ABC of LGBT Rights

Educational and informational publication

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The phrase «human rights» has long been a familiar and commonly used — we hear it from politicians, journalists, human rights activists, representatives of humanitarian organizations in quite different contexts and situations. However, many people do not realize human rights’ meaning as well as their concept. What are human rights? What rights belong to everybody? What laws do ensure these rights? Do all people have the opportunity to exercise their rights? Are not they violated in our country? Why do some politicians and social movements advocate limiting the human rights for entire social groups? Why the limitation the rights of minority groups, such as LGBT people, is routine practice for great many of people. What is discrimination and how it relates to each person? Why have we began to oppose the concept of human rights to the “traditional values” and why in the context of LGBT community campaign for their rights?

Answers for those topical questions can be found inside this ABC booklet.

The concept and theme of discrimination in Ukraine is fairly new and difficult for understanding and perception. Unfortunately, the recent increase of speculations using vulnerable to discrimination and violence social groups to earn political dividends, creating an atmosphere of hatred,
opposition of some people to others shows bad tendency nowadays. Why the topic of LGBT rights equality is a cornerstone in this context? This can be explained by the fact that LGBT community, at first sight, «undermining» by their existence and coming out, «traditional notions» of the world model. But this is only manipulation that is successfully used by political powers, right-wing groups, and some religious communities. Why? The answer is simple — in order to manipulate the public and to keep power in their hands, it is not profitable to share information about the importance and respect for diversity, because it leads to attempts to get alternative views of the world, the desire to hear and understand different opinions, draw conclusions, based on analysis, not on dogmatic adherence to imposed standards.

The concept of traditional values appeals to the static character of certain traditions, such as the behavioral norms and rules. However in different places and at different times rules and regulations were different. We should not forget that in many societies people were beaten with stones and it was normal as well as other violent practices. Is it possible to approve such “traditional values“?! Why are we taught to the opposition of «own» and «alien», «bad» and «good», «black» and «white» because the world is much more diverse? To understand why we are afraid of equal rights for LGBT people as possible apocalypse, we should analyze how the equality of other person may be infringed when it comes to us? This question we should ask ourselves.
Throughout the history of human society, individuals and groups faced with injustice and inequality. This inequality was enshrined in law: in many countries, slavery has been legalized for long time; in many countries women did not have and still do not have the opportunity to participate in political life and even freely dispose of their bodies.

Ideology, according to which one group of people by definition are superior than other and have the right to practice harassment and violence brought the whole state to disastrous consequences, one of which was the Holocaust, Tutsi genocide in Rwanda, the destruction of indigenous peoples in North America,
the genocide of Armenians in Turkey and others..

However, as long there was the idea that all people are equal and, therefore, should have equal rights and opportunities. This idea originated in ancient times, and was developed in the Enlightenment. One of the first examples of the law on human rights are the Declaration of the Rights of Man and of the Citizen, adopted during the French Revolution and the Bill of Rights — the first 10 amendments to the U.S. Constitution.

The Second World War clearly demonstrated the need for common, international agreements on human rights. In 1941, Franklin Roosevelt in his address «State of the Union» called back four essential freedoms: freedom of speech, freedom of worship, freedom from poverty and freedom from fear. This gave a new impetus to the development of human rights as a prerequisite for peace and end of the war.

When the public became aware of the atrocities committed by the Nazis, it became clear that the UN Charter did not accurately define human rights. There was general agreement needed that would describe and listed the rights of the individual.

Finally, after the Second World War, human rights were formally recognized at the international level — in 1948, at the third session of the General Assembly of the UN (United Nations) was adopted Universal Declaration of Human Rights.

The declaration has the status of recommendations, but based on it two binding agreements were adopted — the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Certain
provisions of the Declaration, such as the prohibition of torture and slavery are required as a peremptory norm. Unfortunately, in some countries, the Declaration recognized only partially.

According to the Declaration, human rights apply to everyone, regardless of race, skin color, sex, language, religion, political opinion or other believes, nationality, descent or any other differences.

Classification of Human Rights

Typically human rights are divided into three «generations»: personal and political, socio-economic and cultural, collective and ecological, but now advocates are increasingly talking about the need for separation of the fourth generation.

Personal:
- Right to life;
- Punishment only by court order — ban on scarborough warning;
- The inviolability of the person;
- Freedom of movement and residence;
- Inviolability of the home;
- The inviolability of correspondence;
- Prohibition of forced labor;
- The inviolability of property;
- The dignity of the individual;
- Freedom of conscience and religion

Political:
- Equality before the law — the lack of institutionalized inequality;
• Freedom of conscience — the right to have any conviction, including practice any religion or profess none;
• Freedom of speech and press — the prohibition of censorship;
• Freedom of assembly — the right to hold meetings both indoors and in the open air;
• Freedom of association — the right to form unions without asking permission;
• Freedom to strike;
• Right for appeals.

Social:
• Labor rights (the right to work and freedom of labor);
• The right to protection of family, motherhood, fatherhood and childhood;
• The right to social security;
• The right to housing;
• The right to health and medical care;
• Right to work eight hours a day, to fair work conditions, equal pay for equal work, etc.

Economic:
• Freedom to work;
• Freedom of industry and trade;
• Freedom to buy the property and dispose of it;
• The right of inheritance;
• The right to own, use and disposal of land.

Cultural:
• Freedom of language — the right to receive education using native language and explanations with native language in public
meetings;
• Right to education;
• Freedom of arts and sciences (freedom of literary, scientific and other works and teaching);
• Freedom of teaching.

Ecological:
• The right to a healthy environment;
• The right to accurate information about the environment;
• The right to compensation for damage caused to health or property by ecological violations.

In the XXI century started formation of the fourth generation of human rights associated with the development of science and with changing attitude of society to the previously stigmatized social groups. These rights are still the subject of debate because of their rejection by conservative ideology. The scope of the fourth generation of human rights include: gender recognition; organ transplantation; cloning; virtual reality; same-sex marriage; surrohatne motherhood; artificial insemination; euthanasia.
Unfortunately, as noted above, not everywhere human rights are bound to worship and observance. Old prejudices and stereotypes, as well as hierarchical structure of our society make it difficult to achieve social justice and equality of all people. Even in democratic societies, certain groups of people are the objects of oppression. Often they are women, immigrants, people of color and other ethnic backgrounds, people with disabilities and psychiatric diagnoses, gay, bisexual and transgender people (LGBT), and others. These groups are victims of discrimination and hate crimes.

**Discrimination**

*Discrimination* (lat. *discriminatio «distinction»*) — the unlawful distinction in attitude to people on the basis of their actual or perceived belonging to a particular social group or based on real or imagined biological, physical or social characteristics. This is one of the most painful and widespread human rights violations in the world today. Millions of people suffer from poverty, isolation, abuse and violence just because of who they were born, what language they speak, what they believe, whom consider themselves, etc.

Discrimination can occur in many forms: from insults
and assaults to the deprivation of basic goods, services and other rights. Victims of discrimination may face difficulties in employment or with limited access to education, housing and necessary medical care. Disadvantaged groups can also be denied the right to participate in public life, free to form associations and organizations, to manifest their religion or maintain their cultural characteristics. Because of discrimination in the criminal justice system some people belonging to marginalized and vulnerable groups are victimized twice, because trying to complain about the discrimination they face the fact that the principle of «equality before the law» or «ban of re-discrimination» does not apply to them. These individuals have a significantly higher risk of becoming a victim of inhuman treatment by law enforcement agencies.

Whatever forms of discrimination, it is always based on absolute differences and tends to build hierarchies when one person is placed above the other without any objective reasons.
Discrimination is a reluctance to recognize the equality of all people and respect the dignity of each and every one of them.

Discrimination enters the state and international structures and institutions, permeates social relationships and attitudes. As a result, victims of discrimination are in a vicious circle of isolation, inequality and prejudice that generate new discrimination. The systematic deprivation of certain groups’ members of their economic and social rights quickly leads to their actual segregation. After rising to the level of public policy, discrimination leads to segregation by law and — in its most extreme form — to apartheid. Legitimization of discrimination in society happens through legal recognition of equal rights of certain groups of people — so in Ukraine LGBT people do not have the right to start a family and adoption because of legal restrictions on this rights; other example is law on «propaganda of homosexuality», which is actually censor person and any information about his\her existence.

Discrimination can be entrenched by law or religion (institutionalized discrimination), or may be based solely on the «morality» (actual).

According to international law, discrimination consists of three components:

- limitation of rights;
- unacceptable grounds on which these rights are limited;
- no reasonable and objective justification for such restrictions.

Limitation of rights usually involves deprivation or impeded access to certain services or rights. It is important to objectively assess whether results or that action to limit rights, given its objec-
tive consequences, rather than on the purpose for which it is introduced.

In practice, discrimination can occur in the following forms:

- **Distinction** — e.g., women paid less than men for equal work.
- **Exception** — e.g., Roma or homeless people have no possibility issue IDs, or when the children of asylum seekers are deprived of the right to education
- **Restrictions** — e.g., limiting the freedom of public assembly for lesbian, gay, bisexual and transgender people, or imposing restrictions on the construction of Islamic mosques.
- **The benefits** — e.g., when public funding is allocated only for a state church or public housing is provided to only white citizens as a priority group.
- **Segregation** — e.g., when children with disabilities and Roma children are systematically sent to some «special» schools, ignoring their capabilities and needs.
• Reluctance to create reasonable accommodation — e.g., buildings are not equipped with ramps for handicapped persons.

**Unacceptable grounds**

Not any restriction of rights is discriminatory. Article 2 of «Universal Declaration of Human Rights», which inspired the wording of other human rights instruments, prohibits discrimination on the following ten grounds: 1) race, 2) colour, 3) sex, 4) language, 5) religion, 6) political or other opinion, 7) national or social origin, 8) property, 9) birth, or 10) other status.

The term or «other status» is open-ended; some grounds not explicitly mentioned, such as age, disability, nationality and sexual orientation, could also be considered prohibited grounds. Protected grounds are often the qualities which are essential components of a person’s identity, including religion, ethnic origin, nationality, language, sex, gender identity and sexual orientation, but this list is not exhaustive.

Now the world increasingly recognize that discrimination can be based on a variety of personality traits that can change over time, such as appearance, political opinions, health, social or economic status.

Various human rights mechanisms describing different grounds on which discrimination is exercised. Some mechanisms such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All
forms of discrimination against women, consider only individual characteristics. Other documents, such as the International Covenant on Civil and Political Rights, the European Convention on Human Rights and Fundamental Freedoms and the European Charter of Fundamental Rights, contain «open» list of features, where among other things restriction of rights on those grounds that are not included to the list is mentioned. Open lists usually begin with the words «like» or «including», and allow human rights bodies interpret documents with the new circumstances and changing social factors, not limited range of problems that existed at the time of the document creation.

For example, discrimination based on sexual orientation now in many countries is considered as human rights violation, but until recently it almost never expressly mentioned in human rights documents. In this case, international courts and supervisors in their interpretations repeatedly suggested that it was assumed to be open anti-discrimination provisions, the effect of which is often similarly applies to transgender and intersex people.

**Reasonable and objective grounds**

Not all cases of rights restriction on a particular unacceptable feature are a display of discrimination. To acquire characteristics of discrimination, it should be deprived of a legitimate aim and unjustified. In other words, if the restriction of rights aimed at achieving a legitimate aim (such as the protection of the health or safety of society as a whole) and proportionate to achieve this
goal, this limitation is not considered as discrimination.

This is the toughest and most controversial aspect in discrimination cases. To set limits of justified, it is necessary to carefully analyze each case.

In many cases, even when restricting the rights pursues a legitimate aim (such as the protection of public order), but there are alternative means of its achieving which do not have a negative impact on certain groups, such restrictions would be considered inappropriate. The European Court of Human Rights explicitly insists that only the presence of very good reasons for restricting the rights based on unacceptable features may be compatible with the principle of non-discrimination.

Types of Discrimination

The international law of human rights distinguishes two forms of discrimination: direct and indirect.

Direct discrimination is an obvious limitation of rights under the unacceptable ground. Direct discrimination can be «open», that is clearly spelled out in the text of the law or is clearly visible in certain actions. It can be «hidden», but still available for identification.

Examples of direct discrimination
• restricting access to emergency medical care, depending on the legality of human presence in the country;
• the words «Gypsies Trespassing» at the entrance to the pool;
• water supply and sewerage system, which systematically
excluded territories inhabited by members of certain minority groups;
• impossibility of the same sex marriage;
• a law prohibiting the use of minority languages in the media.

Indirect discrimination occurs in situations where the seemingly neutral law, rule, procedure or action to put a group into disadvantage or exercising inappropriate influence on it without a legitimate objective or reasonable justification.

The criterion for the presence of discrimination should be exactly the consequences of a norm or actions for specific groups rather than intent and purpose.

Examples of indirect discrimination
• height requirements for job applicants that most women do not fit in;
• Law on Social Assistance, in which applicants for this assistance must have permanent housing — eliminates the traveling people and homeless;
• the procedure of language skills testing for children to determine their suitability for study in mainstream schools (or directing them to a «special» schools) that requires a child’s language skills that children from certain minority groups may not show;
• the law on the restitution of property, which is pushing the condition of continuous residence in the country, while members of certain ethnic groups have had to live abroad for a few years.

Most antidiscrimination provisions of international instruments in the field of human rights apply to both direct and indirect discrimination.

**Discrimination on multiple grounds** *(multiple discrimination)*

In practice, people often face discrimination on multiple grounds. This occurs when a person simultaneously belongs to two or more discriminated groups. Discrimination on multiple grounds often creates unique forms of discrimination. Generally, it touches the most vulnerable elements of the society, including migrant and poor elderly people who are constantly faced with the most severe losses and exclusion from society.

Examples of persons who become the targets of cross-discrimination:
• An old Roma woman;
• migrant with limited mobility;
• Transgender Muslim woman.

Operational guidance indicating ethnicity often found in Europe in the context of counter-terrorism and is a clear example of discrimination on multiple grounds. Individuals who are more likely to become targets of searches, raids, detentions, arrests and other preventive discriminatory measures are usually not just Muslims. They are both young (ages 18-20 to 30-35 years) male and likely to come from the Middle East, South Asia or Northern Africa (discrimination on the basis of religion or nationality).

**The principle of equality and non-discrimination**

To ensure protection against discrimination means to abide the principle of equality, that is to make sure that people are equal before the law as well as in practice. However, treating people as equal and treat them the same way are not always the same thing. This would be appropriate if all people were equal and have always lived in identical conditions. Obviously, this is not the case: there are many differences among us — gender, language, religion, ethnicity, sexual
orientation, political views, health, mobility, social status and so on.

To treat people as equals among themselves, it is important to understand the significance of these differences in a variety of situations. This will be achieved with not only formal equality by law, but with actual equality. If the difference is not significant (e.g., gender identity in relation to the ability to perform a job), the different treatment shall be considered discrimination.

However, there are circumstances where equal treatment or failure to take into account the significant differences for a particular situation may actually lead to inequality and discrimination. This occurs in situations where the existing pattern of inequality only contributes to the conservation of discrimination against a particular group, which has long existed in the society. For example, it happens when due to ignoring important differences due to special needs individuals equal realization of the rights is impossible.

Example: a person on wheelchair cannot get into buildings not equipped with ramps.
Positive actions

For balancing the existing inequality of opportunities it is often used «positive actions» or affirmative actions.

Positive actions — a measures of preferential rights or privileges granting to certain groups that are used to generate statistical equality in jobs, education, income for members of different genders, races, ethnicities, religions, sexual orientations, etc. Positive discrimination is most often used in cases where the statistical disparity is too high, and therefore impossible to overcome discrimination against minorities only going to equal treatment. Positive actions should (preferably) be temporary and can be used at the national level and implemented at the local level in some communities.

Examples:
• quotas for women’s representation in parliament;
• quotas for children with special needs at the universities.

Hate Crimes

Some of the crimes against persons include aggravating circumstances that make them hate crimes — based on race, religion, ethnic origin, political beliefs, sex, sexual orientation, etc. Hate crimes and discrimination is not the same concept, but discrimination creates a favorable environment for the spread of such crimes, and they
are in a particular context can be considered an extreme form of discrimination, combined with physical violence. It is important to understand that discrimination is legitimized by the state or community can lead to such violence as hate crimes.

Such legal qualification exists in some U.S. states and some countries of Western and Central Europe, in Ukraine as well. Moreover, in many cases, the qualification of the crime as a «hate crime» is strengthening imposed criminal penalties. Increased penalties may include a longer term of imprisonment or life imprisonment.

In Ukraine such crimes are aggravated assaults, but, in practice, to prove the existence of these reasons is extremely difficult. First, there is a lack of ability and willingness of law enforcement bodies to effectively investigate such cases. Second, victims’ confidence to the judicial system is extremely low and they just do not appeal to the police.
Human Rights and Morality

In many respects the rights and freedoms respectively equal to conventional morality (murder, torture and other violence almost always considered as negative symptoms), but there are moments where there is a conflict. The problem is that traditional moral of majority ethnic groups and cultures emerged in the hierarchical and patriarchal society where inequality was institutionalized and enshrined.

Slavery was a traditional value and legitimate practice. An attitude toward women as the property was traditional and legitimate practice.

Orthodoxy of these phenomena, however, does not make them positive, and in most countries they are condemned. But the inertia of the past is still strong:

• most countries at the national level condemn and negatively perceive racism, but everyday practice is full of discrimination on the grounds of racism.
• most countries recognize the right of people to create a family — but the desire of gay people to exercise this right cause resistance and resentment.
The rhetoric of xenophobic groups is a good example of society fragmentation and the inability of many people to realize the unity of mankind, to go beyond their group, to stop dividing the world into «us» and «them». Racist and homophobic groups that support discrimination and sometimes resort to hate crime, use specific arguments, which we try to address in detail on the example of homo_ and transphobic rhetoric.

**Majority Rights Violations?**

All democracies are political systems in which citizens are free to take political decisions in accordance with the will of the majority. However, the conquest of majority rule is not always democratic. In a democracy, the will of the majority must be combined with guarantees of individual rights, which, in turn, serves to protect the rights of minorities — ethnic, religious, political or social minorities — such as LGBT. Minority rights are not dependent on the goodwill of the majority and cannot be waived by a majority vote. For example, the right of LGBT person to have family cannot be putted to a referendum, where decisions are taken by majority vote, as if anyone has to ask permission from the majority to have a family. Anyone at one or another time belongs, or may belong, to one or more minorities. Also, any person belonging to minorities in a certain period of time may belong to majority, depending on the issues submitted for consideration. Thus, democracy — is primarily protection of minorities, not the power of conventional
majority.

Let’s try to understand which implies the assumption that human rights on a particular minority may violate the rights of the majority. Thus, human rights suggest that all human beings are born free and equal in their rights.

Human rights are essential and inseparable from the individual, they non-territorial and non-national, exist independently of consolidation in the laws of the state, is the subject of international law regulation and protection. There is no such thing as the right of the majority. The only thing that stems from attempts by some groups to convince people that the achievement of equal rights for the LGBT community violates the rights of the majority is the right for discrimination and violence against LGBT people. However, such rights do not exist. No minority can break the imaginary rights of the majority because of the following:

• majority is an imaginary category that changes;
• minorities do not have same resources majority has, so are not exactly empowered to make decisions;
• there are no privileges in the concept of human rights, they
are the same for everyone, so it is unknown how my equality before the law and equality of my rights may violate the right of another person.

- the only thing that can «suffer» as a result of achieving equal rights for LGBT people, it is the justification of violence and discrimination against LGBT people.

“Traditional Values” Concept and LGBT

Recently, it is often possible to hear that LGBT people with their existence and attempts to achieve equality violate traditional values. Firstly, it is necessary to understand what is meant by the definition of «traditional values.» Typically, in this context, morality, Christian and family values are meant thereby.

Morality — a historically constituted system of rules and regulations to follow human behavior which is voluntary. Morality cannot be equated with the customs because customs vary over time and are the behavioral patterns of the majority, while as the morality we understand deliberate and free choice of the person. Therefore, the assumption that homosexuality, gender variance and intersexuality are immoral phenomena — is nonsense, because, after all, that assumption is based on the queerness of these identities for the imaginary majority. Also customs are changing over time. Thus, the custom of giving the girl in marriage to the rapist to preserve «family honor» are no longer considered to be moral. Therefore, one should distinguish customs, traditional practices, which are often discriminatory and violent and moral
behavior.

Morality must be clearly distinguished from the religious (including Christian) values, because they are based on dogmatic adherence to traditions and rules, without the need for analysis and reasoning. Often the most brutal acts of violence (practice) are justified by «Christian» (religious) practices. For example, the basis for the criminalization of homosexuality (and even the death penalty for this «crime») in some countries, have become the norm of Christianity and Islam, defining it as a sin.

What are family values? Recently, this phrase can be heard in the context of the struggle for LGBT families’ equal right. What is the difference between opposite-sex and same-sex marriage? Why the sex of the person making him/her «defective» for the right to equality and family happiness? Is there a difference between love between people of different sexes and one? It is unlikely when reasoning logically. Love does not have sex characteristics.

If you follow the «tradition» — it turns out that love and family are the only «correct» when meet public expectations. Everything else is declared «fornication,» «abomination,» «abuse,» «sin,» etc.
Conservative groups often try to impose a religious view on homosexuality, gender variance, relations in the family, parenting principles and other aspects of the whole society in which many people profess other religions or did not profess any, and in accordance with this have other moral principles.

The main feature of rights is their universalism, because no tradition or religion should stand in the way of their compliance.

**LGBT Rights**

Speaking of LGBT rights, it is necessary to take into account several key provisions:

1. The LGBT rights belong to the category of human rights and follow from the uniqueness of each person as an individual.
2. LGBT rights should not be confused with the basic needs. LGBT people often hear remarks like: «We don`t prohibit you to have sex with each other, why are you dissatisfied?» The ability to have sex without the threat of punishment does not mean that human rights are respected.
3. On LGBT rights as well as human rights, we should talk in terms of relations of «power — personality.» If a person has a right, therefore, the state must provide the possibility exercise it. For example, the right to education means that the state guarantees everyone access to education, develops a training program, prepares teachers, etc.; state provides education and develops the rules of its functioning. The State shall ensure equal access and non-discrimination in all spheres of life.
4. LGBT rights as well as human rights are subject to restrictions, but only to such limitations as are prescribed by law and are necessary in a democratic society with respect to the interests of national security and public safety, for the prevention of disorder and crime, protection of health or the protection of human rights and freedoms. Unequivocally, with no exception, the prohibition of torture, slavery and servitude maintenance should be complied.

5. If LGBT person has the right it should be procedures for its implementation respectively. Having rights means the possibility of claims / appeals when rights are violated. Otherwise the right remains an empty declaration.

6. LGBT rights/human rights belong to everyone and do not depend on the performance of his/her duties. It is not possible deny the right, just as there is no way to suspend their action. If a person does not fulfill his/her obligations, the punishment may appear, for example, as denying promotion or privileges, but it is intolerable to deprive any person of his/her rights.

Concluding the introductory remarks on LGBT rights human rights, the problem of rights’ realization should be brought into attention. «To Have Right» means being able to assert a claim, demand from the government its implementation, because is not enough the only state the right in the law. There should be procedures for exercising the right, and the people and their legal representatives should know what is right and how to seek their implementation. Respect for human rights, including any minority,
availability of procedures and human rights education should be provided by the state.

**Universality of Human Rights**

When we talk about the concept of human rights, it is important to understand that rights are universal. This means that there are no exceptions, “double standards” when it comes to human rights.

Unfortunately, over the years, our society is accustomed to such «exceptions», and such thinking deconstruction is often difficult. Some people use the word «mentality» when it comes to specific attitude to such concepts as equality, tolerance, non-discrimination and so on. «Mentality» in this context is perceived as a kind of unshakable cultural superstructure, which is difficult to move even imaginary. But, in fact, it is only the manipulation of consciousness.

“Double standards” phenomenon that we used to take advantage of is a way to survive in a world where there is no equality.

We do not think, why try to get somewhere no waiting in line, not thinking about the interests those who are in queue. For some reason we used to pay bribes to get a positive result, instead of having fight for justice. We are not worried about building’s access for people on wheelchairs. We consider it «normal» when people with homosexual orientation cannot create a family, but a do not
challenge our right on it. Why is this happen?

This is because we do not understand the value of the rights; we had no history of fighting for the rights. Some of us who are fortunate enough to get into conventional categories of «majority» perceive such things as «normal» at a time when others have to fight for their equality. This is why the pattern is triggered when people who belong to the conventional majority start to perceive their rights as privileges — something that others (minority) do not have. This is what gives you the opportunity to jump the queue. It should be understood that it is not equality and tomorrow you may be in the minority as well.

Examples of LGBT Human Rights Violations

According to «Universal Declaration of Human Rights»:

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Even in democratic societies, most people do not recognize gay and transgender people as peers and not treat them in a spirit of brotherhood. In many states, this inequality and the
promotion of violence are enshrined by law.

**Article 3**

*Everyone has the right to life, liberty and security of person.*

Each year, thousands of human rights organizations monitor hate crimes against LGBT people, including many murders. In some countries, such as Uzbekistan, homosexuality is a criminal offense for which people are deprived of liberty for a long time. In some countries, such as Iran, homosexuality is punishable by death.

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**Article 5**

*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*

Thousands of LGBT people around the world are victims of violence by police — during arrests and accelerations of public events, and being in the prison system for other reasons. Many people suffer torture and mistreatment — during the investigation and serving sentences.
Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

However, to fulfill this article anti-discrimination laws are needed. Unfortunately, in Ukraine LGBT people have no legal protection against discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

One of the painful problems in the protection of LGBT rights
is the reluctance of victims of discrimination or hate crimes to contact the police and courts, due to the numerous failures of law enforcement officials to open a case and investigate them, make a fair trial. Many people are afraid of publicity of their orientation/gender identity, because it can cause many problems — firing, violence in the family, loss of home and livelihood.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

In practice, during the LGBT public events, police often do not detain those who commit violence, but their victims. These people put forward the charges of hooliganism, awarded penalties, kept under arrest, intimidate and demand bribes.

![Image of police and a person being dragged](image)

**Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the
determination of his rights and obligations and of any criminal charge against him.

Closed courts in the post-Soviet space are a common phenomenon. In addition, with no law on protection against discrimination, judges often guided by their own biases in sentencing.

Article 11
1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be
imposed than the one that was applicable at the time the penal offence was committed.

In practice, people whose guilt is not proven have to spend years of their lives in detention centers — in appalling conditions, with their risk to life and health. If a person is homosexual or transgender, this risk is multiplied with one of violence at the hands of the mates, including sexual.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Dissemination of information about one’s homosexuality or gender variance often becomes the basis for blackmail, «defamation of character», may cause loss of job, problems with the family, violence and even death.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

In practice, it is extremely difficult to obtain refugee status and
permission for resettlement in a safe country for a person affected by homophobic or transphobic violence.

Article 16
1. *Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.*
2. *Marriage shall be entered into only with the free and full consent of the intending spouses.*
3. *The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.*

As the matter of actual practice, same-sex marriages do not exist in all states. Conservative forces are active in the fight for the preservation of this status quo.

Article 18
*Everyone has the right to freedom of thought, conscience*
and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

In some countries religious dogmata have the force of law, mandatory for all citizens. These dogmata are often homophobic and transphobic. Other countries which are formally secular implant religious dogmata through the education and also use them in media for political purposes.

**Article 19**

*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.*
In some countries, particularly in Russia, distribution of any positive information about homosexuality or gender variance is prohibited by law («law on propaganda»).

Article 20

*Everyone has the right to freedom of peaceful assembly and association.*

In real world, the mere mention of «gay parades» and «grant worms» causes outrage in many conservative groups that seek to prohibit any public unions and LGBT public events.

LGBT activists find it very difficult to obtain permission to carry out public events — government officials are trying to find any excuse to ban them.

In Russia there is special «law on foreign agents,» which actually blocks NGO’s access to funding and sets strict state control over them.
Article 23

1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

   A lot of gay and transgender people lose their jobs, when their employers become aware of their sexual orientation and gender identity.

   Transgender people faced with extreme difficulties when finding a job mainly due to the mismatch of their appearance and IDs. Many are forced to work in menial unskilled work to earn for a living.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. *Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.*

As the matter of actual practice, single homosexuals and transgenders who do not work and are unable to earn for a living (due to advanced age, medical condition and other circumstances) are extremely vulnerable and form disadvantaged groups, because they often do not have family support.

In Ukraine and many other countries children raised in homosexual families can officially be considered only the child of one of spouses. Two people of the same sex are not allowed to be parents of a child, and that is causing a number of legal problems. If, for example, «biological» mother dies, her partner has no rights to custody of the children, whom they raised together.

Article 26

1. *Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.*

2. *Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations,*
racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. 

Parents have a prior right to choose the kind of education that shall be given to their children.

In practical terms, school education programs contain a lot of sexism and religious propaganda, which often includes the promotion of homophobia and transphobia.

LGBT people often have problems with access to higher education, especially transgender people who are in the process of «transition» and whose documents do not match their appearance.
— What if I do not want to see Gay Pride?
Do not attend it.

— Why do LGBT stage a parades and heterosexuals — not?
Straight people do not go to «heterosexual pride», because this is simply not necessary. The rights of the people concerning their orientation and family life protected at all levels.

Nevertheless heterosexuals also become participants in the protests — in situations where their rights are violated. People of any orientation involved in social movements, become NGO activists or union members. No one blame the miners who are protesting against non-payment of salaries, that they «scream about themselves to the world.» Their demands and protests recognized as fair.

LGBT social activity in this respect is no different from the mining strikes. LGBT people want to claim a violation of their rights and demand justice. The refusal of this normal for civil society behavior
can be explained only by prejudice and homophobia.

— LGBT people are corrupting the children!

Homosexual orientation applies only to sex, not age, so just as likely one can say that heterosexuals are corrupting children.

— Gay sex — is unnatural because it does not lead to procreation

There are a number of scientific papers shown that homosexual behavior is found not only among humans but also among many animal species. In 1999, Canadian researcher Bruce Bagemihl described that homosexual behavior is observed in more than 1500 species and is well documented for 500 of them (Bagemihl, 1999) (Harrold, 1999). Review of existing research in 2009* showed that homosexual behavior is a nearly universal phenomenon in the animal kingdom, common to all species.

Scientific studies of animal ethology have shown that sexuality in nature is not limited to reproduction, it is a multi-functional phenomenon — undertaken to obtain satisfaction, social communication, etc.

— Child who is raising by two people of the same sex will have problems with socialization and grows homosexual

1. A child of gay parents may have problems with socialization through social homophobia. But to blame the parents for this as stupid and immoral as to blame the victim of rape in the violence that was committed on her (him). Those who commit violence should be punished and rehabilitated, not
their victims.

2. Firstly, the majority of homosexuals was born in «traditional» families and was educated by heterosexuals. Secondly, there is nothing wrong with homosexuality, so you should not worry because of homosexual child, but the fact of homophobic society.

— Homosexuality is pathology. The decision to de-pathologize homosexuality was made under pressure of activists; there were no scientific reasons for that.

First, we must clearly understand that 100 years ago a woman was considered «under-man», so to say that homosexuality was pathologized based on objective scientific data is at least not correctly. The background of homosexuality pathologization are social prejudices. Similarly, in the early twentieth century, research confirmed that if a woman will do science her uterus would decrease.

The first attempts to classify homosexuality as a mental pathology were made in the mid-XIX century — well-known psychiatrist Richard Krafft-Ebing (Richard Freiherr von Krafft-Ebing) mentioned homosexuality among 200 forms of pathological sexual behavior, classifying it as a «sexual psychopathy».

In XX century logical continuation of tradition that consider homosexuality as a disease was the concept of the German Nazis, according to which it was deemed as genetic defect detrimental to the «purity of race». To put into practice this theory, Himmler established the «central imperial service to combat homo-
sexuality and abortion» in 1936.

Overall pathologization of homosexuality is based on a narrow understanding of sexuality as a tool aimed at procreation «normal» implementation of which is possible only between people of different sexes.

In the light of a broader scientific understanding of sexuality, the modern official medicine does not consider homosexuality a disease.

— Homosexuality is a sin. Christianity and other world religions condemn it.

People have the right to practice their religion, but the realization of their freedom of conscience should not lead to the violation of the rights of others who do not practice this religion, or understand its dogmas differently. Everyone has the right to believe homosexuality or gender variance is a sin, but it cannot be a basis for discrimination against LGBT people. Choosing a religion or atheism is a personal matter of each person, and any religious doctrine should not be imposed at the state level.

— Homosexual people are depraved, they have a lot of sexual partners

The number of partners and format for relations is a private matter of each individual. Among homosexuals, as well as among heterosexuals, there are people who are more comfortable with monogamy or polygamy, and the orientation of these preferences is independent. Different people have different views about what should be their relationship, and it is quite normal for people to
have freedom of privacy.

— Homosexuality or gender variance can be «cured» or «overcome» through «reparative therapy» or religious practices

Conservative Christian groups who believe in the possibility of sexual orientation change, and put the aim of overcoming homosexuality, often turn to the use of «reparative therapy» to turn gay people into heterosexuals and transgenders into cisgenders.

Most of these «therapists» respected religious (usually Christian) doctrine and methods including religious instruction, prayer, fasting and meditation. Secular techniques take in reading, sports or other exercise.

However, most medical professionals and psychologists believe that attempts to change sexual orientation or gender identity are potentially hazardous to the human psyche. In fact, this is violence against the person.

— Tolerant attitudes towards LGBT lead to a deepening demographic crisis and the extinction of humanity

LGBT people are just as capable to bear and raise children, like all other people. In order to have a baby, it is not necessary have sex with someone of the opposite sex — science invented IVF and other methods of artificial insemination.

There are many childless heterosexual families, so to claim that the family exists only for having children — is false.

— Homosexuality or gender variance is not typical for Ukrainians (Russians, Tatars, etc.) — it is debauchery, brought
There are LGBT people among all ethnic groups. This is proved by sociological and historical data. Moreover, homosexuality and gender variance are organic components of some traditional cultures (Polynesia, North and South America aborigines), they institutionalized in these communities as appropriate social roles and do not cause any condemnation or misunderstanding. Representatives of these cultures suggest that homophobia and transphobia were «imported» from Western Europe, and they are contrary to local «traditional values.»

— LGBT activists — «grant worms» who are in clover with foreign funds money.

This belief is a sad consequence of underdevelopment of civil society and citizens’ misunderstanding of its basic principles. Rudiments of the totalitarian Soviet education in their eyes cause any perception of civic engagement as «prepaid» and aimed solely at obtaining personal gain, and lack of faith in the fact that the activity of the individual can affect social processes.

In Russia, this trend has become extreme — NGOs were officially declared «foreign agents» and were subject to numerous checks by security forces.
Insight NGO is a Ukrainian non-governmental organization founded in June 2007 and officially registered on May 26, 2008.

**Mission**
To improve the quality of life of homosexual, bisexual, transgender, queer and intersex (LGBTQI) people in Ukraine by empowering them, providing with services and implementing other informational, social, psychological, medical, cultural, legal and human rights activities.

**Vision**
The society where people are equal regardless of their sexual orientation, gender identity, racial or ethnic belonging, age, sex, gender or any other characteristics and where diversity is a common social value.

**Strategic program areas:**
1. Information and education;
2. Advocacy;
3. Work with LGBTQI people;
4. Increasing of organizational capacity.

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