 2003, he turned to one of his teachers, the dean of the university and his pastor Dávid Németh with the problem that he is uncertain about his sexual orientation. Not long after this, the school council held a session with his participation on 10 October 2003, where the Council expelled him.¹⁵

It is unclear whether the dean has violated the confidentiality requirement of pastors because subsequently the president of the university's student council said that the students knew about Gábor Cs.'s "homosexuality" and wrote a letter to the leadership of the school asking for a position concerning homosexuality.¹⁶ However, it is possible that this was fabricated later to save the dean since according to the president of the student council the students were supporting the dean in this case.¹⁷

Gábor Cs. sued the university and the court proclaimed in its decision of 20 February 2004 that his dismissal was illegal. According to the decision, the Act on higher education and the Act on public administration apply to religious universities. Under these, there was no legal basis to expel Gábor Cs. because no disciplinary procedure was held and the internal rules of the university contain no provision under which Gábor could have been expelled. The court decision did not concern itself with the question of whether a religious university has the right to create an internal rule that excludes LGBT students. That is whether it would have been legal to expel him if there had been such a rule and Gábor had been expelled in a disciplinary procedure.¹⁸ The court of appeal maintained the decision, including its reasoning.¹⁹

¹⁵ „Kirúgtak egy homoszexuális diákot a református egyetemről” Index 2004.01.13. <http://index.hu/politika/belfold/egyetem7347/> Downloaded: 11.12.2007

¹⁶ „A Károli hallgatói is szorgalmazták a meleg diák ügyének tárgyalását” Index 2004.01.19. <http://index.hu/politika/belfold/karoli0119/> Downloaded: 11.12.2007

¹⁷ Ibid.

¹⁸ Cz. G. „A meleg diák javára döntött a bíróság” *Népszabadság* 2004.02.21., <http://www.nol.hu/cikk/147480/> Downloaded: 11.12.2007

¹⁹ A „református-ügy” *Ötkenyér Keresztény Meleg Portál* é.n., <http://www.otkenyer.hu/ref-ugy.php> Downloaded: 11.12.2007

Meanwhile, the school council of the University issued its teaching material on homosexuality in November 2003 in which they explain that among other things they do not consider it desirable “to train, employ or maintain the employment of bible teachers and pastors who promote or lead a homosexual lifestyle.”²⁰ Based on this document, Háttér Support Society for Gays and Lesbians initiated an *actio popularis* against the university,²¹ because according to the organisation, the teaching material violates the right of homosexuals, as a social group, to equal treatment. The court of first instance refused Háttér’s claims, the court of appeal maintained the decision and the review court issued a new reasoning but maintained the decision in its effect. This reasoning takes a stand in several questions that influence the application of the Act on equal opportunities to religious schools therefore it is worth considering it in detail. The decision of the supreme court declares the following:

- Under the Act on non-discrimination, religious autonomy prevails only in questions directly related to religious life and a studying at a religious university is not directly related to religious life;
- The fact that a collection of theses provides grounds for discrimination is sufficient grounds for *actio popularis*, a concrete legal case is not necessary;
- The collection of theses cannot be considered the university’s free opinion because based on it, homosexual students may be discriminated against in reality;
- Homosexuality is an essential quality of humans therefore discrimination based on it is a violation of human dignity;
- Nevertheless, discrimination is permissible in this particular case since the Act on non-discrimination allows for discrimination where according to reasonable consideration the discrimination is related to the given legal relationship. (For instance, it is reasonable for a theatrical company to employ a male actor for a male part therefore refusing female actors is not discrimination. Similarly, according to the court, it is reasonable for a church that discriminates against homosexuals to employ, train, etc. only heterosexual pastors).

The decision does not deal with the case when a student studying at the university does not want to be a pastor but only wants to have a degree in theology, which would undermine the reasonability reasoning. And according to Háttér’s position the court failed to properly weight the nature of discrimination because, as Háttér claims, the criterion of reasonability may not be applied to fundamental rights. In this case, it is any homosexual student’s human dignity that is in conflict with the church’s freedom of religion. Because both are fundamental rights, the criterion of reasonability may not be applied, but the court should have considered if the protection of one of the fundamental freedoms is proportionate to the violation of the other.

Comments

Patent shares Háttér’s opinion in this case. We may add that the right of homosexual students would probably have won in a comparison of proportionality, since the court had earlier acknowledged that it is related to the human dignity of students, and European human rights practice gives priority to human dignity and the right to life over other fundamental rights.

²⁰ *Tanulmányi anyag a homoszexualitásról. Tanulmányi anyag, a KGRE Hittudományi Kara Kari Tanácsának állásfoglalása.* é.n. <http://reformatus.hu/feketeagnes/reformatusoklevele/73text.html#7> Downloaded: 11.12.2007

²¹ The following part is based entirely on the following source: Kárpáti József „Az utolsó próbatétel. Ítélet a Háttér Társaság kontra Károli Egyetem ügyben” *Fundamentum* 3 (2005) 105–108., <http://157.181.181.13/dokuk/05-03-09.pdf> Downloaded: 2007.12.11. Thanks to dr. József Kárpáti for calling attention to this aspect of the case.

Violence by a teacher against a transsexual student

Victim's sex: male

Victim's age: 20 years

Victim's education: secondary

Work: student in a service industry

Transgender identity: transsexual man, biological woman

Sexual orientation: heterosexual

Place of residence: Budapest

Place of violation: Budapest

Date of violation: October 2007

Source of information: the victim

Keywords: school discrimination, school mobbing

Erik goes to a school of a service industry where one of his teachers, a woman of about 60, repeatedly makes homophobic remarks, mainly about him. Erik is registered as a woman and his teachers know his female name, although he wears male clothes and a male hairstyle. Once his teacher was pointing at him while she said, "Now that homosexuality is fashionable..." and did not continue the sentence. This teacher shouts with students in general, requires that everything should happen the way she wants it, and makes phone calls, makes appointments outside school during her working hours and is often late—in one word she abuses her power. Erik spoke to his head teacher about his perception that the teacher had singled him out and that the teacher asks him questions about his identity. His head teacher warned him not to bring up the issue of the teacher's behaviour, "it may cost you your exam, so do not react to her." The situation worsened: the teacher found fault with Erik's work and he received marks that were worse than he deserved. One day, when the teacher had been at the dentist in the middle of her classes and had arrived from there, Erik asked the teacher entering the room how her teeth were, calling her to account about why she goes to the dentist during her working hours. Upon this, the teacher pushed him through the door and beat the head of Erik's practise dummy into pieces. Following this, his partner's mother came to the school to speak with the teacher to stop the violence. The teacher did not admit that she had been violent and blamed Erik for his impertinence but the violence, at least up to the time of the interview, discontinued.

Comments

Teachers, parents, bosses and men often deem their students, children, subordinates and wives respectively as if they owed them obedience, and it seems that we have such a teacher in this case. Patriarchal ideas about the place and obedience of children go hand in hand with ideas about what is proper behaviour for a man or a woman and the thought that every man and woman must behave in accordance with their sex as defined upon birth. Violence against students seems inseparable from violence against transgender people in this case. The teacher shoves Erik through the door because he calls her to account although he is a student and because he is transgender.

This case also shows the kind of violence where the perpetrator does not attack the person but his or her possession, the dummy in this case. In addition, the dummy represents a human being thus by smashing the dummy's head into pieces the teacher threatens Erik with murder: "I'll smash your head if you do not obey."

It is also noteworthy in this case how violence gradually proceeds towards increasingly brutal forms. First the teacher only uses verbal violence against Erik, then comes psychological and economic violence through the use of bad marks, since if Erik fails he has to pay another semester, and finally physical violence. The literature of intimate partner violence against women describes how men proceed from milder forms of violence towards more brutal forms in the process of breaking the woman.²² Based on this case, it is possible that it is true for violence against LGBT people, too, that violence starts with verbal violence, which can be a warning sign if LGBT people want to avoid more severe forms of violence.

The case of Erik's teacher is also an example of the fact that members of the dominant group often consider and call it provocation when a member of a powerless group questions their privileges and so shift the responsibility for the violence on the victim. By pinpointing Erik's impertinence as the cause of violence, who is much younger than her and is in the status of a student, the teacher diverts attention from the fact that Erik was right in questioning her about her "truancy". If she acknowledged this, she would lose her privilege to have appointments during her working hours. This reasoning is similar to that of violent men, and often even that of the public, who charge battered women with provocation when they really revolt against men's privileges for instance by refusing to provide services to the man.

²² Szil Péter *Hétköznapi hímsovinizmus. A párkapcsolati erőszak, amit még nem nevezünk annak*. Habeas Corpus Munkacsoport–Stop-Férfierőszak Projekt, Budapest, 2006.

Discrimination by a service provider against a queer man

Victim's sex: male

Victim's age: 32 years

Victim's education: university or college

Work: translator

Transgender identity: none

Sexual orientation: queer

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2005

Source of information: the victim, letter by Millenáris

Keywords: discrimination by service provider

Gábor and his boyfriend went to see a concert by a singer who sings children's songs and is popular with small children at the Millenáris event hall, where his boyfriend kissed him on the lips. One of the organisers went up to them and told them to stop, otherwise he would have them removed by the security service. The two men were intimidated and were afraid to hold hands afterwards. Gábor found the organiser after the concert and asked him what his problem was: that they were kissing or that they were both men. The organiser said that the problem was that they were both men and that relationships between persons of the same sex are not for children, who visit this concert in large numbers.

Gábor wrote a letter to the management of Millenáris in which he complained about the organiser's behaviour. According to Millenáris the organiser's procedure was not discriminative because such behaviour is not for children, whether by gay or by heterosexual couples. Gábor asked two heterosexual couples he knew to go to the performer's next concert to Millenáris and to kiss to test if the personnel would threaten them too. The two heterosexual couples were not led out nor approached although they kissed deeply in places highly visible for the children and the organisers.

Gábor finally did not sue Millenárist because he had no time for litigation and did not trust the legal system.

Discrimination against HIV-positive people in health care

Introduction

Based on the interviews with the three HIV-positive gay men in this research, it seems that people with HIV and AIDS are routinely denied numerous rights during their care that the law guarantees every patient in principle. Their free choice of doctors is limited by the fact that only one health provider provides them with professional care. The health personnel dealing with them often treats them in a degrading way, violates their right to information, their right to self-determination concerning their own medical care, ambulances often carry HIV-positive people in a humiliating way that constitutes a breach of professional confidentiality, some family doctors violate their right to confidentiality, and other family doctors and specialists refuse to treat HIV-positive patients. Moreover, in one case a man was denied treatment that he should receive under the Hungarian laws, which may cost the man his life.

The examples listed here are instances of indirect discrimination against gay and bisexual men as they make up the majority of HIV-positive people. There are numerous cases of institutional discrimination among the following examples.

Lack of freedom to choose a doctor

Only one health provider exists in Hungary, a hospital in Budapest, where people with HIV and AIDS can receive medical care of an adequate professional quality. Although HIV-positive people are not prohibited from turning to other providers, there is no other provider that could provide them with any reasonable quality of care. With this situation, which has not been changed since the appearance of AIDS in Hungary in the 1980s, the state severely limits the right of patients with HIV/AIDS to freely choose their doctors. At the single HIV/AIDS department of the hospital only two of the three doctors take new patients. This is obvious discrimination compared to other patient groups that have the possibility to choose from among hundreds of doctors and often more hospital departments near them. Discrimination is disadvantageous also because in case of the patient's dissatisfaction or the doctor's unethical or illegal behaviour, the patient has nowhere to escape.

The Act on health allows for the limitation of patient rights where the professional care of patients so requires, which provision the state uses as an excuse. Professionals working in the field stated several times in the 1990s that it was not worth creating more providers capable of providing HIV/AIDS care for the few hundred people with HIV/AIDS. Hungary has been perceived as a country with a low prevalence of HIV; in a country of approximately 10 million, 1453 HIV-positive persons were registered between 1985 and 30 September 2007.²³

This situation is aggravated by the fact that people with HIV/AIDS are forced to consult this hospital with their problems unrelated to HIV/AIDS since many doctors in Hungary refuse to provide care to people with HIV/AIDS. Patients from the country are especially burdened by this added discrimination (that local doctors refuse to provide care and the next provider is in Budapest) because they have to travel hundreds of kilometres with smaller complaints. Before the reorganisation of health care in 2007, this hospital itself encouraged its patients to turn to the hospital with every complaint seemingly unrelated to their HIV-infection.

²³ See in the bulletin of the National Epidemiology Centre: „Hazai Információ. HIV/AIDS – Magyarország 2007. szeptember 30.” *Epinfo. Epidemiológiai Információs Hetilap* 46 (2007) 480. <http://www.oek.hu/oek.web?to=1439&nid=368&pid=1&lang=hun>. Downloaded: 2007.12.30.

Patent's position is that such a discriminative limitation may only be allowed if the situation giving rise to the discrimination proves to be insurmountable, if the discrimination is limited to the narrowest possible range of health services, and if the discriminating provider takes all possible steps to prevent the disadvantageous consequences of discrimination and to alleviate actually arising disadvantages. Our position is that the monopoly of the hospital is not unavoidable, neither is it strictly limited to treating HIV/AIDS, nor does the state take all possible steps to alleviate the disadvantages.

Germany is one example that it is possible to organise health care in a different way. Even bigger treatments (such as an operation) are performed by non-HIV/AIDS specialists. The reasoning that it would not be economical to build and maintain a network of HIV/AIDS-specialist providers is not true about treatments not directly related to HIV/AIDS. The situation would be solved if the state expressly obliged all the health provider institutions to provide care for HIV-positive people and would enforce that obligation.

Germany's example shows that the range of services that are in most cases provided by the only HIV/AIDS specialist hospital in Hungary is unreasonably wide as even operations can be performed by a non-HIV/AIDS specialist.

Neither does the state do anything to prevent and alleviate these disadvantages. For instance, no effective information campaigns have taken place among doctors since the 1980s in order that they do not refuse treating HIV-positive patients. And if this discriminative situation exists through the failure of the state, patients living in the country would be entitled to at least having their travel to the hospital in Budapest organised or their travel costs and costs of lost working days reimbursed. The violations discovered in this research could perhaps be prevented if a body that is independent of the hospital supervised the hospital, which is so vital in ensuring the right of people with HIV/AIDS to life.

In addition to the above remarks, it is not permissible in the case of HIV/AIDS to limit the freedom of choosing one's doctor. HIV is a potentially deadly infection where the right to a free choice of doctors is directly linked with the most important of human rights, the right to life. As exemplified by the last case described below, whether a doctor is willing to treat a patient, or what attitude he or she has towards the patient may actually cost the patient his or her life. If no other service provider exists where the patient could turn in such cases his or her right to life is not ensured either. Therefore, it is impermissible to maintain this limitation even if creating and maintaining a few other centres is expensive. Perhaps it would be permissible to maintain the unique role of the HIV/AIDS specialist hospital in some special and restricted areas if it showed other health providers a good example in ensuring human rights and patient rights. However, because the data published here raise severe concerns about the operation of this hospital, the state becomes complicit in these human rights violations if it delays the creation of new HIV/AIDS specialist centres further and so fails to ensure the right to free choice of doctors.

In our opinion, it is important to ensure the right to choose one's doctor freely all the more because denying this right multiplies the effects of all the other violations against HIV-positive people. If there were another HIV/AIDS specialist provider, people with HIV/AIDS would have a choice to escape from the provider that sometimes humiliates them, denies their treatment, violates their right to information and self-determination, and they could receive treatment closer to their place of residence.

The following sections are on those violations and problems from which people with HIV/AIDS have nowhere to escape and which are all multiplied by the lack of freedom to choose one's doctor.

The building of the HIV/AIDS specialist provider is in bad repair

All three HIV-positive gay men participating in the research say that the building of the department that has a monopoly in treating HIV/AIDS is in a dilapidated condition. Some participants say that even materials needed to provide health care are missing for instance those necessary for dental care, and one-day or half-day waiting periods are usual even for cases in need of urgent intervention. Perhaps the bad repair is in itself not a result of discrimination or the violation of a right since one can hear about the bad condition in which the Hungarian health system is day after day. Yet this condition goes together with the discrimination that HIV-positive people have no possibility to move to a provider that can ensure better conditions.

Failure to provide information related to HIV/AIDS care

All three HIV-positive men participating in this research report that the medical staff in the HIV/AIDS specialist hospital routinely fails to provide reports and adequate information, in other words they violate the right to information about medical documentation ensured by law.

I can't get my medical reports. I can't get a copy. I have to pressure the nurses for everything. Because they say what if I leave the documents. So there is no copy of any blood tests or anything else. [...] And I have to make friends with the nurses and "Editke or Marcsika can I have a look at my results, can I jot them down?" So I have to beg to copy down my own test results.

In failing to provide information, the medical staff violates patients' rights to information as ensured by the Act on health and through this, their right to self-determination. They do not provide understandable and comprehensive information on treatment, its consequences, the medication and its side effects. This is especially problematic in the case of HIV/AIDS because the symptoms of the illness and the side effects of treatment may be very severe for some patients, which significantly influence their lifestyle and ability to work. For instance, because of the medication some patients may have such bad diarrhoea that they are unable to leave their homes or which may endanger their lives.²⁴ In these cases, it may be literally vital for the patient to receive all the information related to his or her illness and to be able to decide what level of discomfort, risk and deterioration of quality of life he or she is ready to take.

Among other things, a lack of information results in a situation where none of the HIV-positive men in this research understand why certain people can take part in the drug trial programmes and why others cannot, and can or cannot receive the drugs that mean life to them. All three of them suspect that perhaps tipping the medical staff, which is very common in Hungary, decides if someone receives modern medication or not. This is how one of the participants gives voice to his suspicion and confusion:

²⁴ Cichocki, Mark (2007) *Dealing with Diarrhea*, About Inc. <http://aids.about.com/cs/conditions/qt/diarrhea.htm>, letöltve: 2007.12.21. Aids.org (2007) *Diarrhea*. <http://www.aids.org/factSheets/554-Diarrhea.html>, letöltve: 2007.12.21.

Sometimes it is very good, sometimes is very bad [my health condition] but this could be handled through medication. So she tells me that one has to deserve medication. Which surprised me somewhat. Does this mean that she wants some financial contribution, or not? It never turned out.

Especially in the case of life-saving treatments, and where the suspicion of corruption is raised by patients, the institution having a monopoly over the treatment of HIV/AIDS should pay close attention that inclusion in trial drug tests should take place according to criteria that are transparent and clear to every patient. Hopefully, the new regulations calling for the publication of all hospital waiting lists, effective of the beginning of 2008, will force the hospital to improve this situation.

Degrading and inhumane treatment related to the treatment of HIV/AIDS

One participant was humiliated by the committee that was examining his health condition for his disability retirement: „If you had pulled a condom on your dick you wouldn't be here and wouldn't have been HIV-positive.”

Two participants and the website of one of the organisation of HIV-positive people report that the x-ray department of the hospital providing care for people with HIV/AIDS only takes HIV-positive patients if their documents bear a highly visible orange sticker. Because no treatment takes place during an x-ray examination that would put the medical personnel to danger that is bigger than encountered in their everyday lives, and because it is known that HIV is not transmitted through casual contact, this procedure is useless and humiliates HIV-positive people before the medical staff and the other patients.

One of the men reported a case in which the nurses and doctors surrounded him in a threatening way and told him off in a humiliating way for asking for an antithermic medication from a nurse earlier. The temperature of this man was kept purposely over 40 degrees centigrade so that his body can fight the virus. The patient, who had been tortured by several days of high fever, begged the nurse for an antithermic, who finally gave him one. The next day the nurses and the doctors did not talk to him and when the doctors on rounds arrived at his bed, the angry medical staff surrounded him in a threatening way and his doctor told him off, “How dare you tell the nurse what to do?” Apart from humiliation and threatening, the doctor denied the patient's right to self-determination. Meanwhile, the Act on health guarantees the patient's right to ask for a treatment or to refuse it and the patient used this right when he asked for an antithermic.

Another HIV-positive man, whose HIV specialist was also his family doctor, reported degrading and truly inhumane treatment. “I went to have my driving licence renewed, he said he wouldn't renew it because I wouldn't be living that long.” The doctor had no right to disclose a lethal diagnosis to the patient as a passing remark in relation to the renewal of a driving licence. This is cruel. It would have been his duty to support the patient in coping with the lethal diagnosis and/or to recommend the help of a psychologist.

The man survived the expiry date of his driving licence but the cruelty of the doctor has left a mark on his life:

I thought then that I'd be lucky to see the new year's eve of 2000 from a wheelchair. And no, I was healthy. [...] I have always been someone who plans ahead. I start my days by planning them, when I wake up in the morning. [...] The same way, I have my mid-term and long-term [plans]. I have always been like this, and then I planned

my life until 2000. I haven't been the same person since 2000 because I can't plan. I am afraid to. It has been planted in me that I would only live till 2000, and now I am in a state of things-are-as-they-are.

This doctor has been practicing in the hospital that has a monopoly in caring for people with HIV/AIDS ever since. One of the participants relates a similar experience with another doctor:

He has made cynical remarks several times because I went to see him with high fever and diarrhoea and other things. He said "good for you," as if he were laughing at me: "you little idiot, you're HIV-positive, you're going to die anyway."

[...]

He's capricious. Sometimes he examines me thoroughly from head to toe, sometimes he glances at me, all right, I should go and see [the nurse] to make an appointment for the next blood-test.

In both cases, the doctors have the task of supporting the patients emotionally against the deadly infection. Instead, they make remarks that are cynical, offensive, degrading and, in the case of a potentially deadly infection, cruel. It seems from the second interview that this attitude has an effect on the quality of their work as the doctor does or neglects his work depending on his mood.

Refusal of treatment

All three HIV-positive gay men who participated in the research reported that they regularly face family doctors and specialists in various health institutions who discriminate against them and refuse their treatment. Therefore, it is difficult to find solutions for health problems that are not related to HIV. One of the three men wanted to find a new family doctor when the following happened:

He said he was pleased to meet me. I told him he shouldn't be so pleased, and told him I was HIV-positive. That doctor collapsed absolutely. He immediately went to wash his hands. "Then you are going to die now. What shall I do with someone with AIDS?" "You don't have to do anything with me. I'd only have my documentation here and I go for all specialist care to the [HIV/AIDS] hospital, I'll be contacting you for perhaps sick leave or something." He had no idea what to do. His assistant was trying to explain to him. „He is not someone with AIDS, doctor, he is HIV-positive." This doctor is younger than I am, has his office in the city centre, not a seventy-year-old general practitioner in a village.

Finally, he himself refrained from taking the doctor's services.

Another participant could not contact a doctor at the local polyclinic and could not contact the local dentist either:

I was going to see the leading doctor at the polyclinic and I could not see him because the nurse wouldn't let me in. I knocked on the door, the nurse came out, I told her who I was. "Jeez," she says, „you are that AIDS patient?" and took three steps backwards [...] and went defensive that she can't give an answer that day [...], and they would call the following day and can she have my phone number?

I couldn't get in at the dentist. [...] I went to the dentist in charge of the local area. I started out by saying that I had a problem, that I was HIV-positive. I saw the woman's perm straighten out. "God, what do you want here?" And that I should go to the [HIV/AIDS] hospital, go to the hospital.

Not even the hospital that has a monopoly in treating people with HIV/AIDS is free from doctors who refuse to treat HIV-positive patients.

The dermatologist of the hospital has never treated HIV-positive patients. The same is true for urology, and the same is true for gynaecology. I know of a case where the patient was bleeding and there was no [gynaecologist]

to touch her. And back then there was a gynaecology department in the hospital. An external gynaecologist had to be called.

[...]

Their answer is that they can't get a specialist.

[...]

I have a gastrointestinal problem that returns regularly and no one is willing to treat it. They say they can't find a specialist, [...] however for this problem and for the dermatologist they suggested [...] which private doctor would be willing to treat me, for a fee of course. [...] Unfortunately, I am unable to raise the money for these and I think that if I have been paying social insurance for twenty years then there should be a solution when there is such a problem, [...] there should be a solution as to who will treat me.

Another participant talks about the consequences of a case in which the urologists of the hospital were not cooperative and a doctor who was not a specialist examined the patient: „They did not recognise a cancer tumour, they thought it was a vein and it developed into a very nasty case of rectum cancer.”

As the third participant summarises: “I think that the treatment of HIV-positive people does not work in Hungary. If I have an acute problem, there should not be a one-week or two-week waiting period before I can get an appointment with the one that is two doctors who are willing to treat people with HIV in Hungary.”

This discrimination against people with HIV/AIDS is humiliating and illegal in itself. But as these interviews attest, discrimination endangers patients' health and life, as health problems remain untreated or they are taken care of only late or in an inexperienced way, because of a lack of specialists. Discrimination causes damages that can be expressed in money, when the patient has to see a private doctor.

It seems, however, that some health problems remain untreated not because doctors generally refuse to treat people with HIV/AIDS. Based on the interview with one of the participants, it seems as though at least one of the doctors tries to keep patients away.

There was a Friday when I couldn't move from neck down and I shitted myself. My partner called the [HIV/AIDS] hospital, to which [the nurse] says that it's a natural thing. All right, natural, in three days I could move more normally. [...] I was in quite a panic, what if my partner is not with me, what if I am alone at home. [...] I think that the nurse should have behaved differently. She should have said, all right, call an ambulance, get him in the hospital and we'll see what the problem is. [...] I don't think it should be a nurse who decides whether I can get to see the doctor or not. But I have experienced this several times, that the nurse tries to solve the problems. [...] And the nurse acts like a filter and won't let you on to the doctor. [...] When the oligarch thinks that the subject may enter then it'll work.

Breach of professional confidentiality

One participant repeatedly faces the problem that the receptionist in medical institutions reveals his HIV status to other patients in connection to paying visit fees: “I've had several such experiences because they could not decide if I had to pay the [visit fee] or not. So the receptionist calls the leader of the institution: ‘We have an AIDS patient, does he have to pay or not?’ And there are thirty other people queuing behind me.”

The same man reported other breaches of professional confidentiality: “It was terribly embarrassing that the two doctors and the assistant discussed the previous patient before me. How much money he had, what he was like. I felt that not even in [the hospital that treats people with HIV/AIDS] are patients' rights protected.”

Degrading treatment and breach of confidentiality by ambulance staff

Two men in the research and the website of an organisation for HIV-positive people, Plus report that ambulance staff usually carry people with HIV/AIDS in a humiliating way and in a way that reveals the fact of a serious infection to outsiders. This is how one of the victims describes their practice:

Ambulances take HIV-positive patients in a spacesuit even today. [...] They are ignorant and unprepared to an appalling degree. [...] Say if an HIV-positive patient lives on a housing estate, it is not sure that it will do him good if you see a man get out of an ambulance in a spacesuit and so the whole housing estate comes out to watch. So I, for instance, never use the services of the ambulance. When I was in a state that I really would have needed [an ambulance to take me] I had to call a taxi.

Repeated violations against an HIV-positive gay man

Victim's sex: male

Victim's age: 28 years

Victim's education: university or college

Work: economist, unemployed at the time of interview

Transgender identity: none

Sexual orientation: gay

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2007

Source of information: the victim

Keywords: discrimination at work, discrimination in health system, professional confidentiality, discrimination against people with HIV/AIDS

Attila's health condition, related to his HIV infection, turned so bad in the spring of 2007 that he could not go to work. His employer contacted his family doctor who informed him that Attila was HIV-positive. His boss dismissed Attila shortly saying, „He doesn't want to work with (1) a gay man, (2) a person with HIV.”

Attila has not been employed since. In the autumn of 2007 Attila's HIV specialist doctor in the hospital treating people with HIV/AIDS refused Attila's treatment, which was becoming more and more urgent. He said he would have to stop the treatment in a few months, in the beginning of 2008, since Attila has no social insurance. The doctor said he would provide treatment on condition that Attila finds a job.

Meanwhile Attila's health reached a state that he could have died any time. HIV had attacked many of his vital organs, and several tumours had formed because of his deficient immune system. Attila thinks that treatment, even if it took place for a few months only, could greatly enhance his health condition and perhaps that would provide the time needed to find a new job or to prove his eligibility for free care towards the social security system. Attila has suffered numerous irreparable health consequences at the time of the denied HIV-treatment: he became diabetic and his sight greatly deteriorated.

Attila has also thought that perhaps access to treatment depends on tipping: “I feel that there is an oligarchy in the hospital that treats people with HIV/AIDS, which means that if I paid the doctor, maybe he'd need only HUF 5 to 10 to 15 thousand [EUR 20, 40, 60], it would work.”

Comments

Attila was subject to a series of violations related to his HIV-status. First his family doctor violated professional confidentiality, then his employer dismissed him in a discriminatory way, finally his doctor denied him treatment in an unlawful way.

Under current legislation, Attila would have been entitled to treatment, which his doctor refused on the grounds that he would not be ensured from the beginning of 2008. However, a transitional period during which the Hungarian state funded health system provides medical care without a registered job or other form of social insurance lasted until the end of 2007, so he was entitled to treatment in 2007. In addition, it is illegal to deny treatment even where the patient has no insurance; in that case, the patient pays. Moreover, § 16 of the Act on social insurance provides numerous exceptions even to that rule, when it defines the cases where patients are entitled to health care even though they are not considered ensured. Such patients are those who draw various benefits, those who are disabled to a degree of at least 50%, are on unemployment benefit or are considered poor. In addition, under the Act on social care, persons without an income are also entitled to free medical care.²⁵ Therefore, the fact that the doctor denied the treatment is illegal on the basis a number of regulations.

This case is an example of how important it is that doctors do not violate the patients' right to information and self-determination. It was the doctor's obligation to take a joint decision about the treatment, consulting with Attila, assessing the effects on Attila's life. That for instance this may have the effect that Attila could suffer irreparable health consequences and his state could deteriorate to the extent where he is unable to look for a job, which makes it more difficult to join back into social insurance, which spiral can finally lead to Attila's death. The doctor decided about the denial of treatment by himself, disregarding patient rights and taking into account only his own perspective. It would have been his obligation to find out under what conditions Attila is entitled to treatment and to check if he meets these conditions. If the doctor believed that Attila is not entitled to treatment, it would have been his obligation, to ensure Attila's right to life and health, to refer him to a social worker where he could receive adequate information.

As can be seen from Attila's account, the doctor's perspective is that, in order to be effective, the treatment should not be interrupted in the case of Attila's inability to pay. When the doctor takes this decision alone, he considers the patient a machine that needs mending and which can be most successfully mended with continuous medication. He does not consider the patient a person who is embedded in his life, for whom medication, even if later interrupted, could mean a reprieve that could enable him to find a job or other solution for social insurance. He is not interested either that his patient suffers irreparable health consequences because of the lack of treatment.

HIV infection is seen today more and more a chronic infection which affords a high quality of life if the infected person receives adequate medication.²⁶ If this is so, Attila is being killed not by the virus but by his doctor who refuses to treat him.

²⁵ §54 Act III of 1993 on social administration and social care

²⁶ Dr. Gerlei Zsuzsanna *HIV/AIDS-betegek antiretrovirális terápiája*, (n.a.)
<http://www.anonimaids.hu/antiret.htm>. Letöltve: 2007.12.21.

Conclusions on discrimination against people with HIV/AIDS in health care

For some years, the better-informed part of the public has been considering HIV infection to have “become a chronic illness that can be well treated and affords a good quality of life”²⁷ thanks to the availability of new kinds of treatment. Nevertheless, as the results of this research show, several factors, lack of information and self-determination, denial of treatment, degrading treatment, breach of professional confidentiality, possibly corruption and the lack of free choice between doctors, severely hinder the access of people with HIV/AIDS (gay, bisexual, heterosexual, men, women) to modern medication and a good quality of life. Although we tend to see only Africa and the third world as places where people die because they have no medical insurance and only the rich can afford medication, this research has revealed that there is at least one person in Hungary (and who knows how many more) who is dying because of the doctor who violated his rights and the health system that does not work properly.

It cannot be established from the results of this research whether the right to information, self-determination, humane treatment and confidentiality are more often denied to HIV positive people, whose majority are gay and bisexual men, than other patient groups in the Hungarian health system. It is possible that these problems are equally severe for other patient groups, and it is equally possible that these violations are more severe in the case of this stigmatised minority who are despised even by their doctors, as the patients’ stories attest. Whatever the exact proportion, similar violations are perpetrated against other patient groups, as well. Therefore, the organisations of people with HIV/AIDS and LGBT organisations could join forces with groups working for the interests of other patients to pressure state decision makers in order to combat violations in the health system.

²⁷ Ibid.

Discrimination at work

One transgender man, one lesbian woman and three gay men participating in this research reported discrimination at work. Not all of their stories were included as separate cases in this compilation but all the interviews contributed to the conclusions. Four of them lost or left their workplaces, and one of them resigned from a promotion so that he could avoid a health examination where his sexual orientation would have been revealed. The victims of these violations concentrated on maintaining their finances and health and to find new employment, and they did not sue the employer discriminating against them. One case can be read among the discrimination cases against people with HIV/AIDS (*Repeated violations against an HIV-positive gay man* on page 35) as in that case the discrimination at work is strongly connected to violations perpetrated by health providers.

Intimidating workplace atmosphere

Victim's sex: male

Victim's age: in his 40s

Victim's education: university or college

Work: consultant

Transgender identity: none

Sexual orientation: gay

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2002

Source of information: the victim

Keywords: discrimination at work, mobbing, discrimination against people with HIV/AIDS, self-limitation

János was working for a company in a high position in an office. His boss continuously voiced his homophobic views, told obscene gay jokes and was open about his intolerant views against other minorities, as well. He was an “oligarch” in other ways, too. He determined what colour of clothes his colleagues may wear, what they can keep on their desks and he threatened his colleagues if they contradicted him. János was going to be promoted to a higher position in 2002. A comprehensive health test was going to take place, to check his ability to work under duress. János was afraid that his HIV-status and the fact that he is gay would be revealed, and that his boss would dismiss him if he found out. Therefore, he decided to refrain from the promotion and the higher salary, company car and company apartment that went with it.

Comments

Intimidating workplace atmosphere or mobbing is usually described as primarily verbal and psychological violence that results in the intimidation of a colleague or in making his or her situation at the workplace intolerable. Usually it is thought of as a process in which the bosses or the colleagues purposely exclude, exploit, discriminate against one or more colleagues. In this case, the boss perpetrates this kind of mobbing when he threatens his colleagues if they contravene him. However, mobbing can take place by a boss continuously making remarks about a minority to which one of his subordinates belongs and so creating an intimidating atmosphere for the subordinate. With this behaviour, the boss realised the act of harassment as defined in the Act on non-discrimination.

This case is an illustration of how intimidated LGBT people often use various forms of self-limitation. They perform discrimination on themselves in order to avoid more severe forms of discrimination and violence. An example is when lesbian and gay couples do not walk hand in hand because they are afraid to be beaten up, and this is what János does when he refrains from the promotion to avoid the risk of losing his job.

This case is also an example of the fact that the fears of LGBT people are not fabricated but are based on the actions of certain heterosexuals. When a presumably heterosexual person says a gay joke or voices opinions hostile towards LGBT people many LGBT people weight these signs and decide whether to stay invisible or to take the real risk of coming out. Gay jokes and views against LGBT people are then not innocent opinions but can be a form of harassment that informs LGBT people of who they can expect discrimination and violence from. These jokes and remarks also delimit LGBT people's place in society as members of a subordinate, disenfranchised group.

Repeated discrimination at work against a transsexual man

Victim's sex: male

Victim's age: 20 years

Victim's education: secondary

Work: student in a service industry, barman

Transgender identity: transsexual man, biological woman

Sexual orientation: heterosexual

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2007

Source of information: the victim

Keywords: discrimination at work, mobbing, sexual harassment at work

Gender based discrimination

Erik got a non-registered job as a barman in a gay bar at the end of 2006. His bosses were partly gay, partly heterosexual, and his colleagues were mainly gay men, but there were two lesbian women and another transgender colleague. The employers preferred the gay male workers to all the other employees. They had higher wages, and the lesbian and transgender employees were told not to expect any promotion. Erik was told he "would never be a barman in chief because [he] was not a man." Humiliations, shouting with the employees were the order of the day, and employees had to work more than the working hours agreed on earlier for the same pay. A lesbian employee was dismissed without explanation. Erik thinks that the reason the management had in mind could have been that the bar was frequented mainly by gay men for whom the male staff was more attractive. He did not wait to be dismissed. Having had enough of the bad circumstances, he himself found another job and quit in February 2007.

Discriminative dismissal

Following this, he was employed in a teahouse, where he was registered for the minimum wage but in reality he earned more and, as turned out later, he was not employed by the company running the teahouse but under the name of another company the owner had. Erik did not want to hide: he said he would feel uncomfortable in the uniform meant for women and was permitted to wear men's clothes. He discussed being a transgender man and wanting to change his sex officially with one of his colleagues. He did so partly because he wanted to work here in the long term and thought it was better to find out if being a man was a problem

before he officially changed his sex. Soon after he mentioned his sex to the colleague, the owner of the teahouse and Erik's boss asked him if he wanted to undergo surgery, and he talked to him about his gender identity openly. Shortly, the owner of the teahouse dismissed him without explanation.

Sexual harassment and discriminative dismissal

Then he found a non-registered, illegal job in an internet café in the spring of 2007. He soon realised that the boss wanted to have sex with each female employee. He refused this. His girlfriend regularly came for him at the end of the shifts so his sexual orientation could have been obvious before the colleagues and his boss and he thinks they probably thought he was a lesbian. His boss dismissed him saying, "This is not a brothel, how dare you carry on with your faggotry here!" „My colleagues confirmed afterwards that he didn't like me refusing him.”

Comments

These three cases of discrimination are good examples of what those transgender persons, lesbians, gays and bisexuals may expect who do not want to live hiding their inner selves and relationships all the time. These three cases of serial discrimination, which can be considered typical, show that LGBT people have good reasons to be afraid and to be secretive.

The first case sheds light on the fact that even gay employers are not free of discrimination against transgender people and women. Just because gay men are tolerant towards themselves they do not necessarily consider women and transgender persons, who belong to other groups, equal (for instance they have not the same chances to be promoted, to stay employed and do not have equal pay). Experiencing one kind of discrimination does not automatically cause them to refrain from all kinds of discrimination.

The last case exemplifies that (especially male) employers often consider (female) employees their property: this man wants to use them for sex in addition to their jobs. But the first employer, who does not observe agreements and mobs his employees also bases his actions on the idea that his employees are to be at his service beyond their agreement—although not for sex but for work.

The unlawful employment conditions experienced in these three cases (being registered as receiving the minimum wage but earning more in reality, and unregistered employment) are characteristic of Hungarian employers, especially small businesses.²⁸ Such employment conditions are especially disadvantageous for LGBT persons as unregistered employees have more difficulty proving the performance of a job and the abuses related to it. Therefore the LGBT organisations may set themselves the objective of lobbying for fair employment in addition to fighting non-discrimination in employment. The various employee organisations and trade unions may be their partners in this.

²⁸ See for instance the study commissioned by the Ministry of Social and Labour Affairs: Lindnerné dr. Eperjesi Erzsébet, Kovács Anna, Wlaszlovitsné Brosch Judit (2007) *Nők és férfiak kereseti esélyegyenlősége a statisztikai adatok tükrében*, Budapest. http://www.egyenlobert.hu/doc/berelemzo_tanulmany_vegl_Soltesz.doc. Downloaded: 27.12.2007.

Harassment and physical violence against a bisexual woman at work

Victim's sex: female

Victim's age: 31 years

Victim's education: university or college

Work: office employee

Transgender identity: none

Sexual orientation: bisexual

Place of residence: country town

Place of violation: country town

Date of violation: 2007

Source of information: the victim

Keywords: harassment at work, verbal violence, physical violence

Edina worked for a multinational company in an office of about 30 employees in a small town. One day one of her colleagues told her that there is a rumour in the office that she posted a lesbian personal advertisement on a website. She really posted a lesbian personal but on another page and without a photo. However, on this page, she had a personal with her photo. She denied that she posted the personal but soon the rumour that she was a lesbian spread to the whole office. As she says, "The only reason why I did not collapse was that I didn't meet the colleagues every day and they were okay about 50 to 50%." And she had a friend Anna, who supported her.

Probably one of Edina's colleagues posted the personal. As turned out later, this colleague, who was working on the same computer, broke Edina's password and so could access her user names, passwords and browsing history saved in her internet browser. Later it was proved that the colleague broke the computer and he was dismissed but it was not ascertained beyond doubt if he posted the false personal.

At first, her friend Anna protected Edina against other employees, saying that she was not a lesbian. The rumour subsided after a few weeks but the friend kept mentioning the events. „But I stood up for you when you posted that lesbian ad." She kept nagging her and told the about her to new colleagues taking it for granted that Edina posted the personal.

Edina thought she would tell the director about the harassment because she suspected she was lesbian, and the equality policy of the company contained that lesbian and gay employees may not be discriminated against, and workers had to sign this. Finally however, she thought that it is better to wait until the sensation subsides.

However, Anna did not stop. Her harassment became physically violent: one day she pulled Edina's hair without any preliminary and pushed her against her desk. Later she went to see the director and reported Edina as a lesbian. The other workers either were not aware of this, or did not react. Breaking under the continuous harassment, Edina quit her job in the end.

Comments

This case shows that equal opportunity policies may easily remain just policies if they are simply signed by employees. It cannot be expected of a member of a group that is discriminated against not only in employment but also in several areas of life to act as a self-righteous citizen just because she signed a paper. In reality, this may only happen in a climate

that encourages members of a minority, but will not happen in a workplace where harassment can continue unnoticed or with the tacit agreement of other colleagues. Such rules are not very effective if an anti-discrimination policy and training does not make it clear that stopping discrimination and proactive action against it is the responsibility of those in power—members of the majority and bosses.

This case well exemplifies how important it is that heterosexual and non-transgender people stand up against discrimination against LGBT people. Edina could take the rumours spreading about her as long as Anna repelled the attacks, and decided to leave when her colleagues did not take notice of her harassment. The equality of LGBT people will be fully realised when heterosexual and non-transgender people, in addition to goodwill and refraining from discrimination, assume responsibility for preventing violations by other heterosexuals and non-transgender persons.

Street violence against transgender persons

Three transgender persons, one transvestite (a man who sometimes wears women's clothes), a (male to female) transsexual woman and a (female to male) transsexual man took part in this research. All three of them reported verbal violence against them in the street, and both transsexuals reported physical violence. Although many do not consider verbal violence violence, cases of verbal violence were included in this compilation because effective action against verbal violence that degrades sexual minorities is possible only if it is acknowledged as violence.

Although the three transgender persons have different gender identities—one of them is a transvestite that is a man who often wears women's clothes, another is male to female transsexual woman who was receiving hormone therapy at the time of the interview to create an adequate body for her, and the third is a transsexual man who is considering changing his name—their experiences concerning verbal violence are very similar. This can be so because none of them have an appearance that meets the stereotypical appearances expected of men or women. This increases the chances of their being recognised as transgender, gay or a man or woman wearing the clothes of the opposite sex, and to be targeted for violence. Because transgender persons are much more visible than lesbians, bisexuals and gays, it is possible that they have to suffer more street violence and these cases show the kinds of violence that LGB people may expect when their sexual orientation is revealed.

Police discrimination against the transvestite man was placed in the chapter *Discrimination by state actors* under the title *Repeated police harassment against a transvestite* on page 22.

Physical violence in the street against a transsexual man

Victim's sex: male

Victim's age: 20 years

Victim's education: secondary

Work: student in a service industry, barman

Transgender identity: transsexual man, biological woman

Sexual orientation: heterosexual

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 2007

Source of information: the victim

Keywords: discrimination at work, mobbing, sexual harassment at work

Erik was travelling on a crowded trolleybus when one of the men pushed him with a huge bag accidentally as he was getting off the bus.

I toppled. I looked at him and said nothing, I was astonished. I thought he had gotten off. He turned back and started to shout at me terribly and beat me saying, "Stupid fag, you can't step aside, you cocksucker faggot!" He was calling me faggot all the time, he must have thought I was one, because of my looks I guess. [...]

The trolley driver didn't do as much as asking me how I was. We were waiting in the stop. He waited until he beat me and got off, then he closed the doors and we went on. The bus was fully packed and neither the driver nor the passengers, no one reacted. [...] One woman started to shout only, „Everyone is just sitting here instead of catching that man.” [...]

[As a result of the attack] I could not hear, and could not see with my left eye. I had a terrible headache. [...]

[I did not want to report it] because the perpetrator was unknown so for one month they lay [the file] in a drawer then they take it out after a month and because the perpetrator is unknown the procedure ends after one month. No use, the only use is that I can tell the same story of what happened eight-hundred times when I was strung out anyway. It was quite exhausting to have to tell all the doctors what happened. [...]

I did not go that way for quite a while lest I should run into him.

Verbal violence against transgender women

Victim's sex: male transvestite, transsexual woman

Victim's age: 30 years for both persons

Victim's education: university or college for both persons

Work: engineer and researcher respectively

Transgender identity: transvestite (cross dresser), and transsexual woman respectively

Sexual orientation: heterosexual

Place of residence: Budapest and small city for the transvestite, bigger city for the transsexual woman

Place of violation: Budapest and small city for the transvestite, bigger city for the transsexual woman

Date of violation: 2000 to 2007

Source of information: the victims

Keywords: harassment, verbal violence

Both the transvestite and the transsexual woman participating in this research reported regularly receiving degrading remarks in the street or other public places when someone realises that they are transgender. In the words of the transvestite participant they say things such as, „Look what a big oaf.” „Do you want to dance with me? Too bad you're a boy!” „You could have shaved better, really.” The transvestite man reports that these offences are often directed at him in gay bars or clubs.

Both participant report that they employ various techniques in order to become as invisible as possible in public to avoid such violence. The transvestite man gives the following list of these strategies:

- does not use his voice, does not make phone calls in public;
- does not take two steps at a time because it is more feminine one by one;
- presence of mind is important: when a man lets her before him through the door;
- avoids sudden movements;
- tries to become as invisible as possible: look out the window, stay in distant corner when travelling on public transport.

Both of them believe that transgender persons can have a kind of deal with the majority: if they are not obnoxious and do not provoke but appear as everyday women, they will be left alone. “I have not been discriminated against” says the transvestite whose identity was checked without reason by the police (see page 23) “but it is due to the fact that one does not provoke” as opposed to other transvestites. The transsexual woman thinks the problem with transvestites is that

most of them like to call attention to themselves and the majority of people is not really tolerant. [...] It wasn't easy until I found this out because I had a period when I tried to be very feminine by all means but I had to realise that it is much simpler if I simply give myself and that solves everything. [...] They [the transvestites] try to dramatise certain things and it becomes so artificial and irritating that that's why they get atrocities. I have a

lot of female friends [...] who can go out in the street without fear simply because they have learnt to dress and use make-up normally.

Comments

These cases of verbal violence are important not because they are dramatic or because of the failure of state authorities (they are not involved in these cases). They were included among the cases to be documented because it is important to acknowledge that the above forms of verbal violence violate transgender people's right to human dignity and make them continuously monitor their own appearance.

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Both participants believe they can have a deal with the majority and make or made once efforts to be everyday, to look "normal"—in sum to become invisible as a transgender person. Violence against LGBT people has the ultimate aim that LGBT people should not exist. It is only a more achievable version to say that they should not exist in the public sphere, only among the walls of their homes. In these cases the violence perpetrated against transgender people achieves this aim: these two transgender persons stop being transgender when they tone down their style of clothing, their makeup, change their behaviour and become like anyone else.

It is probably not so much the violence but the ideology that surrounds violence that has the effect on the two transgender participants that they blame themselves and a group of transgender people for the violence and not the perpetrators. Every system based on violence has an important component to shift the responsibility for violence to the victim. According to the ideology of child abuse, children are bad, according to the ideology of partner abuse, women provoke men, in wars small states provoke big ones, in the case of violence against LGBT people, transvestites and gays heterosexuals. If the perpetrator assumed the responsibility, it would become clear that it is violence and not deserved punishment, and it would be more difficult to continue with it. That is why it is important to make the world, and possibly the victim believe that the victim is to blame.

In addition, these participants not only share the view of the perpetrator that they are responsible for the violence but they are also part of their *divide et impera* tactic in as much as they blame the transgender persons who are not toned down. This tactic has the effect that the disadvantaged group does the work of exclusion and making invisible itself against the subgroup who is to be the scapegoat. It is similar to the *divide et impera* by gay men against transvestites. In discussing the pride march, it is often heard that it is perhaps because of the transvestites who march that verbal and recently physical violence has been directed at the march and gay men in general.

Attacks against participants of the pride march

The Hungarian LGBT community witnessed an attack of unprecedented scale on 7 July 2007. Neo-Nazi counter demonstrators attacked the LGBT march with Molotov cocktails, beer bottles and eggs, and gangs assaulted the participants arriving at and leaving from the after-party. The description of the attacks against the march are based on the researcher's direct observations and the description of the assaults related to the after-party are based on the six interviews the researcher conducted with persons attacked during the night of the march. Any other source is indicated in footnotes.

Negotiations with the police before the pride march²⁹

Before the pride march, the police held a personal consultation with the organisers of the march on the technical realisation of the demonstration. The police officers participating at the consultation suggested that the organisers change the route. So that the march would not go on Andrásy (one of the main streets) towards the centre of Budapest but that it would avoid the city centre in the direction of Keleti Railway station and should reach the site of the after-party, Buddha Beach through Orczy tér in the outer areas. They said that they are unable to protect the marchers from any attacks on the originally suggested route. The organisers insisted on the route through the city centre.

This series of photographs shows a police officer as he watches a counter demonstrator throw eggs at the pride march without action. It seems that the police was not present in due numbers to dare to intervene.

Photos: Évi Fábrián



Attacks against the march

A neo-Nazi mob attacked the peaceful pride march on 7 July in the centre of Budapest. The counter demonstrators followed the march on a 3 kilometre route throwing eggs and bottles at the march, and some Molotov cocktails. Some marchers were injured by the broken bottles. The physical assault was accompanied by constant verbal violence: „queers shot in the Danube, Jews should follow suit”.

²⁹ The details of the discussions with the police are based on a personal communication by one of the organisers of the march. László Mocsonaki, personal communication, 08.07.2007.

The counter demonstrators were taking video recordings and photos of the marchers at the call of a right wing organisation, Jobbik,³⁰ which they used later to identify the marchers and to post the contact details (e-mail, phone) on a website that encouraged visitors to harass them.³¹

As it was reconstructed in a later group discussion with the participants of the event, the police formed a tight line between the two demonstrations only at the front section of the march, where the politicians were marching.³² As the photos attest, police presence was sporadic at the rear $\frac{2}{3}$ of the march and failed in several cases to prevent the counter demonstrators from throwing eggs and beer bottles. According to the various police communications published in the media, eight counter demonstrators were arrested during the march³³, and television showed police officers confiscating eggs. Nevertheless, the activists of Patent present at the site claim that police repeatedly failed to act although counter demonstrators were throwing eggs and bottles at marchers from an arm's length. The police did not disperse the group of the counter demonstrators.



³⁰ Mokka, TV2, 2007.07.04.

³¹ <http://www.kuruc.info>

³² Beszélgetés a Pocok Klubban 2007.09.08.

³³ Tények, TV2, 2007.07.08.; Hvg.hu, *A meleg büszkeség napja: felvonulás Budapesten*, hvg.hu, 2007.07.07. http://hvg.hu/videok/20070707_meleg_buszkeseg_felvonulas.aspx, letöltve: 2007.12.31.

After the march arrived at the site of the after-party, an open-air club called Buddha Beach, the counter demonstrators surrounded the club and the police closed down the entrance. The police did not disperse the counter demonstration but waited until the neo-Nazi demonstrators left themselves. One member of Patent called the police to become informed about how long the siege would last, and complained that the police was not dispersing the crowd which was armed with bottles. She was told that by taking part in the march she had also undertaken the risks associated with it.

Attacks against participants of the party

As night fell and after the entrance was reopened, the organisers heard about the first queer bashings. They requested the police officers protecting the march to continue to ensure the security of the area. The police officers replied that their task included only the protection of the march and they left the area at 10 p.m. The organisers were notified of 11 cases when someone was beaten in the streets and parks near the club. The researcher made interviews with 6 persons altogether (4 men and 2 women) who were beaten during the night of 7 July and knows of

another five persons (2 men, 1 woman and 2 transvestites) who were beaten but either could not be contacted or did not wish to give an interview. Thus, the real number of victims may even be somewhat more than 11.

The organisers, the participants of the party and the victims of the attacks called the police several times, who repeatedly refused to intervene. According to one participant of the after-party a police officer said that his working hours were over and he had been on duty since the



morning, therefore he would not do anything.³⁴ The researcher was trying to convince an officer on duty for a long time that he should send someone to the site of an attack against transvestites. According to the police officer his colleagues were in the neighbourhood therefore the situation required no intervention, however, the researcher saw that there were no police officers near so they could not have arrested the perpetrators or prevent further criminal acts.

Neither Patnet nor other LGBT organisations know about any victim who made a report to the police. As one of the participants of the research said, he did not believe that the police would have done anything to investigate the case. Another victim was afraid that he would meet his attackers at the police headquarters or in court and his address and phone number would not be kept confidential.

Political reaction to the attacks

During the days following the attack, politicians from the socialist and liberal parties, which have a coalition government (the prime minister, the mayor of Budapest, the minister of justice and law enforcement), clearly condemned the attacks but had no problem with the behaviour of the police. However, the Christian Democratic Party and Fidesz, which are on the political right and are in opposition, did not condemn the attacks themselves but criticised the police for not protecting the LGBT march adequately. The liberal party (SZDSZ) initiated a joint statement by the parliamentary parties that would have condemned the attacks, which the socialists (MSZP) supported.³⁵ The opposition parties did not support the statement because they thought the problem was not violence against LGBT people but lack of action against a violent minority that carries out a variety of violent crimes.³⁶

Albert Takács minister of justice and law enforcement and the police chiefs judged the performance of the police to be good. The minister claimed that „it is impossible to prevent



This photo shows the distance between two police officers and the lack of a tightly closed line between the two groups. On the left, the police officer walking ahead, on the right, the arm of the next officer wearing a watch.

³⁴ Interview with Gábor Czeizel, *Mokka*, TV2, Budapest, 2007.07.10. Available on the internet at: http://tv2video.hu/videofeed/video_fullscreen.php?id=34766

³⁵ For a summary of the reactions of politicians, the parliamentary parties and the police afterwards see in Hungarian: Lencsés Károly „A vád: garázdaság. A Fidesz szerint a rendőrség hibáztatható a meglefelvonulás résztvevőit ért támadásokért” *Népszabadság* Budapest, 10.07.2007. Fully published online: *Népszabadság Online* 2007.07.10. <http://www.nsz.prim.hu/cikk/453287/> Downloaded: 31.12.2007

³⁶ Ibid. and: *Krónika*, Kossuth Rádió, 09.07.2007., in transcript on the website of MDF: http://sajto.mdf.hu/nyomtat.php?sc_id=62273. Downloaded: 31.12.2007

every instance of shouting and egg-throwing”³⁷ and called the queer bashings during the night “minor clashes.”³⁸ According to the spokesman of the police speaking on television, the queer bashings at night were unrelated to the attacks against the march in the afternoon.³⁹

An account of the attacks against a gay man and his partner follows as an example.

Street violence during the night of the pride march

Victim’s sex: male

Victim’s age: 26 years

Victim’s education: university or college

Work: political analyst

Transgender identity: none

Sexual orientation: gay

Place of residence: Budapest

Place of violation: Budapest

Date of violation: 07.07.2007

Source of information: the victim

Keywords: street violence, violence against pride march

András, his partner and a friendly heterosexual couple took part in the pride march and the concert afterwards. After they left Buddha Beach towards Fővám tér at 9.00 to 9.15, they reached an unlit park where they spotted a group with Nazi flags and wearing neo-Nazi symbols. Although they were worried, they decided to try to pass them by. They have almost reached the other end of the park when:

About eight skinheads attacked us from behind. [...] They knocked my partner down so that he collapsed. They started to kick him and then I attacked them out of some reflex. I started shouting. „Get lost! We didn’t hurt you, you don’t hurt us! Get lost” and „you can’t hurt him!” I attacked these six people. [...] They started to beat me and my partner’s friend got punched. His girlfriend said he wasn’t gay so they stopped beating him. [...]

Because of my job, I just wanted my face to be protected. They kicked me and then what I remember is that they were trying to break a champagne bottle on my head. Because there was a guy of about 180 to 190 centimetres, so taller than me, and about 160 kilos, so quite a big guy who knocked the champagne bottle against my head. [...] But it didn’t break for some reason. I toppled, got dizzy, but I didn’t fall on the ground. Probably they were surprised at this, the fact that it did not break, [...] so they ran away. All this took 5 to 10 minutes; it was a very intense thing. [...]

The strangest thing about it was that the park was swarming with people when all this happened. [...] We wouldn’t have thought that such a queer bashing can happen in Hungary. [...] We believed that they were afraid to do this, with so much publicity. [...] No one came up to us, as if nothing had been happening. [...]

Then we called the police who let the phone ring for a long time. And then when they replied they asked if someone’s life was in danger and we said that not exactly at the moment. [...] They said unfortunately they cannot come because they only come when someone’s life is in danger. But if we want it so much, they’d send a patrol but we don’t have to wait until then.

[We did not make an official complaint against the attackers] for several reasons. On the one hand, the police didn’t come. [...] You can’t find these people, because the police didn’t come. We can’t prove that this really happened. [...]

³⁷ Károly Lencsés.

³⁸ „A rendőrséget támadják a melegfesztivál miatt” *Index* 10.07.2007 <http://index.hu/politika/belfold/lmbt0710/> Letöltve: 2007.12.31.

³⁹ *Tények*, TV2, Budapest, 08.07.2007.

On the other hand, the police did not show a proper attitude. [...] Although I am not an expert in the law enforcement profession, if I want to protect an area and I know the kind of atrocities and situations that may happen, I try to prevent them. And there was the Buddha Beach and an unlit park next to it and not a single police officer in that unlit park. [...] We don't trust them. The police did not communicate this thing the way. [...] For instance, that cynical remark by the police chief that the gay bashings had nothing to do with being gay because the march ended at six in the evening. [...]

And the police is not known for its diligence in trying to investigate everything. Like we want to go to the police headquarters six-hundred times, tell them eight-million times, everyone will find out at the headquarters that we are gay. They will say either among themselves or to us "why the hell did you go there, why did you cross the dark park" so we don't want to listen to this. [...] These things played a role in why we won't make a complaint. [...]

The professionalism [is what I miss about the behaviour of the police] and [I want] to feel that just because "everyone is heterosexual" at the police [...], and I was trying to be sarcastic and critical, my safety should not depend on the compensation of his sexual identity, and my safety should be absolutely independent of his complexes and compensation.

Comments

Police behaviour

It seems that the police did not want to protect the marchers. Already at the time of discussing the march with the organisers, they stated that they are "unable" to protect the march on the chosen route. Naturally, the police could have protected the march. In comparison, the police was able to protect the majority of state celebrations from the mob on 22 and 23 October 2007. The march itself is the best basis of comparison since one cannot argue about the same event that the circumstances were different and therefore the comparison is not valid. The police was able to protect the front section of the march, where the politicians were, effectively while it left the rear $\frac{2}{3}$ unprotected. If the police was not present in appropriate numbers to protect the whole march, they should have asked for more police officers. In sum, the statement of the police that a march where counter demonstrators are to be expected cannot be protected in the centre of Budapest is faulty. It is only that the police have to work more, have to be present in larger numbers and they actually have to provide physical protection instead of simple escorting.

In reality, the police officers taking part in the negotiation preceding the march either wanted to enforce their own political-moral judgement, or wanted to save themselves the effort, or they were afraid of the criticism directed at the police in the current political situation (see below under *Political reactions* on page 52). If the march had proceeded in the outer areas of the city, it would not have realised its goal to make LGBT people and the participants' political demands visible. Perhaps it would have taken less work to protect the march or the mistakes of the police would have been given less publicity. This tactic, to hide the march in the outskirts of the city, is well known among activists organising pride marches in hostile environments,⁴⁰ in Hungary however, it was the first year that the police employed this tactic. There is no regulation or law that prohibits assembly in the centre of Budapest therefore it is the duty of the police to protect every peaceful assembly even if this takes work, even if it provides opportunity to criticise the police and even if it does not meet the political or moral views or taste of the police.

⁴⁰ *Prides Against Prejudice* ILGA-Europe, Brüssel, 2006. http://www.ilga-europe.org/europe/publications/non_periodical/prides_against_prejudice_a_toolkit_for_pride_organising_in_a_hostile_environment_september_2006 Downloaded: 12.12.2007

The police did not want to protect the participants of the after-party either. This is clear from the way they refused the emergency calls, the fact that they did not stay at the site despite the request of the organisers and that they did not send enough police officers to patrol in the unlit streets and parks near Buddha Beach even after repeated calls to prevent further criminal acts.

Indeed, it is cynical and shifts the responsibility away to say that the attacks during the night of the march were unrelated to the attacks against the march, that the police are naïve and did not expect the attacks, that there were “minor clashes” during the night and that the media coverage only mentioned eggs and not the bottles and Molotov cocktails. If the attacks in the afternoon and at night are unrelated, then the police who left the site are more difficult to charge with deserting the participants. If the police were naïve perhaps it can be understood why they were not present in adequate numbers to protect the march. If there were only “minor clashes” then perhaps it was a fight between equal parties and not hate crimes against a minority by a group that outnumbered them. If only eggs are mentioned, the situation does not seem as serious as when there are bottles and Molotov cocktails.

After these preliminaries, the participants of the research rightly assessed the danger that the authorities may fail to investigate the attacks and police negligence thoroughly and that they may be further discriminated against and traumatised in the process. By not responding to the emergency calls and by making cynical remarks, the police and their leaders effectively threatened participants away from making official complaints and so saved themselves the work of having to investigate the cases and avoided being called to account for their negligence.

It is not certain that the police failed to protect the victims of the queer bashings during the after-party specifically because they were LGBT people and the heterosexual and non-transgender friends of LGBT people. This interview research, which portrays individual cases, is not suitable to ascertain whether the police refuse emergency calls by LGBT persons more often or police reactions are generally so negligent. The police have a bad reputation among members of another disadvantaged group, abused women, who are often similarly refused intervention in absence of bloodshed.⁴¹ It is possible that this behaviour of the police only manifests in relation to callers from certain social groups. It is worth conducting further research to find out if the police discriminate when reacting to emergency calls, and if so, against which groups. It is however certain that refusing these emergency calls in a negligent manner was a violation of the law⁴² and such violations are not exclusive to LGBT persons. Thus, LGBT organisations may cooperate with organisations representing the interests of abused women and other organisations if they want to demand effective reactions to emergency calls from the police.

Political reactions

Instead of a factual assessment of the situation, politicians used the attacks against the participants of the march for their own political purposes.

⁴¹ See the shadow report of the Hungarian Women’s Lobby to the UN’s CEDAW Commission: *Shadow Report of the Hungarian Women’s Lobby on the realization of the Convention on the Elimination of All Forms of Discrimination Against Women in Hungary incorporated with the critical examination of the sixth periodic report of the Hungarian government presented at the 39th session of the CEDAW Committee of the UN*, Hungarian Women’s Lobby, Budapest, 2007. Accessible online: <http://www.iwraw-ap.org/resources/pdf/Hungary%20SR%20final.pdf>

⁴² It was contrary to the Act on the police and the Service Regulation of the Police: Act XXXIV of 1994 on the police. And Ministry of Internal Affairs Decree 3/1995. (III. 1.) on the Service Regulation of the Police.

In evaluating political reactions, it is important to take into account the fact that right wing groups have been organising riots in Budapest regularly since 2006, and it seems that the attacks against the pride march were part of this series. The timing and target of these attacks are not accidental; the organisers are not simply looking for trouble. They select specifically along a right wing ideology. They usually attack the police, or government and state celebrations, or the campaign events of the socialist party or the government but never events organised by conservative politicians. Thus despite the fact that the attacks against the pride march fit into a series of riots, it is also clear that the counter demonstrators were specifically attacking the participants of the LGBT march for their sexual and gender identity, as one of the organisers of the counter demonstration said on television.⁴³

A political battle is going on between the government parties and the opposition about the riots. In it, government politicians stress the responsibility of conservative leaders in right wing groups disturbing the peace of the country from time to time. The opposition criticise the socialist-liberal government for lying to the people, which according to them sent the people in the street, and the police for exercising too much violence against the riot groups but at the same time being unable to protect peaceful people from them. The political evaluation of the attacks against the pride march became part of this battle when neither group acknowledged both the fact that the attack was specifically against the LGBT community, and the fact that the police failed, but they emphasised the message that served their own purposes.

⁴³ Interview with Levente Jónás communications manager of Jobbik Magyarországért Mozgalom, *Mokka*, TV2, 04.07.2007.

Conclusions

Lesbian, gay, bisexual and transgender people suffer discrimination and violence in several areas. Discrimination at work and school, domestic violence, discriminative laws and state institutions, discrimination and violations in the health system, street violence and police negligence and sometimes violent action by the police hinder the full equality of LGBT people in Hungary. This chapter deals with what kinds of more general conclusions can be drawn from the individual cases portrayed above.

Victims rarely request legal redress

A negligible proportion of the participants in this research turned to some legal forum. Many say, as for instance the victims of the attacks against the pride march, the queer man discriminated against at the Millenáris event hall or the transsexual man beaten on the trolley bus that they do not believe that they would receive redress and that because of this it is not worth recalling the upsetting events. It seems that people with HIV/AIDS are so defenceless because of the monopoly of the hospital that treats them that they would literally risk their lives in the case of a hostile doctor or nurse if they complained. The case of the bisexual woman who was afraid to tell her bosses about her harassment despite the fact that company's equality policy included LGBT people suggests that it is not enough to guarantee the rights of people who live in fear but proactive measures are needed to ensure their equality. The police, heterosexual colleagues, the legislators and those applying the law are in a position to take these measures.

Discriminative regulations lead to actual disadvantage

It is often said that opening marriage for lesbian and gay couples would have a symbolic message primarily and that the small number of HIV-positive people in Hungary is enough reason to provide them with treatment in a single hospital. This research has shown that these discriminative situations lead to real disadvantage: two lesbian women cannot be the mother of the child they want to rear together and the monopoly of the hospital treating HIV/AIDS multiplies the effect other violations against people with HIV/AIDS as they have nowhere to escape from these violations.

Regulations calling for equality can be interpreted in a discriminatory way

The examples of the Pension Office and the Immigration Office show that even where the legislator wished to ensure equality, in the field of survivor's pension and immigration, between same-sex and heterosexual couples, the regulations can be interpreted in a way that is detrimental to LGBT people. Therefore, the work of LGBT organisations does not end with the passage of regulations ensuring equality, it is worth monitoring their application.

Some perpetrators are hostile towards other disadvantaged groups

The domestic violence case in this compilation is an example of the fact that many perpetrators of domestic violence are hostile towards anyone who questions their views on patriarchal social and family structure. Thus, they are hostile towards women who revolt against their power as well as LGBT people. It seems that the attackers of the pride march are hostile not just against LGBT people and are not simply looking for trouble but single out their victims based on a right wing ideology, therefore the Roma and the Jews have reasons to be afraid of them, too. And there is a library of literature on the fact that discrimination at work affects the Roma, women, persons over 40 to 50, in addition to LGBT people. In these

areas it may be fruitful for LGBT organisations to cooperate with organisations that work on the elimination of discrimination against other groups, and trade unions.

Violations sometimes affect the dominant group

It is possible that some violations affect not just LGBT people but heterosexual and non-transgender people, although it could be that they are affected less often. Such areas can be violations against HIV-positive people in the health system: denying the right to information and self-determination, degrading and inhumane treatment and denial of medical treatment are perpetrated against other patient groups. Moreover, of course the violations that HIV-positive people suffer affect them irrespective of their sexual orientation or identity. The situation is similar in the area of illegal employment conditions, which affects many groups of employees. The fact that medically assisted reproduction is only available when there is a medical reason or based on old age affects heterosexual women, too. Research would be needed in these areas to examine whether discrimination really exists and/or how widespread it is and in these areas, LGBT organisations can find partners among organisations protecting patients', employees' and women's rights.

Possible research areas and monitoring tasks

The research has raised several questions that need further research or require the monitoring of an actor through several years:

- Does the police have a discriminatory practice to check people's documents who look transgender or lesbian, gay or bisexual? Do police officers use undue violence against them, and if so does this differ from police violence against other minority and non-minority groups?
- Does the police react to emergency calls initiated by LGBT people in a discriminatory way or is police performance generally low in this area?
- Do violations experienced by people with HIV/AIDS occur in the case of other disadvantaged groups or generally against the whole of the patient population? With what frequency and is there a difference in the pattern of the violations?
- Do illegal working conditions affect LGBT people to the same extent that they do majority employees?
- Do state authorities (for instance the Immigration Office and the Pension Office) treat same-sex couples in a discriminatory manner?

Possible allies for LGBT organisations

In order to eliminate violations against people with HIV/AIDS, the potential partner organisations of LGBT groups are patient rights organisations. In the area of discrimination at work, they may cooperate with women's organisations, Roma organisations and employees' organisations including trade unions. In the area of medically assisted reproduction and domestic violence, women's organisations may be partners. If the suspicion of a possible discriminatory practice on the part of the police regarding identity checks is supported, Roma organisations can be allies of LGBT organisations. And regarding emergency calls not adequately treated by the police, LGBT organisations may form a coalition with Roma organisations and women's organisations combating domestic violence.

The next chapter summarises the concrete changes that the organisations may work for.

Recommendations

Recommendations for public decision makers

The recommendations below are meant for the following public decision makers: the government, members of parliament, other state actors in legislations, officials of various public bodies, members and officials of local governments, leaders of public institutions, such as hospitals, clinics, the Immigration Office, Pension Office, other public authorities. Decision maker is meant here in a broad sense: not only the persons actually voting for or against a given measure to be taken, but also anyone else that promotes or prepares such decisions, such as supervisory bodies, research institutes, advisory councils, advisers, consultants and politicians employed by ministries, local governments and other public institutions.

HIV/AIDS

The decision maker should put an end to the monopoly of the hospital that provides exclusive services in the area of HIV/AIDS treatment by creating regional HIV/AIDS specialist centres. For the transitional period while the regional centres are established, the decision maker should give priority to monitoring whether the human rights of people with HIV/AIDS are recognised in the hospital that has a monopoly.

The decision maker should ensure that a forum for legal complaint and redress and human rights monitoring body is established that works and is funded and employed independent of the hospital that has a monopoly in the treatment of HIV/AIDS.

The hospital that has a monopoly in HIV/AIDS treatment should make the conditions that have to be met to be included in drug trial programmes that provide adequate medication transparent for each patient, and should make the waiting lists related to this public.

The workers of the hospital having a monopoly in the field of HIV/AIDS treatment should provide all their patients with their medical records without request. They should ensure the right of the patients, which is established by law, to access their full medical documentation. They should ensure that only the patients or the persons defined by the patient should have access to this information.

In order to combat the prejudices widespread among medical staff, the decision maker should ensure the training of the medical staff in the following areas:

- HIV/AIDS, especially the spread of HIV;
- prejudice against HIV-positive and LGBT people;
- human rights of HIV-positive and LGBT people;
- the possible penal and civil (liability) consequences of endangering through denial of treatment.

The decision maker should compel health institutions to treat HIV-positive people's medical conditions not directly linked to their HIV-infection.

As a temporary measure, the decision maker should ensure the selection of specialists and specialist medical institutions that are friendly towards HIV-positive people. The decision maker should provide for the training of staff that consider themselves friendly on the treatment of people with HIV/AIDS and the human rights of people with HIV/AIDS. The

decision maker should ensure the creation of a list of specialists and specialist services friendly towards people with HIV/AIDS to ensure the treatment of HIV-positive people not directly related to their HIV infection until the broader human rights problems are solved.

The decision maker should provide for the human rights monitoring of the health providers, with special regard to the rights of LGBT people and patients with HIV/AIDS.

The decision maker should finance the publication of information materials on discrimination against people with HIV/AIDS in the health system and the human rights of people with HIV/AIDS. These should include a list and an explanation of the rights of people with HIV/AIDS and other patients, the legal forums to which the victims may turn, the obligations of the providers to prevent discrimination and information on the possible penal and civil (liability) consequences of endangering through denial of treatment.

Pride march

The decision maker should order the police to work out and publish a transparent code of conduct regarding pride marches, which should define the following:

- the police should adequately protect the march;
- the police should protect participants of the after events;
- the police should patrol in the neighbourhood of the after events;
- the police should be compelled to react to emergency calls by appearing at the site;
- the police should create a toll-free number where LGBT police officers or officers not hostile to LGBT people receive calls related to the pride march;
- the police should inform participants of the LGBT march of the measures taken to ensure their safety;
- the police should seek victims proactively and protect them with increased victim protection measures.

The decision maker should ensure the financing of the human rights monitoring of pride marches.

Pride marches and domestic violence

The decision maker should compel the police to react to every emergency call adequately no matter what kind of violation, thus emergency calls initiated by LGBT people. The decision maker should finance the monitoring of whether the police meet the already existing order of the national police chief on calls related to domestic violence, and the regulations to be taken in the future.

Transgender persons

The decision maker should lay down the rules of identity checks and other checks performed on transgender persons in the Service Regulation of the Police, which should contain the following minimum:

- the police officer may not request the removal of makeup or wigs;
- after identification, the officer may not call the transgender person a name that is contrary to his or her appearance (for instance may not call a person in women's clothes by a male name);
- the officer may not remark on the person's looks;

- when on duty, the officer may only contact a transgender person without an appropriate legal reason, the officer should especially not contact a transgender person to satisfy his or her curiosity or to harass him or her.

The decision maker should finance the monitoring of whether the police keeps these regulations.

Marriage

The decision maker should initiate lifting the prohibition on lesbian and gay marriage, the extension of marriage to lesbian and gay couples in an equal manner. To create real equality in marriage, the decision maker should initiate:

- the extension of assumed parenthood to lesbian parents: if two women live in a civil partnership and one of them has a child the other woman should automatically be the other parent of the child without any legal procedure;
- the deletion of the rule from the regulation on custody authorities that calls for the compulsory registration of a father even if there is no father that contributes to the child's care in reality;
- that lesbian and gay couples could adopt children and that one partner in a civil partnership could adopt the other's children;
- rules to guarantee that being a same-sex or heterosexual couple is not taken into account in the custody procedure related to adoption that determines whether the would be parents are fit to adopt the child;
- opening medically assisted reproduction to healthy young single women and women living in lesbian relationships.

Discrimination at work

The decision maker should finance the production of information materials on discrimination at work, which should provide information on what authorities the victims can turn to and what they can do, the obligations of the employees regarding the prevention of discrimination, and warning for employers about possible legal consequences. The publications should expressly mention LGBT people and people with HIV/AIDS as protected groups and should explain violations by employers as well as co-workers, and should give information on labour law, especially the reversed burden of proof in labour law.

In realising all the above recommendations, state actors should consult with LGBT organisations.

The decision maker should commission NGOs independent of the state to perform the monitoring tasks mentioned.

Recommendations to service providers, schools, employers

Equality policies should deal with the equality of LGBT people and women.

Equality policies and plans should be supplemented by action plans in which the users of services, the students and the workers, as well as service providers, teachers and bosses get to know human rights, discrimination against LGBT people and women, possibilities for legal redress and become capable of recognising harassment and mobbing at work and school. The

plan should encourage those in power (service providers, teachers, bosses, heterosexuals, non-transgender persons, men, white persons) to act against the violations.

In designing the action plans, during the training related to it, and in monitoring its implementation, the actors should consult LGBT and women's organisations.

Schools should invite the school programme of Labrisz Lesbian Association.

Recommendations for training institutions

Training institutions of helping professionals (health professionals, psychologists, social workers), teachers and law enforcement (universities, colleges, professional schools, organisers of courses) should train their students in order to decrease discrimination against LGBT people. Such training should include:

- knowledge of discrimination against LGBT people and women;
- knowledge of human rights and their aspects related to LGBT people and women;
- attitude formation in order to decrease prejudices against LGBT people and women;
- methodology of creating and realising equal opportunity policies and action plans.

As part of the attitude formation module training institutions should invite the school programme of Labrisz Lesbian Association.

In planning and realising the training activities the training institutions should cooperate with LGBT and women's organisations.

Participate in Patent's research!

Patent continues its interviews with victims of discrimination and violence against LGBT people. If you think that you have something to tell us, contact our researcher at the following e-mail address and give a short description of what happened to you.

Gábor Kuszing
gkuszing @ netstudio. hu

On Patent

PATENT (an acronym for Association of People Challenging Patriarchy in Hungarian) was established in 2006 by a group of helping professionals experienced in working with victims of gender-based violence. The Association's mission is to replace the current patriarchal social order with one characterised by the equality of women and sexual minorities.

As a non-governmental organisation, the Association aims to raise public awareness of different forms of violence and discrimination in an effort to broaden the social basis of challenging violence against women and children.

The main activities of Patent Association are providing legal and psychological support services and legal advocacy to women and children victims of male violence. Although the Association represents its clients mainly before international courts, we also take cases before Hungarian courts and other legal forums, such as the Equal Opportunities Authority, the Ombudsmen and the Constitutional Court. The Association provides legal training to professionals on Hungarian and international legal institutions and procedures regarding violence against women; monitors and criticises laws affecting women, children and sexual minorities and works towards legal reforms which improve the situation of these groups.

One of the most important activities of Patent Association is running a legal helpline for victims of violence against women. The helpline can be reached at the telephone number +36-70-5295676 from 4 p.m. to 6 p.m. on Wednesdays or at the e-mail address jog@patent.org.hu. In a limited number of cases the Association provides legal support in person, following the method of integrated client services, where a legal and a social/psychological helping professional are in touch with the clients.

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Cold Treatment

Case Studies in Violence and Discrimination against Lesbian, Gay, Bisexual and Transgender People

Hungary 2002–2007

This publication documents cases of discrimination and violence against lesbian, gay, bisexual and transgender (LGBT) people in Hungary between 2002 and 2007. It consists of fifteen individual case descriptions and the accompanying commentary, and two more general descriptions of human rights situations. It portrays several cases of discrimination at work, a case of domestic violence against a lesbian woman and various cases of verbal and psychological violence. It provides a detailed description of the attacks against the pride march in 2007 and the related police negligence, and gives an overview of the severe discrimination against people with HIV/AIDS in health care. It contains Patent's recommendations related to the legal cases and legal situations discovered. It is recommended to those who want to be informed about the kinds of discrimination and violence against LGBT people and the publication wishes to help the work of NGOs and public decision makers related to the rights of LGBT people.