



Priručnik

za uključivanje LGBTIQ perspektive
u rad organizacija civilnog društva

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Sarajevo, 2021.

Edicija *Ljudska prava* Sarajevskog otvorenog centra

Publikacija broj: 82

Naslov: *Priručnik za uključivanje LGBTIQ perspektive u rad organizacija civilnog društva*

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Dizajn i prelom: Dina Vilić

Izdavač: Sarajevski otvoreni centar, www.soc.ba

Za izdavača: Emina Bošnjak



Objavljivanje publikacije je institucionalnom podrškom Sarajevskom otvorenom centru podržala Švedska putem programa razvojne saradnje.

Stavovi i mišljenja izneseni u ovom tekstu su autorski i ne predstavljaju izričite stavove i mišljenja donatora.

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UVOD

Pojam ljudskih prava podrazumijeva spektar koji obuhvata ljudska prava svih društvenih grupa i svih pojedinaca/ki koja su međusobno nedjeljiva i čije poštivanje, zaštita i unapređenje zaista jeste međusobno uvezano. Bez zaštite i poštivanja ljudskih prava najmarginaliziranijih društvenih zajednica i pojedinaca/ki u društvu, ne može se govoriti o funkcionalnom sistemu zaštite ljudskih prava. Ovaj sistem također ne može se zasnivati, ni graditi, isključivo na zakonodavnim unapređenjima i deklarativnom podržavanju.

Da bi pojednici/ke u društvu mogli uživati svoja ljudska prava jednako je bitna senzibilizacija postojećih institucija i mehanizama njihovog ostvarivanja i izgradnja društvene podrške. Značaj ove podrške naročito je vidljiv kada se govori o lezbejkama, gej muškarcima, biseksualnim, transrodnim i interspolnim osobama. Naime, izazovi sa kojima se LGBTIQ osobe suočavaju u Bosni i Hercegovini upravo su takvi da je potrebno da se veliki broj saveznika/ca i profesionalaca/ki uključi i doprinese postizanju pozitivnih društvenih promjena i kreiraju rješenja za unapređenje kvaliteta života.

Vodič koji je pred vama za cilj ima da vam predstavi ove izazove i prepreke koji dovode do marginalizacije LGBTIQ osoba, i u krajnjoj liniji do diskriminacije i nasilja. Da dodatno objasni i konkretizira pojmove društvene isključenosti, i društvene uključenosti - tj. inkluzije, te da da konkretne primjere i metode uključivanja LGBTIQ tema u rad saveznika/ca i drugih ljudskopravaških organizacija civilnog društva.

Primjenjivanjem inkluzivnih praksi i donošenjem inkluzivnih politika, organizacije civilnog društva, ne samo da doprinose jačanju ljudskih prava u BiH, već i jačanju njihovih internih mehanizama i kapaciteta, te pluralizmu mišljenja, inicijativa i održivosti vlastitog rada i postignutih rezultata.

KULTURA INKLUZIJE I PODRŽAVANJA RAZLIČITOSTI

Društvena isključenost

Kada govorimo o lezbejkama, gej muškarcima, biseksualnim, transrodnim i interspolnim osobama u Bosni i Hercegovini, najčešće govorimo o društvenoj distanci koja prema njima postoji i koja stvara atmosferu u kojoj se njihova ljudskih prava neadekvatno poštuju i krše.

Društvena distanca proizvodi **društvenu isključenost** koja podrazumijeva neravnopravan i nepovoljan položaj u odnosu na druge društvene grupe, te ograničen ili onemogućen pristup dobrima, uslugama, resursima i/ili institucijama. Društvena isključenost manifestuje se kroz marginalizaciju i/ili segregaciju osoba ili društvene grupe¹. **Marginalizacija** je proces izostavljanja i istiskivanja određene društvene grupe ili teme iz učešća u javnom, kulturnom i političkom životu, što stvara situaciju prividne nevidljivosti i doprinosi nepoznavanju i stvaranju netrpeljivosti prema toj temi ili grupi kao nečemu *stranom* i *nametnutom*. **Segregacija** s druge strane podrazumijeva radnje razdvajanja pojedinaca/ki ili društvenih grupa na osnovu nekih njihovih karakteristika, primjenom različitih kriterija koji se u pravilu kose sa načelima ljudskih prava i osnovnih sloboda.

Svi ovi vidovi društvene isključenosti dovode do društvenih podjela, netrpeljivosti, neravnopravnosti, diskriminacije i nasilja. Također dovode i do ograničavanja razmjene istinitih i relevantnih činjenica o različitim društvenim grupama, što dovodi do stereotipizacije, razmjene zastarjelih informacija, stvaranja predrasuda i okruženja u kome se osobe koje krše ljudska prava marginaliziranih grupa osjećaju kao da su njihova djela opravdana i društveno prihvatljiva, dok se pripadnici/e marginaliziranih grupa osjećaju kao da njihovo postojanje nije prihvatljivo.

Društvena uključenost - inkluzija

U ovakvom kontekstu, **inkluzija**² predstavlja proces otklanjanja historijskih neravnopravnosti i razlikovanja, približavanja različitih društvenih grupa, te

1 Zlatiborka Popov-Momčinović, Saša Gavrić, Predrag Govedarica (ur.), *Diskriminacija – Jedan pojam, mnogo lica*. Sarajevo, Sarajevski otvoreni centar, 2012.

2 Jasmina Čaušević, Saša Gavrić (ur.), *Pojmovnik LGBT kulture*. Sarajevo, Sarajevski otvoreni centar/ Fondacija Heinrich Boell, ured u BiH, 2012.

obezbjeđivanja jednakih mogućnosti svim pojedincima/kama za život, razvoj i učešće u društvu. Inkluzija se manifestuje kao rješavanje problema društvene isključenosti kroz jasan stav, konkretne radnje, ili politike uključivanja svih pojedinaca/ki i društvenih grupa u društvo, posebno onih koji trpe marginalizaciju ili segregaciju, da bi mogli imati jednake mogućnosti za lični rast i razvoj, ali i jednake mogućnosti za sudjelovanje u društvu i doprinos postizanju društvenog razvoja i blagostanja.

Kao takve, inkluzivne prakse i politike fokusirane su na društvene grupe i pojedince/ke koji se nalaze u stanju društvene isključenosti zbog različitih okolnosti (npr. siromaštvo, nezaposlenost, neobrazovanost, itd.), te različitih ličnih karakteristika (npr. etnička, nacionalna ili vjerska pripadnost, spol, invaliditet, dobna starost, seksualna orijentacija, spolne karakteristike, rodni identitet, itd.). Dakle, društvena uključenost ili inkluzija najkonkretnije podrazumijeva život bez straha od nasilja i diskriminacije, mogućnost obrazovanja, ostvarivanja zdravstvenog i socijalnog osiguranja, pristupa zdravstvu, zaposlenja i napredovanja na radnom mjestu, rješavanja stambenog pitanja, itd.

Jedan od načina rješavanja pojedinih oblika društvene isključenosti, jeste i jačanje poštivanja ljudskih prava, te ukazivanje na potrebe svih, a naročito marginaliziranih društvenih grupa, te na postojanje isključivanja i njegove obrasce koji se pojavljuju. Istinska društvena uključenost mnogo je više od samog zakonodavnog unapređenja, te dotiče i pitanja društvene svijesti, stigmatizacije, te uzroke i posljedice društvene isključenosti i traži njihovo razumijevanje, te dizajniranje sveobuhvatnih politika kojima se isti mogu adresirati i riješiti. Inkluzija prije svega jeste odgovornost države i njenih institucija koje imaju dužnost da brinu o uključivanju svih članova društva u političke, ekonomske i društvene procese.

SPECIFIČNOST DRUŠTVENE ISKLUČENOSTI LGBTIQ OSOBA

Poseban problem u kontekstu društvene isključenosti lezbejki, gej muškarača, biseksualnih, transrodnih i interspolnih osoba u BiH predstavlja i kratak vremenski period od patologizacije i/ili dekriminalizacije homoseksualnosti, do unapređivanja zakonodavne ravnopravnosti i razgovaranja o poštivanju i zaštiti njihovih ljudskih prava.

Naime, iako su inkriminacija homoseksualnosti i njeno tretiranje kao bolesti postali prošlost, stavovi prema gay, lezbijskoj i biseksualnoj populaciji i dalje su često oblikovani zastarjelim i netačnim informacijama. Izbjegavanje uključivanja LGBTIQ tema u obrazovanje također doprinosi razvoju homo/transfobnih stavova i duboko ukorijenjenih predrasuda, čemu dodatno doprinose neosvijestene izjave javnih ličnosti kojima smo mogli svjedočiti pogotovo u vrijeme organizacije prve bh. povorke ponosa, a koji se objavljuju svaki put kada se javno govori o LGBTIQ ljudskim pravima.

Kao dodatan element borbe protiv društvene isključenosti LGBTIQ osoba u BiH tako se javlja potreba za jačim, vidljivijim i javnijim angažmanom saveznika/ca iz svih oblasti javnog života, koji bi svojim kredibilitetom, znanjem i djelovanjem pomogli širenju tačnih i relevantnih činjenica, te razbijanju postojećih stereotipa i predrasuda, i suzbijanju govora koji potiče na mržnju i netrpeljivost, stvarajući atmosferu pluralizma u kojoj je jasno da svi pojedinci/ke moraju imati mogućnost da učestvuju u svim društvenim procesima, da se ljudska prava i slobode poštuju, te da nikakva njihova kršenja neće biti tolerisana.

Historijat borbe za položaj i slobodu LGBTIQ osoba

Iako se kao ključna prekretnica za borbu za prava i položaj primarno lezbejki, gej, biseksualnih i transrodnih osoba uzima Stonewallski ustanak koji se desio 28. juna 1969. godine, sredina i kraj devetnaestog stoljeća u Evropi već donose začetke moderne borbe za bolji položaj i prava LGBTIQ osoba.³

³ Za dosta detaljniji pregled razumijevanja homoseksualnosti i transrodnosti kroz historiju i u različitim kulturama preporučujemo William G. Naphy (2014): *Born to be gay. Historija homoseksualnosti*. Drugo, izmjenjeno izdanje. Sarajevo/Zagreb/Beograd: Sarajevski otvoreni centar/ Domino/Queeria.

Tako je djelovanje niza seksologa (Károly Maria Benkert, Magnus Hirschfeld, Karl Heinrich Ulrichs) i pravnika u tadašnjoj Njemačkoj uvelo novo razumijevanje homoseksualnosti, biseksualnosti, transrodnosti i interspolnosti, u okviru novih naučnih disciplina i pokušaju naučnog razumijevanja seksualnosti i roda koje odudaraju od dotadašnjih shvatanja, primarno oblikovanih religijom i tradicijom. Njemački doktor i pisac Magnus Hirschfeld 1897. godine, započine kampanju protiv zloglasnog Paragrafa 175 koji je bio na snazi u Njemačkoj od 1871. do 1994. godine, a prema kojem je seksualni akt između muškaraca krivično djelo. Prevladavajući koncept u kojem se razumijeva homoseksualnost jeste da je ona urođena, i stoga ne bi trebala biti kriminalizovana, kao i da je homoseksualnost treći spol koji kombinuje karakteristike muškosti i ženskosti.

Dvadesete i tridesete godine 20. stoljeća su u Evropi obilježene dinamičnim supkulturnim životom LGBTIQ osoba. Noćni klubovi i mjesta za druženje u upoznavanje u evropskim metropolama, te časopisi su forme djelovanja lezbejskih i gej grupa, ali i primarno prostori za lezbejski i gej život.

Revolucionarnom trenutku otpora u kojem je grupa trans osoba, lezbejki, drag kraljica i gej muškaraca pružila otpor policiji tokom racije u baru Stonewallu Inn, prethodilo je i osnivanje pokreta homofila⁴ u Velikoj Britaniji, Francuskoj, Njemačkoj, Holandiji, Skandinaviji i Sjedinjenim Američkim Državama tokom 40-tih i 50-tih godina. Prve značajnije organizacije u SAD su Matachine Society i Daughters of Bilitis, a u Evropi su to COC u Holandiji, Forbundet af 1948 u Danskoj (koja se zatim proširila i na Švedsku i Norvešku), Arcadie u Francuskoj i Homosexual Law Reform Society u Velikoj Britaniji. Pokret je većinski zagovarao ideju da je javno neprijateljstvo i neprihvatanje lezbejki i gej muškaraca rezultat imidža kojeg imaju vezanih za seksualno ponašanje, te da bi homofili mogli pridobiti javnost ukoliko budu diskretni i dostojanstveni.

Nakon Stonewallskog ustanka, 70-te godine donose drugačije oblike djelovanja. Od tada, Parada ponosa postaje jedan od najvažnijih izraza političkog deklarisanja i vidljivosti u javnom prostoru za LGBTIQ zajednicu. Osnovicu aktivizma čini aktivna borba protiv represije institucionalnog djelovanja, te moto da privatno je političko iza kojeg se nalaze naponi da se pitanja roda i seksualnosti iz private sfere prebace u javnu sferu. Najistaknutija organizacije koje djeluju u SAD-u ovom periodu jeste Gay Liberation Front, te lezbejski pokret koji je od samih početaka bio vezan za feministički pokret (Women's Liberation Movement), koji je imao velikog utjecaja na politiku gej i lezbejskog pokreta

⁴ Sa naglaskom na ljubav ("phile" from Greek φιλία), homofil je riječ korištena od strane udruga i grupa koje su se bavile pravima homoseksualnih osoba.

prvenstveno u teorijskom shvatanju roda, rodnih uloga, seksizma, seksualne opresije i patrijarhata.

Proces dekriminalizacije homoseksualnog odnosa koji je započeo u Jugoslaviji 70-tih, u Sloveniji već u prvoj polovini naredne dekade donosi prvi festival gej kulture – prvi u Evropi, a nakon toga se osnivaju i prve organizacije: Magnus i Lezbejska Lilit. Početkom 90-ih, na prostorima Srbije i Hrvatske se javljaju prve lezbejske i gej organizacije (Arkadija i Labris, te LIGMA i KONTRA). Početak 2000-ih obilježen je stvaranjem novih organizacija, pogotovo u Bosni i Hercegovini, Crnoj Gori i drugim zemljama Zapadnog Balkana, ali i većom vidljivošću: što kroz organizovanje povorki ponosa, što kroz različite medijske kampanje, procese zagovaranja za izmjene zakona koji štite od diskriminacije i nasilja, kao i organizovanje i jačanje LGBT zajednice.⁵

Aktivizam u regiji Zapadnog Balkana u periodu od dvije decenije uspijeva da napravi značajne iskorake u pravnoj zaštiti od nasilja i diskriminacije, pravnom prepoznavanju istospolnih zajednica, prava i položaja transrodnih osoba, kao i interspolnih osoba, te se posljednjih godina sve više okreće pitanjima stvarne prihvaćenosti i inkluzije u svakoj pori i svakom segmentu javnog i privatnog života, osiguravanju implementacije progresivnih zakonskih rješenja, te ukidanju suptilnijih oblika homofobije, bifobije i transfobije.

LGBTIQ osobe: nevidljivost i isključenost

Današnje ideje vidljivosti, odnosno izlaska iz ormara primarno su oblikovane gej i lezbejskim pokretom za oslobađanje iz sedamdesetih godina, te se nalaze u srcu političko-aktivističke borbe koja može poprimiti različite oblike: izgradnja zajednice, lobiranje, medijske kampanje, protesti, itd.

Međutim, potrebno je razumjeti da na individualnom nivou izlazak iz ormara treba podrazumijevati procese osnaživanja, očekivanje sigurnosti u dobijenoj vidljivosti, dobrobit koja se stiže oslobađanjem stega samoprezira, te da zavisno od društveno i kulturološko uvjetovane sredine u kojoj se očekuje da se LGBTIQ osoba outira/izađe iz ormara, coming out ne mora biti čin verbalizacije identiteta, već može poprimiti i različite oblike, npr. djelima (upoznavanje partnera/ice s roditeljima ili u pokazivanje nježnosti prema partner/ici u javnosti). Potrebno je imati na umu da LGBTIQ osobe ne bi trebale birati između

⁵ Za detaljan pregled relevantnih aktera i organizacija u regiji Zapadnog Balkana, preporučujemo publikaciju Saše Gavrića i Jasmine Čaušević, *Od demedikalizacije do istospolnih brakova: Novija historija homoseksualnosti i transrodnosti Zapadnog Balkana* (2020). Sarajevo/Zagreb. Buybook

sigurnosti i autentičnog života, niti je ovo dilema kojoj trebaju biti izloženi.

Svaka L, G, B, T, I, Q osoba bira trenutak, kao i način na koji će se outovati, odnosno komunicirati i obznaniti svoju seksualnu orijentaciju i rodni identitet. Imajući na umu visok stepen homofobije i transfobije koje preovladavaju u bosanskohercegovačkom i društvima na Zapadnom Balkanu, svaka vrsta podrške kreiranja okruženja koje će biti podržavajuće: otvoreni razgovori o seksualnosti, rodu; signaliziranje otvorenosti kroz afirmativno i proaktivno označavanje prostora bojama i zastavama iz spektra LGBTIQ+ identiteta, direktno uključivanje u aktivnosti LGBTIQ neformalnih grupa i organizacija su dobrodošle akcije kako bi se kreirao prostor za izlazak iz ormara.

Vidljivost do koje se dolazi na ovaj način stvara solidne dalje pretpostavke za uključivanje u napore za bolji položaj i kvalitetniji život LGBTIQ osoba, kako direktno samih LGBTIQ osoba, tako i vas kao podržavatelja/ica. Vidljivost u sredinama i organizacijama u kojima LGBTIQ imaju podršku i u kojoj su prihvaćene, u kojima – za razliku od većine sredina u našim društvima – mogu imati prilike za ravnopravnost i inkluziju mogu biti inicijalna kapisla za omasovljenje LGBTIQ pokreta, te za rad na širim pitanjima inkluzije različitih marginaliziranih grupa.

ŠIRI KONTEKST LJUDSKIH PRAVA

LGBTIQ OSOBA U BIH

Bosna i Hercegovina, kao članica u međunarodnim i regionalnim organizacijama, potpisala je, usvojila i ratifikovala niz dokumenata koji predstavljaju osnovu za izgradnju i izmjene zakonodavstva i javnih politika u BiH, te postavljaju standard koji bi trebao voditi visokom stepenu poštivanja i zaštite ljudskih prava LGBTIQ osoba u BiH. Princip nediskriminacije i ravnopravnosti podcrtan u Univerzalnoj deklaraciji o ljudskim pravima (UDHR), Međunarodnom paktu o građanskim i političkim pravima (ICCPR), Međunarodnom paktu o ekonomskim, socijalnim i kulturnim pravima (ICESCR) Ujedinjenih nacija, te Konvenciji o eliminaciji svih oblika diskriminacije nad ženama (CEDAW) odnosi se, kao i Evropska konvencija o zaštiti ljudskih prava i osnovnih sloboda, i na LGBTIQ osobe. U cilju konkretizacije principa propisanih ovim dokumentima, Vijeće ministara Vijeća Evrope donijelo je 2010. godine svoju Preporuku o mjerama za suzbijanje diskriminacije na osnovu seksualne orijentacije i rodnog identiteta⁶, koju je BiH također usvojila; a koja predstavlja set mjera razvijenih tako da bi njihova implementacija u državama članicama dovela do unapređenja ravnopravnosti i eliminaciji diskriminacije LGBTIQ osoba u svim sferama života; te prema kojoj se trenutno razvija akcioni plan za ravnopravnost LGBTIQ osoba u BiH.

Iako je BiH na deklarativnom nivou posvećena unapređenju i zaštiti ljudskih prava svojih LGBTIQ građana/ki, da bi se stekla potpuna slika položaja LGBTIQ osoba u BiH, neophodno je upoznati se s načinima na koji se ovi principi provode u praksi. Položaj LGBTIQ osoba u bh. društvu, društvenu isključenost i nepovjerenje prema institucijama i tijelima države možemo pripisati, prije svega, historijskom tretmanu LGBTI osoba u bh. društvu. Prema dostupnim podacima, Bosna i Hercegovina tek 1991. godine dekriminalizovala je homoseksualnost, a do tada homoseksualnost je smatrana krivičnim djelom, te su osobe ove seksualne orijentacije, naročito gej muškarci, privođeni i osuđivani. I nakon dekriminalizacije, o LGBTIQ osobama i temama bilo je vrlo malo diskusije, ova tema se tabuizirala i najčešće ignorisala, ili se u javnosti prezentirala na jedan od dva načina kojim se stvarala i održavala društvena distanca i netrpeljivost: kroz svoj religijski aspekt, ili prezentiranjem zastarjelih i neispravnih medicinskih teorija.

6 Preporuka Vijeća ministara Vijeća Evrope CM/Rec(2010)51 o mjerama za suzbijanje diskriminacije na osnovu seksualne orijentacije i rodnog identiteta.

Prva LGBTI udruženja građana/ki osnivaju se tek početkom 2000-tih i javnost u BiH tada prvi put ima priliku čuti o iskustvima života bh. LGBTIQ građana/ki, te dobija priliku sagledati položaj LGBTIQ osoba iz ljudskopravaške perspektive. U proteklih 20 godina LGBTI aktivizma u BiH, mnogo je urađeno na unapređenju pravnog i institucionalnog okvira, na senzibilizaciji predstavnika/ca relevantnih institucija, ali i na osnaživanju LGBTIQ osoba, radi poboljšanja narušenog odnosa povjerenja i uspostavljanja profesionalnog, poštivajućeg i efikasnog odgovora sistema na kršenja ljudskih prava, i potrebe LGBTIQ osoba u BiH.

Rad LGBTI udruženja u BiH nesporno je doveo do značajnog pomaka u prihvatanju LGBTIQ osoba u BiH, te u promjeni stavova javnosti i pristupa institucija i donosioca odluka, međutim nedostatak sistemskog pristupa ljudskim pravima, i kontinuirane oblatorne edukacije nadležnih osoba, još uvijek dovodi do manjka razumijevanja potreba i položaja marginaliziranih grupa, što proizvodi strah LGBTI zajednice od diskriminacije i ponovne viktimizacije unutar institucija i rezultira malim brojem prijavljenih kršenja ljudskih prava.

Nasilje nad LGBTIQ osobama u BiH

Krivičnim zakonima FBiH, RS-a i Brčko distrikta, prepoznata su krivična djela počinjena iz mržnje, kojima se predviđaju strožije kazne za krivična djela motivisana, između ostalog, seksualnom orijentacijom i rodnim identitetom. Ova regulaciju pruža pravosudnim institucijama da sva krivična djela motivisana nekom ličnom karakteristikom smatraju kvalifikovanim oblikom krivičnih djela, te određuju strožije sankcije. Istovremeno regulacija kojom se zabranjuje i sankcioniše govor mržnje u FBiH i Brčko distriktu ne pruža zaštitu LGBTIQ osobama od javnog izazivanja i podsticanja na nasilje mržnju, već se fokusira isključivo na rasnu, etničku i nacionalnu motivisanost, dok u Republici Srpskoj ova regulacija uključuje i seksualnu orijentaciju i rodni identitet kao zaštićene karakteristike. Ovo u praksi znači da trenutnim zakonskim okvirom u FBiH i Brčko distriktu nije moguće sankcionirati poticanje na mržnju i nasilje prema LGBTIQ osobama.

Javno izražavanje govora mržnje i njegovo korištenje za huškanje i izazivanje nasilja tj. krivičnih djela počinjenih iz mržnje, nerijetko ima mnogo ozbiljnije posljedice po pripadnike/ce marginalizirane grupe koja je njime targetirana. Govor mržnje prema LGBTIQ osobama bio je pokretač napada na dva značajna LGBTI/queer događaja – Queer Sarajevo Festival u 2008. godini te festival Merlinka u 2014. godini – čije održavanje je obilježeno organizovanim

fizičkim napadima na učesnike_ce, pri čemu su neki_e od učesnika_ca teže povrijeđeni_e. Oba događaja obilježile su javne kampanje i pozivanje na nasilje, 2008. u medijima, 2014. godine na društvenim mrežama koje su dovele do organiziranja napadača, a na koje nadležne instucije, bez obzira na prijave i upozorenja, nisu reagovala. Ustavni sud BiH u oba slučaja potvrdio je da su nadležne institucije propustile osigurati adekvatnu pravnu zaštitu od nasilja. U oba slučaja pravosudne institucije neadekvatno su sankcionisale počinitelje i prekršajne i uslovne kazne za krivična djela počinjena iz mržnje.

LGBTIQ osobe u BiH često su žrtve kako verbalnog (vrijeđanje, ponižavanje, prijetnje, i sl.) tako i fizičkog nasilja: prema nalazima regionalnog istraživanja koje je 2015. godine proveo Nacionalni demokratski institut, 72% ispitanih LGBTIQ osoba iz BiH doživjelo je neki vid nasilja, pri čemu je 15% njih doživjelo fizičko nasilje; što je potvrđeno istraživanje problema i potreba zajednice Sarajevskog otvorenog centra iz 2017. godine koje je potvrdilo da je svaka četvrta LGBTIQ osoba u BiH doživjela neki vid nasilja⁷. Posebno je zabrinjavajuće što se na uzorku trans osoba pokazalo da je dvoje trećine njih doživjelo neki vid nasilja zbog svog rodnog identiteta.

Diskriminacija i ravnopravnost LGBTIQ osoba u BiH

Zabrana diskriminacije LGBTIQ osoba u BiH regulisana je Zakonom o ravnopravnosti spolova koji zabranjuje diskriminaciju na osnovu spolnog izražavanja i/ili orijentacije, i Zakonom o zabrani diskriminacije koji zabranjuje diskriminaciju na osnovu seksualne orijentacije, rodnog identiteta i spolnih karakteristika. Zakon o zabrani diskriminacije zabranjuje diskriminaciju u svim oblastima javnog i nekim sferama privatnog života, uključujući obrazovanje, zapošljavanje, zdravstvo, dostupnost usluga, itd.

Ovi zakoni postavljaju osnove zabrane diskriminacije, te predviđaju mehanizme pružanja zaštite diskriminisanim osobama, kroz žalbe Instituciji ombudsmena za ljudska prava u BiH, Agenciji za ravnopravnost spolova BiH i gender centrima entiteta, te zaštitu u administrativnim i sudskim postupcima. Međutim, istraživanja su pokazala da je u BiH, svaka treća LGBTIQ osoba doživjela diskriminaciju⁸. Naročito je zabrinjavajući podatak da je oko 2/3 transrodnih osoba obuhvaćenih istraživanjem problema i potreba LGBTIQ zajednice u BiH doživjelo neki vid diskriminacije. Ovakav podatak ukazuje na činjenicu da su transrodne osobe posebno ranjive unutar LGBTIQ zajednice, te da teže

⁷ Amar Numanović, *Brojevi koji ravnopravnost znače 2: Analiza rezultata istraživanja problema i potreba LGBTIQ osoba u Bosni i Hercegovini u 2017. godini*. Sarajevo, Sarajevski otvoreni centar, 2017.

⁸ Amar Numanović, *Brojevi koji ravnopravnost znače 2: Analiza rezultata istraživanja problema i potreba LGBTIQ osoba u Bosni i Hercegovini u 2017. godini*. Sarajevo, Sarajevski otvoreni centar, 2017.

mogu izbjeći otkrivanje svog identiteta, s obzirom na to da je rodno izražavanje uglavnom vidljivo okolini⁹. LGBTIQ osobe navele su da su najvećem broju diskriminaciju doživjele u toku obrazovanja, u zdravstvenim institucijama, na radnom mjestu, te u ugostiteljskim/uslužnim objektima. Broj prijavljenih slučajeva diskriminacije također je znatno manji od stvarnih slučajeva diskriminacije, što može biti objašnjeno činjenicom da LGBTIQ osobe postupke zaštite od diskriminacije moraju pokrenuti lično, te moraju snositi troškove pravne pomoći i/ili sudskog postupka.

Ovi zakoni također predviđaju i proaktivno djelovanje, tačnije donošenje podzakonskih akata politika i uvođenja praksi i procedura za suzbijanje i prevenciju diskriminacije u društvu. Takva jedna proaktivna politika je Gender akcioni plan Kantona Sarajevo, za period od 2019. do 2022. U izradu akcionog plana bile su uključene direktno organizacije civilnog društva, te je od ukupno 18 inicijativa koje je predložio Sarajevski otvoreni centar, usvojeno 14, koje se direktno tiču i položaja žena i LGBTIQ osoba¹⁰.

Primjer proaktivne politike također predstavlja i nedavno razvijeni prijedlog za Akcioni plan za unapređenje ljudskih prava i osnovnih sloboda LGBTIQ osoba u BiH za period 2021.-2023. godina. Ovaj prijedlog akcionog plana, pod koordinacijom Agencije za ravnopravnost spolova Ministarstva za ljudska prava, izbjeglice i raseljena lica BiH, izradila je akciona grupa sastavljena od predstavnika/ca civilnog društva i institucija sve tri administrativne jedinice u BiH. Utvrđeni tekst Akcionog plana trenutno je u procesu javne rasprave, nakon čega slijedi njegovo usvajanje.

Jasno je dakle da LGBTIQ osobe u BiH ne uživaju sva ljudska prava koja su zagarantovana njihovim cisrodnom i heteroseksualnim sugrađanima/kama, a da, kao što je već spomenuto, ni ona ljudska prava koja su im zagarantovana ne mogu uživati bez straha od diskriminacije ili nasilja. Postojeći predrasude i stereotipi dovode i do diskriminacije unutar sistema i onemogućavaju javno ukazivanje na nepravdu i korištenje demokratskih mehanizama za zastupanje svojih interesa i potreba, te zahtijevanje promjena.

Naime, iako je pravo na slobodu okupljanja u BiH regulisano nizom zakona i podzakonskih akata: Ustavom BiH, ustavima entiteta i kantona, Statutom Brčko distrikta, te međunarodnim dokumentima koje je BiH ratificirala ili usvojila u svoj pravni sistem; LGBTIQ građani/ke i udruženja građana/ki suočavaju se s

9 *Život van zadatih normi*. Transrodnost u Bosni i Hercegovini. Sarajevo: Sarajevski otvoreni centar, 2015.

10 14 SOC-ovih inicijativa inkorporirano u Gender akcioni plan Kantona Sarajevo. Dostupno na: <https://soc.ba/14-socovih-inicijativa-inkorporirano-u-gender-akcioni-plan-kantona-sarajevo/>.

velikim brojem problema i administrativnih prepreka prilikom organiziranja javnih okupljanja¹¹.

Iako postojeći zakonski okvir (10 kantonalnih zakona i Zakon o javnom okupljanju Republike Srpske) koji regulira ovu oblast nije harmoniziran¹², i sam po sebi predstavlja prepreku korištenju prava na slobodu okupljanja; u slučajevima javnog okupljanja LGBTIQ osoba, uočena je tendencija da se postojeće zakonske odredbe koriste i tumače tako da bi spriječile organizatore/ice da isto održe¹³.

Tako je u 2017. godini administrativnom šutnjom i neoglašavanjem Ministarstva saobraćaja Kantona Sarajevo za izdavanje saglasnosti za korištenje dionice puta kojom se odvija saobraćaj, u zakonski predviđenom roku, spriječeno je održavanje protestnog marša *Nasilje nije normalno*, čiji cilje je bio podizanje svijesti javnosti o nasilju u porodici i međuvršnjačkom nasilju koje trpe LGBTIQ osobe.¹⁴ Tokom 2018. dva puta je iskorišten zahtjev za saglasnost opštine/institucije/pravnog lica koje se nalazi na nekoj javnoj površini za okupljanje na toj površini, da bi se LGBTIQ osobama uskratilo pravo na slobodu okupljanja.¹⁵

Pored ovih administrativnih mehanizama, kao još jedan vid ograničavanja slobode okupljanja, istaklo se nametanje prekomjernih dodatnih mjera osiguranja organizatorima/cama. Tako su prilikom organizacije prve Bh. povorke ponosa, organizatori_ ce su morali_e unajmiti i snositi troškove zaštitarske agencije, da obezbijede prisustvo hitne pomoći, pripravnost vatrogasaca, prisustvo vlastitih redara_ki za održavanje reda i mira na skupu; te željezne ograde na mjestu polaska i završetka povorke, kao i betonske barijere, čiji je broj i lokacije odredilo Ministarstvo unutrašnjih poslova Kantona Sarajevo.

U svom Specijalnom izvještaju, Institucija ombudsmena naglasila je da jesu sve navedene prakse suprotne međunarodnim standardima koji regulišu slobodu okupljanja, te naglasila da je sloboda okupljanja osnovno ljudsko pravo, čije uživanje institucije moraju zagaranтовati bez diskriminacije i finansijskih troškova po građane/ke¹⁶.

Pravo na privatni i porodični život, tjelesnu autonomiju i integritet

11 Specijalni izvještaj institucije ombudsmena/ombudsmana u Bosni i Hercegovini. Banja Luka, 2020.

12 Amila Kurtović, *Sloboda okupljanja u labirintu zakona: analiza bh. zakonodavstva u oblasti slobode okupljanja*. Sarajevo, Sarajevski otvoreni centar, 2020.

13 Ajla Škrbić, *Cijena protesta: Prakse nadležnih institucija u oblasti slobode okupljanja u BiH*. Sarajevo, Sarajevski otvoreni centar, 2020.

14 *Rozi izvještaj 2017. Godišnji izvještaj o stanju ljudskih prava LGBTI osoba u Bosni i Hercegovini*. Sarajevo, Sarajevski otvoreni centar, 2017.

15 *Rozi izvještaj 2019. Godišnji izvještaj o stanju ljudskih prava LGBTI osoba u Bosni i Hercegovini*. Sarajevo, Sarajevski otvoreni centar, 2019.

16 Specijalni izvještaj institucije ombudsmena/ombudsmana u Bosni i Hercegovini. Banja Luka, 2020.

Sistemska diskriminacija, i zanemarivanje ljudskih prava i dostojanstva LGBTIQ osoba, najočitiji su kontekstu kršenja prava na privatni i porodični život, te prava na tjelesnu autonomiju i integritet. Istospolni parovi u BiH tako trenutno ne mogu naslijediti jedni druge, posjetiti partnera/icu u bolnici, niti odlučivati o zdravlju partnera/ice u situacijama koje to zahtijevaju, ne mogu osigurati partnera/ice zdravstveno u slučaju nezaposlenosti, niti ostvariti poreske olakšice, ili ostvariti pogodnosti prilikom kupovine stana, tražiti održavanje od partnera/ice, te ostvariti mnoga druga prava i obaveze, koje heteroseksualni parovi u braku ili vanbračnoj zajednici uživaju¹⁷.

U istraživanju potreba LGBTIQ zajednice koje je Sarajevski otvoreni centar proveo 2017. godine¹⁸, u preko dvije trećine LGBTIQ osoba navelo je da živi ili planira živjeti s partnerom/om, te bi natpolovična većina njih zaključila istospolno partnerstvo da im je to omogućeno.

U susjednoj Hrvatskoj zajednice života istospolnih parova regulisane su od 2017. godine, a Srbija je imenovala radnu grupu koja trenutno radi na izradi prijedloga zakona koji bi regulisao životne zajednice njenih LGBTIQ građana/ki.

Zajednice života istospolnih parova tako nisu prepoznate ni u entitetima, ni u Brčko distriktu, iako, je po svom članstvu u Vijeću Evrope, ali i prema presudama Evropskog suda za ljudska prava, Bosna i Hercegovina obavezna pravno regulisati prava i obaveze istospolnih partnera/ica.

Do sada je samo u Federaciji BiH napravljen prvi korak ka regulisanju ovog pitanja, te je imenovana interesorna radna grupa koja bi u toku 2021. trebala predstaviti analizu postojećih propisa i predložiti nove koje je potrebno donijeti kako bi istospolni parovi iz životne zajednice ostvarivali prava koja proizlaze iz Evropske konvencije za zaštitu ljudskih prava i sloboda, a koja heteroseksualne parovi u BiH već uživaju. Proces imenovanja i rada radne grupe nakon usvajanja zaključka o njenom uspostavljanju 2018, dakle traje već tri godine.¹⁹ Transrodne osobe u BiH, kako je već prikazano, izložene su konstantnoj diskriminaciji i strahu od nasilja zbog nemogućnosti usklađivanja ličnih dokumenata sa svojim rodnim izražavanjem; jer promjenu oznake spola u ličnim dokumentima i jedinstvenog matičnog broja mogu izvršiti tek nakon izvršene "potpune" medicinske prilagodbe spola. Ovakva prilagodba može se obaviti

17 Natalija Petrić, Boris Krešić, Gordan Bosanac, Goran Selanec i Fedra Idžaković, *Izvan zakona: Pravna regulacija životnih zajednica parova istog spola u Bosni i Hercegovini*. Sarajevo, Sarajevski otvoreni centar, 2017.

18 Amar Numanović, *Brojevi koji ravnopravnost znače 2: Analiza rezultata istraživanja problema i potreba LGBTIQ osoba u Bosni i Hercegovini u 2017. godini*. Sarajevo, Sarajevski otvoreni centar, 2017.

19 *Rozi izvještaj 2020. Godišnji izvještaj o stanju ljudskih prava LGBTIQ osoba u Bosni i Hercegovini*. Sarajevo, Sarajevski otvoreni centar, 2020.

isključivo u inostranstvu jer medicinske ustanove u BiH nemaju osoblje obučeno da pruži podršku osobama u procesu tranzicije, a troškove snose same trans osobe, jer zvanični sistem zdravstvenog osiguranja ne refundira ni dio ovih troškova, iako se zahvati ne mogu obaviti u BiH. Potrebne usluge prilagodbe spola, u zavisnosti od vrste prilagodbe, kreću se od 5 KM za hormone testosterona do skoro 16.000 KM za hirurške zahvate prilagodbe spola.²⁰

Potpuno ignorisanje potreba trans osoba u zdravstvenom i pravnom sistemu u BiH dodatno produžuje proces tranzicije, povećava finansijske troškove i povećava nivo rizika od nasilja i diskriminacije. Ovako uslovljen proces promjene dokumenata također ograničava pravo trans osoba na samoodređenje, prisiljavajući ih na potpunu prilagodbu, iako svaka trans osoba tranziciju doživljava individualno i odlučuje da li uopšte želi pristupiti medicinskoj prilagodbi i do kojeg nivoa medicinske prilagodbe želi ići.

Poređenja radi u susjednoj Hrvatskoj, trans osobe oznaku spola i jedinstveni matični broj mogu promijeniti bez prolaska kroz cjelokupnu medicinsku proceduru tranzicije, na osnovu života u drugom rodnom identitetu, susjedna Srbija pokriva do 60% troškova prilagodbe spola svojih trans građana/ki. Obje ove države imaju svoje timove medicinskih stručnjaka koji pokrivaju različite procedure medicinske prilagodbe spola. Susjedna Crna Gora pokriva do 80% troškova prilagodbe, a prije nego što je obučila svoj tim medicinskih stručnjaka, pokrivala je i troškove medicinske prilagodbe izvršene u inostranstvu.

Iako je BiH jedna od rijetkih zemalja u Evropi koja je eksplicitno zaštitila inter-spolne osobe u svom antidiskriminacijskom zakonodavstvu zabranom diskriminacije na osnovu spolnih karakteristika, još uvijek nisu uspostavljene jasne medicinske smjernice i procedure o tome kako treba postupati u različitim slučajevima interspolnosti. Tačnije, u BiH nikada nisu razmatrane, niti usvojene smjernice koje bi važile za sve medicinske ustanove u BiH i spriječile tzv. medicinsku normalizaciju spola, odnosno medicinske i hirurške tretmane vođene isključivo potrebom estetskog prilagođavanja izgleda djeteta i njegovih spolnih karakteristika muškom ili ženskom spolu, odmah po rođenju, bez obzira na to što zdravlje djeteta nije ugroženo²¹. Ni zakoni o matičnim knjigama entiteta i Brčko distrikta ne predviđaju izuzetke u slučaju rođenja interspolnog djeteta, te su roditelji i zdravstveni/e radnici/e primorani u kratkom vremenskom roku interspolno dijete upisati kao muško ili žensko, iako se dijete nakon odrastanja može identificirati drugačije.

Rastući broj interpolnih aktivista/kinja i međunarodnih pravnih stručnjaka smatra da se podvrgavanje interspolne djece i osoba medicinskim zahvatima

²⁰ Liam Isić, *Procjena troškova prilagodbe spola: Preporuke za unapređenje pravnog i medicinskog pristupa transrodnim osobama u Bosni i Hercegovini*. Sarajevo, Sarajevski otvoreni centar, 2018.

²¹ *Između spolova i stvarnosti: Priručnik za medicinske stručnjake_inje i zdravstvene radnike_ce o postupanju s interspolnim osobama*. Sarajevo, Sarajevski otvoreni centar, 2020.

na koje nisu pristali i/ili kojih nisu svjesni, smatra kršenjem UN-ove Konvencije protiv mučenja i drugih okrutnih, neljudskih ili ponižavajućih postupaka ili kažnjavanja, a Vijeće Europe i Europski parlament donijeli su rezolucije u kojima se, između ostalog, traži zabrana medicinskih intervencija za normalizaciju spolova i drugih tretmana koji se primjenjuju na interspolnoj djeci bez njihova informiranog pristanka²².

Unapređenje ljudskih prava trans i interpolnim osobama u BiH, te osiguravanje pristupa senzibilnoj i edukovanoj zdravstvenoj zaštiti, zahtijeva sistemski pristup i eksplicitno regulisanje i zaštitu prava na samoodređenje, tjelesnu autonomiju i integritet, prava na senzibilisanu zdravstvenu zaštitu i zdravstveno osiguranje, pravo na poštivanje privatnog i porodičnog života, te osiguralo pravno prepoznavanje rodnog identiteta i spolnih karakteristika.

²² *Između spolova i stvarnosti: Priručnik za medicinske stručnjake_inje i zdravstvene radnike_ce o postupanju s interpolnim osobama.* Sarajevo, Sarajevski otvoreni centar, 2020.

PREDNOSTI I BENEFITI

INKLUZIVNE ORGANIZACIJE

Koncept diverziteta i inkluzije prevazilazi puko tolerisanje i uključivanje osoba sa različitim individualnim karakteristikama u tim. Istinski prigrljeni diverzitet i inkluzija podrazumijevaju prihvatanje i poštovanje, odnosno razumijevanje i prelazak izvan jednostavne tolerancije ka prihvaćanju i slavljenju bogatih dimenzija različitosti sadržanih u svakom pojedincu/ki.

Uspješno implementirani, diverzitet i inkluzija sa sobom nose višestruke benefite koji umnogome mogu unaprijediti rad organizacije i poboljšati njene performanse.

Intrabenefiti

U organizaciji koja njeguje politike diverziteta i inkluzije dolazi do povećanja produktivnosti i kreativnosti, protoka informacija, inovativnosti, na raspolaganju je širi spektar vještina unutar tima, smanjena je fluktuacija, dolazi do povećanja lojalnosti, većeg zadovoljstva poslom, ali i predanosti rastu i razvoju same organizacije.

Ilustrativno, osobe koje dolaze iz različitih pozadina sa sobom nose različita znanja, perspektive i iskustva koje oblikuju u nove ideje koje mogu doprinijeti boljem radu same organizacije, u vidu razmjene mišljenja, otvorenije komunikacije, povećanja kreativnosti, ali i rezultirati inovativnim pristupima u rješavanju problema. Upravo svakodnevnom komunikacijom, življenjem ili radom sa osobama koje su drugačije od nas, povećavamo vjerovatnost za vlastiti napredak - bit ćemo izloženi novim idejama i novim načinima razmišljanja vezano za naše vrijednosti i uvjerenja.

Kada radimo u jednoobraznom timu, gdje se ne njeguje kultura istinske inkluzije, postoji velika opasnost od zapadanja u takozvano "grupno razmišljanje", odnosno izostanak različitih ideja i načina razmišljanja upravo zbog straha da ne budemo drugačiji i želje da se konformiramo. Za rezultat onda imamo izostanak bilo kakvih alternativnih ideja ili različitih pristupa nekom zadatku ili problemu, a koji su mogle biti od višestruke koristi za samu organizaciju. To se da najbolje prikazati na primjeru namicanja sredstava za rad i funkcionisanje organizacije. Za dostavljanje projektnog prijedloga, često se ispred nas

postavlja uvjet inovativnosti, odnosno inovativan pristup u rješavanju nekog društvenog problema. Ukoliko izostane diverzitet drugačijih mišljenja osoba koje dolazi iz različitih pozadina, naći ćemo se u situaciji da ne možemo sagledati društvene probleme iz različitih perspektiva, kako pogađaju različite skupine u našem društvu, a izostat će upravo i inovativne i svježije ideje kako mapirane probleme adresirati, što nas više ne čini distinktivnom i atraktivnom organizacijom za odabir za dodjelu sredstava.

U kontekstu internih dokumenata, politika i praksi, organizacije koje imaju jasno uspostavljenje politike jednakog postupanja, nediskriminacije, zabrane seksualnog uznemiravanja i mobinga, jasno komuniciraju poruku otvorenosti i inkluzije, te spremnosti da preveniraju sve moguće situacije na radu koje zaposlenu osobu mogu dovesti u nepovoljan položaj zbog ličnih karakteristika.

Ekstrabenefiti

U kontekstu benefita koje organizacija može imati sa pravilnim uvođenjem politika diverziteta i inkluzije, oni su usmjereni i prema vanjskom okruženju. Tako, dovodi do povećanja broja talenata/osoba koje mogu regrutovati za potrebe rada organizacije, do poboljšanja reputacije i brend same organizacije kod različitih aktera/publika, i na koncu, dovodi do povećanja dobiti - uspješnijeg namicanja sredstava.

Ukoliko je vrijednost diverziteta i inkluzije ugrađena u vrijednosti same organizacije i uspješno se implementira kroz prakse organizacije, to šalje jasnu poruku osobama koje dolaze iz različitih društvenih kategorija da je organizacija otvorena i da će njihove potrebe biti prepoznate i uvažene u slučaju da odluče na radno mjesto u toj organizaciji, a ne nekoj drugoj za koju nisi sigurni na koji način će prepoznati i akomodirati njihove potrebe. U tom slučaju, na radno mjesto dolazi osoba koja je puna radnog elana, odana i spremna da podrži rast i razvoj organizacije. Princip je sličan i u slučaju regrutacije. Osoba zadužena za taj proces, koja njeguje ove organizacijske vrijednosti, znat će na pravi način voditi ovaj proces koji će svim osobama dati jednake prilike za zapošljavanje, bez obzira na njihove individualne karakteristike i socijalni status - znat će da se talenti kriju u različitim kategorijama društva i da u tom pravcu treba da usmjeti napore u procesu regrutacije. Isto tako, znat će selekcijsko slijepilo držati pod kontrolom, odnosno odstraniti sve informacije koje na bilo koji način mogu trigerovati predrasude i osigurati jednake prilike za zapošljavanje najboljeg kandidata, odnosno kandidatkinje.

Osim toga, nevladine organizacije imaju dodatnu moralnu obavezu da prepoznaju i dopru do manje zastupljenih i ugroženih grupa u našem društvu i prepoznaju njihov radni potencijal, jer bi upravo nevladine organizacije, defaultno, trebale da imaju najviše razumijevanja kada je riječ o njihovom nepovoljnom društvenom položaju i vrlo limitiranim prilikama za zapošljavanje. Time bi, pored direktne pomoći osobama, poslužile i kao primjer drugim organizacijama, ali i javnim institucijama i (javnim i privatnim) kompanijama da takvi pristupi imaju višestruke koristi, kako za njih, tako i za društvo.

Pitanje diverziteta i inkluzije prožima se i kroz druge organizacijske strukture, a ne samo na relaciji menadžment - tim ili organizacija - društvo. Posebnu ulogu u kontekstu rada same organizacije imaju i različita tijela, poput upravnog odbora, skupštine, savjetodavnog odbora i drugih. Osnovna funkcija ovih tijela, pored nadzorne, jeste da svojom ekspertizom i iskustvima doprinesu poboljšanju i diverzifikaciji rada same organizacije. U tom kontekstu, spoj različitih pozadina, iskustava i ličnih karakteristika osoba koje čine ova tijela igraju ključnu ulogu, u suprotnom, suočavamo se sa istim problemom grupnog razmišljanja, i posljedično, u najboljem scenariju, stagnacije.

Zašto je bitna LGBTI perspektiva kada pričamo o diverzitetu i inkluziji?

LGBTIQ osobe u Bosni i Hercegovini imaju prilično nepovoljan socijalni položaj i stigmatizaciju što dovodi do negativnog utjecaja na njihove ekonomske aspekte života, prije svega na zapošljavanje, rad i napredovanje u karijeri.

Mnoga istraživanja o socio-ekonomskom položaju LGBTIQ osoba u našem društvu ukazala su na njihov nepovoljan položaj. Analizirajući podatke prikupljene istraživanjem iz 2017. godine o svakodnevnom životu LGBTIQ osoba u Bosni i Hercegovini, koje je sproveo Sarajevski otvoreni centar²³, nametnuo se zaključak da više od polovine ispitanika skriva svoj LGBTIQ identitet od radnih kolega/ica, a dio njih se suočio sa problemima na random mjestu isključivo zbog njihovog LGBTIQ identiteta. Dodatno, u regionalnom istraživanju koje je 2015. proveo Nacionalni institut za demokratiju, 36% LGBTIQ ispitanika izvijestilo je da je doživjelo neku vrstu diskriminacije na radnom mjestu ili u radnom odnosu. Osim toga, 30% ispitanika iz opće populacije izvijestilo je da bi prestali svaku komunikaciju sa svojim saradnicima da su znali za njihov seksualnu orijentaciju.²⁴ Također, SOC je 2020. godine proveo istraživanje o socio-ekonomskom položaju LGBTIQ osoba u BiH, pokazalo je da većina LGBTIQ

²³ SOC istraživanje

²⁴ NDI istraživanje

osoba, u poređenju sa općom populacijom, znatno manje imaju prilika za-
snivati radne odnose, nemaju uvjete za kreditno zaduživanje kako bi riješile
stambeno pitanje, uglavnom imaju honorarne poslove, ili, što je u kontekstu
ovog priručnika, iznimno bitno, rade u neformalnom sektoru.²⁵

U kontekstu postojanja inkluzivnih politika i praksi, istraživanje provedeno od
strane MarketMakers projekta i Sarajevskog otvorenog centra²⁶, na prigod-
nom uzorku kompanija u Bosni i Hercegovini, pokazalo je da iznimno mali
broj kompanija imaju politike kojima se jasno zabranjuju diskriminacija i nefer
tretman osoba na osnovu seksualne orijentacije i rodnog identiteta. Dodatno,
nedostaje svijest o adekvatnom pristupu kada je riječ o ovim konceptima, te
razumijevanju koje to benefite sa sobom nose pravilno implementirane poli-
tike diverziteta i inkluzije.

U svjetlu ovih rezultata, ne iznenađuje da stigmatizacija, nepovoljan položaj i
diskriminacija na osnovu seksualne orijentacije ili rodnog identiteta ostavljaju
posljedice i na psihičko zdravlje LGBTIQ osoba, što ima svoje negativne ishode
i na radnom mjestu. Osobe koje kriju svoj LGBTI identitet, doživljavaju viši nivo
stresa i anksioznosti²⁷ što rezultira zdravstvenim problemima i nedostatnim
performansama pri izvršenju radnih zadataka, te smanjuje šanse za napredova-
nje i povećava šanse za gubitak posla²⁸.

Sve iznad navedeno je potrebno uzeti u obzir kako bi se kreirale adekvatne
strategije i pristupi u uvođenju politika diverziteta i inkluzije u organizaciju, o
kojima će se govoriti u narednom poglavlju.

Primjeri prakse LGBTI inkluzivne organizacije

Postoji više organizacija koje djeluju u Bosni i Hercegovini, a koje kroz svoj rad
uspješno integrišu pristupe kojima se promovišu ljudska prava LGBTIQ osoba.
Tako je Institut za razvoj mladih KULT²⁹, organizacija koja se bavi razvojem i
zagovaranjem pravnih i drugih strateških rješenja, te izgradnjom i jačanjem
udruženja i vlasti u BiH i regiji, za uspješnu i održivu politiku prema mladima,
aktivno radio na unapređenju položaja LGBTIQ osoba kroz Program podrške
zaštiti ljudskih prava, dodjelom grantova organizacijama koje se bave LGBTI

²⁵ Istraživanje SOC

²⁶ Nije publicirano, moguće dostaviti na upit

²⁷ <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>; <https://www.glaad.org/blog/value-lgbt-equality-workplace>

²⁸ <https://blogs.worldbank.org/europeandcentralasia/economic-benefits-lgbti-inclusion>

²⁹ <https://mladi.org/v2/bs/>

pitanjima. Osim toga, KULT je ove godine organizovao i edukacije o pravima LGBTIQ osoba.³⁰

Fondacija CURE³¹ je feministička aktivistička grupa koja djeluje za pozitivne društvene promjene kroz obrazovne, kulturne i istraživačke programe, i jedna je od organizacija mogu poslužiti kao primjer na koji način raditi LGBTI inkluzivno. Tako, u svom dosadašnjem radu imali su više aktivnosti i inicijativa koje su direktno vezane za unapređenje položaja LGBTIQ osoba kroz pravno osnaživanje zajednice³², ulični aktivizam i aktivnosti usmjerene ka unapređenju položaja LGBTIQ žena.³³

Helsinški odbor za ljudska prava je organizacija koja je posvećena promociji, zaštiti i monitoringu stanja ljudskih prava u Republici Srpskoj, Bosni i Hercegovini i regionu, te edukaciji građana, posebno mladih, o temeljnim vrijednostima na kojima su zasnovana ljudska prava, kao i oblast tranzicione pravde.³⁴ Dio svog radnog portfolija, organizacija je posvetila unapređenju položaja LGBTIQ osoba kroz obuke za organizacije civilnog društva o pravima LGBTIQ osoba, zagovaračke sastanke sa relevantnim akterima i dodjelu malih grantova za lokalne organizacije civilnog društva za pokretanje inicijativa u 6 lokalnih zajednica u BiH da se djelotvorno i dugoročno zalažu za ostvarivanje prava LGBTIQ osoba.³⁵

Mediacentar Sarajevo³⁶ je kroz aktivni monitoring medijskih izvještavanja, ali i u direktnom radu sa medijima, kao i sa drugim bitnih akterima, radio na promovisanju LGBTI pitanja. Fondacija je imala ulogu koordinirajuće organizacije u sklopu koalicije Jednakost za sve, koja je kroz implementaciju različitih aktivnosti radila na promoviranju aktivnije uloge organizacija civilnog društva u sprječavanju i borbi protiv diskriminacije u BiH, te na zagovaranje unapređenja i efektivne implementacije pravnog okvira koji regulira zabranu diskriminacije, a posebno kada je riječ o ranjivim skupinama kao što su žene, Romi, osobe sa onesposobljenjima i LGBTQ populacija.³⁷ Posebno bitan resurs gdje se mogu naći mnoge relevantne informacije o stanju ljudskih prava u

30 <https://www.ppmg.ba/ba/vijesti/vijesti-projekta/1258-javni-poziv-lokalnim-organizacijama-civilnog-drustva-za-ucesce-u-drugom-ciklusu-treninga>

31 <https://fondacijacure.org/en/>

32 <https://fondacijacure.org/en/legal-empowerment-of-lgbti-persons-in-bih/>

33 <https://fondacijacure.org/en/lbt-art-strategy-and-building-community/>

34 <https://helcommrs.org/index.php/usluge/2017-01-25-09-41-39>

35 <https://helcommrs.org/index.php/2017-03-23-11-22-59/aktuelni-projekti/28-ne-vidljive-manjine-nulta-tolerancija-prema-diskriminaciji-lgbt-osoba>

36 <https://media.ba/bs>

37 <https://www.analitika.ba/bs/projekti/jednakost-za-sve-koalicija-organizacija-civilnog-drustva-protiv-diskriminacije>

Bosni i Hercegovini, uključujući i prava LGBTIQ osoba, je i njihov portal www.diskriminacija.ba.³⁸

Jedna od organizacija koja kroz svoj rad regionalno jasno demonstrira posvećenost unapređenju položaja LGBTIQ kroz inkluzivne programe i aktivnosti je Civil Rights Defenders. CRD je švedska međunarodna organizacija koja radi na poboljšanju pristupa ljudi slobodi i pravdi kroz povećano poštovanje njihovih građanskih i političkih prava.³⁹ Svoje kancelarije imaju i na prostoru Zapadnog Balkana, u Albaniji, Srbiji, Bosni i Hercegovini i na Kosovu. Kroz svoj zagovarački rad i pružanjem podrške i pomoći primarno braniteljima/cama ljudskih prava, bavili su se i ljudskim pravima LGBTIQ osoba u različitim dijelovima Zapadnog Balkana. Dobra praksa kojom se vode u svom radu je što koriste mrežu i kredibilitet kako bi zagovarali za unapređenje položaja LGBTIQ osoba i aktivno reagovali na mapirana kršenja ljudskih prava, mržnju i nasilje korištenjem dostupnih kanala komunikacije poput web stranice⁴⁰ i društvenih mreža. Sjajan primjer inkluzije ovih tema u rad organizacije, jeste i organizovanje Akademije za branitelje ljudskih prava, u sklopu koje je producirano i publicirano nekoliko iznimno bitnih policy papera, među kojima su bili i paperi koji tematiziraju pitanja regulacije istospolnih partnerstava ili regulative zločina iz mržnje prema LGBTIQ osobama.⁴¹ Osim toga, CRD nastoji da u svom radu uposli i interseksionalnu perspektivu, te su stoga proizveli vodič za LGBTIQ romsku populaciju koji na jasan način pokazuje nepovoljan položaj ovih osoba koje su pogođene višestrukom diskriminacijom.⁴² Saradnja sa lokalnim nevladinim organizacijama koje rade na pitanjima LGBTIQ osoba ogleda se kroz pružanje pomoći tokom organizovanja povorki ponosa.

38 <https://www.diskriminacija.ba/>

39 <https://crd.org/our-work/>

40 Primjer: <https://crd.org/2021/06/17/hate-speech-against-lgbti-community-and-hrds-in-albania-must-be-held-to-account/>

41 <https://crd.org/2021/04/06/hrd-academy-policy-papers/>

42 CRD, 2021. *Kako se boriti protiv višestruke diskriminacije*

STRATEGIJA ZA PROMOCIJU LGBTIQ INKLUZIJE U ORGANIZACIJI

Zaštita i podrška LGBTIQ članovima/cama i zaposlenim u organizaciji

Rad na LGBT inkluziji može biti usmjeren ka vani i ka unutra. Stoga, postoji više strategija, aktivnosti i pristupa koje mogu omogućiti da se i zaposlenicima/cama, ali i klijentima/cama, korisnicima/cama, partnerima, pošalje poruka o opredijeljenosti rada na uključivanju LGBTI osoba u rad organizacije, o podršci LGBTIQ osobama kroz aktivnosti i generalnog doprinosa smanjenju homofobije/bifobije i transfobije.

Ukoliko govorimo o inkluziji unutar same organizacije, prevashodno je potrebno da vodstvo organizacije (izvršni direktor/ica, predsjednik/ca udruženja, upravni odbor) bude eksplicitno u komunikaciji svojih vrijednosti i podrške LGBTI osobama i ravnopravnosti svojim zaposlenima, članovima/icama, volonterima. Razvijanjem jasne misije za LGBTIQ inkluziju, postavljanjem ciljeva, planiranjem aktivnosti i dodjelom određenim budžetskih sredstava, te praćenjem napretka u ovom smislu i promjene organizacione kulture osigurava se održivost ovog pristupa.

Interni dokumenti koji regulišu pitanje zaštite od diskriminacije, pravilnici o radu i slični akti, trebaju sadržavati eksplicitne zabrane diskriminacije LGBTIQ osoba pri zapošljavanju i radu, seksualnog uznemiravanja na radnom mjestu. Na svaku pojavu neželjenog homofobnog, bifobnog i transfobnog ponašanja prema LGBTIQ zaposlenim, koliko god da se čini malom, potrebno je promptno reagovati, i tako staviti do znanja da takvom ponašanju nema mjesta u organizacijskoj kulturi.

Pored zaštite od diskriminacije, poželjno je kreirati i zasebne ili inkorporirane politike afirmativnog djelovanja ka LGBTIQ zaposlenima. Pored samog kreiranja ovakvih LGBT inkluzivnih internih akata, potrebno je i uspostaviti mehanizme i jasno naznačiti osobe kojima se mogu prijavljivati neželjena ponašanja unutar same organizacije, a zavisno od interne organizacije i podjele posla unutar organizacije, to će najčešće (ali ne nužno) biti osobe koje imaju zaduženja vezana za upravljanje ljudskim resursima.

Jedan od plastičnih primjera kako je to moguće uraditi jesu oglasi za posao ili neku drugu vrstu pozicije unutar organizacije (volonterske pozicije, npr.).

Poželjno je da oglasi za posao ili drugu vrstu angažmana pored materijalnih i tehničkih uslova, koje je potrebno zadovoljiti, sadrže i klauzulu koja podstiče talentovane i sposobne LGBTIQ osobe da se prijave.

S druge strane, treba prepoznavati i adekvatno promovisati, te dati platformu djelovanju i inicijativama unutar organizacije koji imaju adekvatan i pozitivan stav prema generalnoj inkluziji, a pogotovo inkluziji LGBTIQ osoba. Dodatne beneficije na poslu i radu unutar organizacije civilnog društva su bitan faktor za one koji traže posao i angažman. No, često su akti koji definišu nenamjerno isključivi prema LGBTIQ porodicama i transrodnim osobama. Osigurajte da svi zaposleni bez obzira na njihovu seksualnu orijentaciju, rodni identitet i spolne karakteristike imaju pravo na roditeljski dopust, brigu o drugima u porodici (partnerima/kama, djeci), te slobodne dane i druge benefite. Stoga, kroz svjesno i pažljivo korištenje jezika, čak i kada radno zakonodavstvo to nužno ne propisuje, možete kreirati bolje i primamljivije radne uslove za LGBTIQ osobe, njihove partnere/ke i porodice.

Sve ove informacije trebaju biti lako dostupne svim zaposlenima, koji moraju biti detaljno upoznati/e sa ovakvim odredbama, politikama i pristupima: bilo da je to kroz oglasne table unutar organizacije, na samoj web stranici organizacije, ili kroz on-boarding procese za članove/ice, zaposlene, volontere/ke i druge koj učestvuju aktivno u radu organizacije.

Odličan, nezahtjevan i primjer koji posebno ide ka kreiranju trans inkluzivne kulture, imajući na umu posebno težak položaj transrodnih osoba, unutar organizacije može biti i njegovanje tzv. spolno-neutralnog okruženja, koje se može ostvariti uvođenjem promjena poput uspostavljanja uniseks toaleta i upotrebe rodno neutralnog jezika, poput „partnera“ umjesto muža ili žene.

Pored toga, potrebno je i prema partnerskim organizacijama i drugim tijelima, kao i široj javnosti komunicirati ove pristupe i politike kroz različite kanale kojima organizacija komunicira. To se može svesti na ugovore ili memorandume o saradnji s partnerima, na jasne i vidljive poruke na web stranici i društvenim mrežama, te kroz bilo koji oblik javnog nastupa organizacije.

Građenje organizacijskih kapaciteta za inkluziju LGBTIQ osoba

Da bi samo rukovodstvo, ali i zaposlenici/ce imale dovoljno resursa, znanja i alata kako bi se sve politike i opredjeljenost ka inkluziji LGBTIQ osoba i ostvarile u praksi, obuke i treninzi o LGBTIQ identitetima, pravima i položaju mogu biti inicijalni korak. Pored osnovnih znanja o LGBTIQ osobama, zajednici

i aktivizmu, potrebno je zasebno raditi na procesima koji će osigurati kreiranje inkluzivne atmosfere.

Pomoć u ovim procesima se uvijek može potražiti od lokalnih LGBTIQ organizacija koje imaju znanje i sposobnost da ojačaju ove kapacitete unutar organizacija civilnog društva koje žele unaprijediti svoj pristup inkluziji LGBTIQ osoba i pitanja u rad organizacije.

Sve ove aktivnosti ne moraju biti isključivo usmjerene na pitanja inkluzije LGBTIQ osoba, već mogu biti dio širih napora za rad na inkluziji i marginaliziranih grupa kao što su Romi/kinje, i osobe sa invaliditetom.

Uključivanje LGBTIQ perspektive u aktivnosti i rad organizacija

Kroz različite vrste djelovanja, bilo da su to istraživanja, zagovaranje, pružanje pravne ili neke druge vrste podrške i pomoći krajnjih korisnicima/cama, treba imati na umu da se velike šanse da se među potencijalnim klijentima/cama, ali i u bilo kojem drugom segmentu rada organizacije, mogu naći i osobe koje su lezbejke, gej, biseksualne, transrodne i interspolne.

Organizacije koje se bave ljudskim pravima sa nekog generalnog aspekta (npr. pravom na slobodu okupljanja, reproduktivnim i seksualnim pravima) trebaju imati interseksionalan pristup, i prepoznavati da će korisnici/ce prava i sloboda imati različite pozadine, položaj i potrebe zavisno od pripadnosti nekoj od društvenih grupa, uključujući i LGBTIQ osobe. Dakle, to nužno ne pretpostavlja usmjeravanje rada direktno ka LGBTIQ osobama, već svijest o tome da LGBTIQ osobe žive, rade i djeluju u svakom segmentu društva, javnog i privatnog života, te da se ta činjenica treba uzeti u obzir u planiranju. Paralela koja se može povući, kao i pristup koji se može koristiti jeste rodna odnosno LGBT analiza u dizajnu, planiranju, implementaciji, monitoringu i evaluaciji projekata, programa i aktivnosti.

Podrška lokalnoj LGBTIQ zajednici i osobama

Podršku lokalnoj zajednici možete pokazati kroz informisanje zaposlenih, članova/ica i volontera/ica o LGBTIQ događajima i grupama, učešćem i volontiranjem na Povorci ponosa, pridruživanjem obilježavanju bitnih datuma kao što su Međunarodni dan borbe protiv homofobije (17. Maj), Coming out dan (11. Oktobar), Mjesec ponosa (juni), i Dan ponosa, kao i druge bitne datume koji

se vezani sa slavljenje pojedinačnih identiteta unutar LGBTIQ zajednice (Dan vidljivosti transrodnih osoba, itd).

Naravno, direktne zagovaračke aktivnosti i medijske kampanje koje provode LGBTIQ grupe i organizacije su odlična prilika da se uključite. LGBTIQ pokret se sve više okreće ka podržavateljima/cama koje/i nisu dio LGBTIQ zajednice, ali koji/e dijele vrijednosti i principe ravnopravnosti i inkluzije kako bi poruke i rad značajni za unaprijeđenje ljudskih prava i položaja LGBTIQ osoba, dosegli širu javnost i ispunili ciljeve radi kojih su razvijeni.

Ove vrste aktivnosti nisu zahtjevne, te često uključuju jednostavno komuniciranje podrške direktno LGBTIQ osobama i organizacijama, ili kroz web stranice i društvene mreže.

O AUTORICAMA

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rukovoditeljica je operacija Sarajevskog otvorenog centra, te apsolventica master studija na Odsjeku za psihologiju Univerziteta u Sarajevu, gdje je i diplomirala. Njeni istraživački interesi uključuju pitanja iz oblasti ljudskih prava, borbe protiv diskriminacije, socijalnih nejednakosti i socijalne zaštite. Aktivna je na polju razvijanja socijalne inkluzije s fokusom na prakse raznolikosti i inkluzije u bh. kompanijama i organizacijama, i dizajniranja intervencija u ovoj oblasti kroz podršku u procesu inkorporiranja najboljih praksi u rad kompanija/organizacija i osiguravanja inovativnosti, talenta, raznolikosti mišljenja, poboljšanog pristup novim talentima, te nadmašivanju tržišne konkurencije.

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O SARAJEVSKOM OTVORENOM CENTRU

Sarajevski otvoreni centar (SOC) radi na unapređivanju ljudskih prava, posebno položaja i ljudskih prava LGBTIQ osoba i žena u Bosni i Hercegovini, i to interpretacijom, predstavljanjem i zastupanjem autentičnih iskustava osoba koje trpe kršenja ljudskih prava i neravnopravan položaj te zagovaranjem pravnih, političkih, ekonomskih, socijalnih i kulturnih promjena u svim oblastima života.

Ovdje ćemo istaći samo neka postignuća koja se odnose na ravnopravnost LGBTIQ osoba i žena. Pored psihosocijalnog i pravnog savjetovanja, nastavili smo voditi jedini LGBTIQ medij u državi – portal www.lgbti.ba. Organizovali smo treninge: za policiju, tužilaštva i sudove, sa fokusom na teme zločina iz mržnje, govora mržnje i primjene antidiskriminacionog prava; za medicinske stručnjake/stručnjakinje i zdravstvene radnike i radnice, sa fokusom na trans-specifičnu i trans-inkluzivnu prilagodbu spola; za LGBTIQ zajednicu.

Intenzivno smo radili na stvaranju lokalne institucionalne mreže podrške LGBTIQ osobama u Kantonu Sarajevo, unapređenju regulacije biomedicinski potpomognute oplodnje u Federaciji BiH, pravima radnica u vezi sa diskriminacijom na osnovu spola i porodijskog odsustva, uvođenju rodno senzitivnog jezika u parlamente i univerzitete, usvajanju i implementaciji kantonalnih gender akcionih planova, ali i podizanju svijesti o rodno zasnovanom nasilju u BiH. Tokom proteklih godina, nekoliko naših zakonodavnih i policy inicijativa ušlo je u vladinu ili parlamentarnu proceduru.

Naš zagovarački fokus usmjerili smo na pitanja politika za ravnopravnost žena i LGBTIQ osoba u BiH, na pitanja reproduktivnih prava žena i muškaraca, roditeljstva u kontekstu usklađivanja privatnog i poslovnog segmenta života, slobode okupljanja LGBTIQ osoba i unapređivanja institucionalnog okvira za zaštitu od nasilja i diskriminacije, te namjeravamo da nastavimo rad na pitanjima koja se tiču transrodnih osoba, interspolnih osoba, istospolnih zajednica, njihove društvene inkluzije, ali i položaja LGBTIQ osoba u obrazovanju, zdravlju, radu i zapošljavanju. Tokom proteklih godina provodili smo i medijske kampanje, koje su dosegle preko milion bh. građana i građanki, a organizovali smo i LGBTIQ filmski festival Merlinka koji od 2021. godine postaje lokalni festival Kvirhana, u saradnji sa Tuzlanskim otvorenim centrom.

Više o našem radu možete pronaći na www.soc.ba.

Ova publikacija izlazi u okviru edicije Ljudska prava, koju objavljuje Sarajevski otvoreni centar

Integrating the LGBTIQ Perspective into the Work of
Civil Society Organisations – a Handbook

Sarajevo, 2021

Human Rights Series of Sarajevo Open Centre

Paper number: 82

Title: *Integrating the LGBTIQ Perspective into the Work of Civil Society Organisations – a Handbook*

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Publisher: Sarajevo Open Centre, www.soc.ba

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The publishing of this publication, through the institutional endorsement to Sarajevo Open Centre, is supported by Sweden through a development cooperation program.

The attitudes and opinion set out in this text are those of the authors and are in no way reflective of the explicit attitudes and opinions of the donor.

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INTRODUCTION

The concept of human rights implies a spectrum that encompasses the indivisible human rights of all social groups and all individuals whose respect, protection and promotion are truly interconnected. Without the protection and respect for the human rights of the most marginalised social communities and individuals in society, one cannot speak of a functional system of human rights protection. This system also cannot be based on or built solely upon legislative improvements or declarative support.

For individuals in any society to be able to enjoy their human rights, it is as important to sensitise existing institutions and mechanisms for their exercise and to build social support. The importance of this support is especially evident when it comes to lesbian, gay, bisexual, transgender and intersex people. Namely, the challenges that LGBTIQ people face in Bosnia and Herzegovina are such that it is necessary for a large number of allies and professionals to get involved and contribute to achieving positive social changes and create solutions to improve their quality of life.

This handbook aims to present the challenges and obstacles that lead to the marginalisation of LGBTIQ people, and ultimately to discrimination and violence. It aims to further explain and concretise the concepts of social exclusion and social inclusion, and to present specific examples and methods of including LGBTIQ topics in the work of allies and other human rights civil society organisations.

By applying inclusive practices and adopting inclusive policies, civil society organisations not only contribute to the strengthening of human rights in BiH, but also to enhancing their internal mechanisms and capacities, as well as pluralism of opinions, initiatives and sustainability of the work they do and the results they achieve.

A CULTURE OF INCLUSION AND SUPPORT FOR DIVERSITY

Social Exclusion

When we talk about lesbian, gay, bisexual, transgender and intersex people in Bosnia and Herzegovina, we usually talk about the social distance that exists in relation to them and creates an environment in which their human rights are inadequately respected and are violated.

Social distance produces **social exclusion** which implies unequal and unfavourable position in relation to other social groups, and limited or disenabled access to goods, services, resources and/or institutions. Social exclusion is manifested through marginalisation and/or segregation of individuals or social groups.¹ **Marginalisation** is the process of leaving out or ousting a certain social group or topic from participation in public, cultural and political life, which creates a situation of apparent invisibility and contributes to ignorance about and intolerance towards that topic or group as something *foreign* and *imposed*. **Segregation**, on the other hand, involves the acts of separating individuals or social groups on the grounds of some of their characteristics, by applying different criteria that generally conflict with the principles of human rights and fundamental freedoms.

All these forms of social exclusion lead to social divisions, intolerance, inequality, discrimination and violence. They also hinder the exchange of true and relevant facts about different social groups, leading to stereotyping, exchange of outdated information, prejudice and an environment in which people who violate human rights of marginalised groups feel that their actions are justified and socially acceptable, while members of marginalised groups feel that their existence is not acceptable.

Social Inclusion

In this context, **inclusion**² is the process of eliminating historical inequalities and discrimination, bringing different social groups together, and providing

1 Zlatiborka Popov-Momčinović, Saša Gavrić, Predrag Govedarica (ed.), *Discrimination – One Word, Many Faces*. Sarajevo, Sarajevo Open Centre, 2012.

2 Jasmina Čaušević, Saša Gavrić (ed.), *Glossary of LGBT Culture*. Sarajevo, Sarajevo Open Centre/ Heinrich Boell Foundation Office in BiH, 2012.

equal opportunities for all individuals to live, develop and participate in the society. Inclusion is manifested as solving the problem of social exclusion, through clear attitudes, concrete actions or policies of inclusion of all individuals and social groups into the society, especially those who suffer marginalisation or segregation, so that they can have equal opportunities for personal growth and development, but also equal opportunities for participation in society and contribution to the achievement of social development and well-being.

As such, inclusive practices and policies focus on social groups and individuals who are in a state of social exclusion due to different circumstances (e.g., poverty, unemployment, being uneducated, etc.) or different personal characteristics (e.g., ethnic, national or religious affiliation, sex, disability, age, sexual orientation, gender characteristics, gender identity, etc.). Therefore, social inclusion, most specifically, implies a life without fear of violence and discrimination, the possibility of education, health and social insurance, access to health, employment and promotion in the workplace, housing, etc.

One of the ways to address certain forms of social exclusion is to strengthen the respect for human rights and to point out the needs of all, especially marginalised social groups, and the existence of exclusion and its emerging patterns. True social inclusion is much more than just legislative improvement – it refers to issues of social awareness, stigmatisation, as well as the causes and consequences of social exclusion; it seeks to understand them and design comprehensive policies that can address them. Inclusion is first and foremost the responsibility of the state and its institutions, which have a duty to ensure the inclusion of all members of society in political, economic and social processes.

THE SPECIFIC NATURE OF SOCIAL EXCLUSION OF LGBTIQ PEOPLE

A specific problem in the context of social exclusion of lesbian, gay, bisexual, transgender and intersex people in BiH is the short period of time that has passed from the pathologisation and/or decriminalisation of homosexuality to the work on legislative equality and discussions about the respect for and protection of their human rights.

Although homosexuality as a criminal offence and its treatment as a disease have become a thing of the past, attitudes towards the gay, lesbian and bisexual population are still often shaped by outdated and inaccurate information. Avoiding the inclusion of LGBTIQ issues in education also contributes to the development of homo/transphobic attitudes and deep-rooted prejudices, further compounded by discriminatory statements of public figures that we could especially hear during the first BiH Pride March, which are released every time LGBTIQ human rights are publicly discussed.

An additional element in the fight against social exclusion of LGBTIQ people in BiH is, therefore, the need for stronger, more visible and more public engagement of allies from all areas of public life who, with their credibility, knowledge and action, would help spread accurate and relevant facts and break existing stereotypes and prejudice, and suppress hate speech and intolerance, creating an environment of pluralism in which it is clear that all individuals must be able to participate in all social processes, that human rights and freedoms must be respected, and that no violations will be tolerated.

The History of Struggle for the Position and Freedom of LGBTIQ People

Although the Stonewall Riots of 28 June 1969 are taken as a key milestone in the struggle for the rights and position of primarily lesbian, gay, bisexual, and transgender people, the mid- and late nineteenth-century Europe has already marked the beginning of the modern struggle for better position and rights of LGBTIQ people.³

³ For a much more detailed review of the understanding of homosexuality and trans issues throughout history and in different cultures, we recommend William G. Naphy (2014): *Born to be Gay: A History of Homosexuality*, Second, revised edition. Sarajevo/Zagreb/Beograd: Sarajevo Open Centre/Domino/Queeria.

The work of a number of sexologists (Karoly Maria Benkert, Magnus Hirschfeld, Karl Heinrich Ulrichs) and lawyers in the then Germany introduced a new understanding of homosexuality, bisexuality, trans and intersex existence, within new scientific disciplines and attempts to scientifically understand sexuality and gender, that differed from the previous understanding primarily shaped by religion and tradition. In 1897, the German doctor and author Magnus Hirschfeld began a campaign against the infamous Paragraph 175 – which was in force in Germany from 1871 to 1994 – according to which sexual intercourse between men was a criminal offense. The prevailing concept of homosexuality was that it is innate and, therefore, should not be criminalised, as well as that homosexuality is the third sex that combines the characteristics of masculinity and femininity.

The 1920s and 1930s in Europe were marked by the dynamic subcultural life of LGBTIQ people. Nightclubs and places to meet and socialise in European capitals and magazines were forms of actions of lesbian and gay groups, but also primarily spaces for lesbian and gay life.

The revolutionary moment of resistance in which a group of trans people, lesbians, drag queens and gay men resisted the police during a raid in the Stonewall Inn was preceded by the establishment of the homophile⁴ movement in Great Britain, France, Germany, the Netherlands, Scandinavia and the United States in the 1940s and 1950s. The first major organisations in the United States were the Mattachine Society and the Daughters of Bilitis; in Europe, they were the COC in the Netherlands, Forbundet af 1948 in Denmark (which then spread to Sweden and Norway), Arcadie in France, and the Homosexual Law Reform Society in Great Britain. The movement mostly advocated the idea that public hostility and non-acceptance of lesbians and gay men was the result of the image they acquired related to their sexual behaviour, and that homophiles could win over the public if they were discreet and dignified.

After the Stonewall Riots, the 1970s brought different forms of action. Since then, the Pride Parade has become one of the most important expressions of political declaration and public visibility for the LGBTIQ community. The foundation of activism was the active struggle against the repression of institutions and the motto that private is political, backed by efforts to move the issues of gender and sexuality from the private to the public sphere. The most prominent organisations operating in the United States during this period were the Gay Liberation Front and the lesbian movement that was

⁴ With an emphasis on love (“-phile” from Greek φιλία), homophile was the word used by associations and groups that have dealt with the rights of homosexuals.

linked to the feminist movement from the very start (Women's Liberation Movement), which has had a major impact on gay and lesbian movement politics primarily in its theoretical understanding of gender, gender roles, sexism, sexual oppression, and patriarchy.

The process of decriminalisation of homosexual relations, which began in Yugoslavia in the 1970s, brought the first festival of gay culture to Slovenia – the first in Europe – in the first half of the next decade. After that, the first organisations were founded: Magnus and Lezbična Lilit (Lesbian Lilit). In the early 1990s, the first lesbian and gay organisations appeared in Serbia and Croatia (Arkadija and Labris, and LIGMA and KONTRA). The beginning of the 2000s was marked by new organisations, especially in Bosnia and Herzegovina, Montenegro and other countries of the Western Balkans, but also by greater visibility: through the organisation of pride parades, various media campaigns, advocacy processes for changes in laws protecting from discrimination and violence, as well as through organising and strengthening the LGBT community.⁵

Activism in the Western Balkans over the past two decades has managed to make significant strides in legal protection against violence and discrimination, legal recognition of same-sex partnerships, the rights and position of transgender and intersex people and, in recent years, has increasingly addressed issues of real acceptance and inclusion in every pore and every segment of public and private life, ensuring the implementation of progressive legal solutions, and the abolition of more subtle forms of homophobia, biphobia and transphobia.

LGBTIQ People: Invisibility and Exclusion

Today's ideas of visibility, i.e., coming out of the closet, are primarily shaped by the gay and lesbian liberation movement of the 1970s and are at the heart of the political-activist struggle that can take various forms: community building, lobbying, media campaigns, protests, etc.

However, it is necessary to understand that, at the individual level, coming out should include empowerment processes, expectation of safety in the visibility, and benefits gained by releasing self-loathing restraints. Depending on the social and cultural environment in which LGBTIQ people are expected

⁵ For a detailed overview of the relevant actors and organisations in the Western Balkans, we recommend a publication by Saša Gavrić and Jasmina Čaušević, *From Demedicalisation to Same-Sex Marriage: A Contemporary Gay and Trans History of the Western Balkans*. Sarajevo/Zagreb. Buybook

to come out, coming out does not have to be an act of verbalisation of one's identity, it can also take various forms, e.g., actions (introducing the partner to one's parents or being tender to one's partner in public). We should bear in mind that LGBTIQ people should not be forced to choose between safety and authentic life, nor is this a dilemma to which they should be exposed.

Every L, G, B, T, I, Q person chooses the moment, as well as the way in which they will come out, i.e., communicate and reveal their sexual orientation and gender identity. Given the high level of homophobia and transphobia prevalent in Bosnia and Herzegovina and the societies in the Western Balkans, any kind of contribution to a supportive environment: open conversations about sexuality, gender; signalling openness through affirmative and proactive use of colours and flags from the LGBTIQ+ identity spectrum, direct involvement in the activities of LGBTIQ informal groups and organisations are welcome actions to create a safe space for coming out.

The visibility gained in this way creates solid preconditions for involvement in the efforts for a better position and a better quality of life for LGBTIQ people themselves and for you as a supporter. Visibility in environments and organisations in which LGBTIQ people are supported and accepted, in which – unlike in most environments in our societies – they can have opportunities for equality and inclusion, can be the catalyst for the popularisation of the LGBTIQ movement and the work on broader issues of inclusion of different marginalised groups.

A BROADER CONTEXT OF LGBTI HUMAN RIGHTS IN BIH

Bosnia and Herzegovina, as a member of international and regional organisations, signed, adopted and ratified a number of documents that form the basis for building and amending legislation and public policies in BiH, and that set a standard that should lead to a high level of respect and protection of LGBTIQ human rights in BiH. The principle of non-discrimination and equality underlined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) applies, like the European Convention for the Protection of Human Rights and Fundamental Freedoms, to LGBTIQ people. To concretise the principles set out in these documents, the Council of Europe Committee of Ministers adopted in 2010 the Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity,⁶ which was also adopted by BiH. It is a set of measures developed so that their implementation in the member states would lead to the promotion of equality and the elimination of discrimination against LGBTIQ people in all spheres of life – currently, according to the recommendation, an action plan for the equality of LGBTIQ persons in BiH is being developed.

Although BiH is declaratively committed to the promotion and protection of human rights of its LGBTIQ citizens, to get a complete picture of the position of LGBTIQ people in BiH, it is necessary to take a look at ways in which these principles are implemented in practice. The position of LGBTIQ people in BiH society, social exclusion and distrust towards state institutions can be attributed to, above all, the historical treatment of LGBTIQ people in BiH society. According to available data, Bosnia and Herzegovina decriminalised homosexuality only in 1991; until then, homosexuality was considered a criminal offense, and persons of this sexual orientation, especially gay men, were arrested and convicted. Even after decriminalisation, there was very little discussion about LGBTIQ people and issues; the topic was taboo and most often ignored or presented to the public in one of two ways designed to create and maintain social distance and intolerance: through the religious aspect or by presenting outdated and flawed medical theories.

⁶ Recommendation CM/Rec(2010)5 of the Council of Europe Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.

The first LGBTI associations were founded only in the early 2000s and the public in BiH got the opportunity to hear about the experiences of life LGBTIQ citizens of BiH and see the position of LGBTIQ people from a human rights perspective. In the past 20 years of LGBTI activism in BiH, much has been done to improve the legal and institutional framework, to sensitise representatives of relevant institutions, and to empower LGBTIQ people with the aim of improving the relationship of trust and establishing a professional, respectful and effective response of the system to violations of human rights and to the needs of LGBTIQ people in BiH.

The work of LGBTIQ associations in BiH has indisputably led to a significant shift in the acceptance of LGBTIQ persons, the change in public attitudes and approaches of institutions and decision-makers. However, the lack of a systemic approach to human rights and to continuous mandatory training of competent persons still leads to a lack of understanding of the needs and position of marginalised groups – something that creates fear in the LGBTIQ community of discrimination and re-victimisation within institutions and results in a low number of reported human rights violations.

Violence against LGBTIQ People in BiH

The criminal codes of FBiH, RS and Brčko District recognise hate crimes and stipulate stricter sanctions for crimes motivated by, *inter alia*, sexual orientation or gender identity. These provisions provide the possibility to judicial institutions to consider all criminal offenses motivated by a personal characteristic a qualified form of criminal offense and impose stricter sanctions. At the same time, the provisions prohibiting and sanctioning hate speech in FBiH and Brčko District do not protect LGBTIQ people from public provoking and incitement to hate or violence, as they focus exclusively on racial, ethnic and national motivation, while in the Republika Srpska these provisions include both sexual orientation and gender identity as protected characteristics. In practice, this means that the current legal framework in FBiH and Brčko District does not sanction incitement to hatred or violence against LGBTIQ people.

Public expression of hate speech and its use to incite or provoke violence, i.e., hate crime, often has much more serious consequences for members of the targeted marginalised group. Hate speech against LGBTIQ people was the initiator of organised attacks on two significant LGBTIQ/queer events – the

Queer Sarajevo Festival in 2008 and the Merlinka Festival in 2014 – that resulted in some participants being severely injured. Both events were followed by public campaigns and calls for violence – in 2008, through the media; in 2014, on social networks – that led to attackers getting organised. The competent institutions, despite reports and warnings, failed to respond. In both cases, the BiH Constitutional Court confirmed that the competent institutions had failed to provide adequate legal protection against violence. In both cases, the judicial institutions inadequately sanctioned the perpetrators by imposing minor offence sanctions and suspended sentences for hate crimes.

LGBTIQ people in BiH are often victims of both verbal (insult, humiliation, threats, etc.) and physical violence: according to the findings of a regional survey conducted by the National Democratic Institute in 2015, 72% of LGBTIQ people surveyed in BiH experienced some form of violence, with 15% experiencing physical violence. This was confirmed by the 2017 Sarajevo Open Centre research on the problems and needs of the community – every fourth LGBTIQ person in BiH has experienced some form of violence.⁷ It is particularly worrying that the sample of trans people showed that two thirds of them had experienced some form of violence because of their gender identity.

Discrimination and Equality of LGBTIQ People in BiH

Prohibition of discrimination against LGBTIQ persons in BiH is regulated by the Law on Gender Equality, which prohibits discrimination on the grounds of gender and/or sexual orientation, and the Anti-Discrimination Law, which prohibits discrimination on the grounds of sexual orientation, gender identity or sex characteristics. The Anti-Discrimination Law prohibits discrimination in all areas of public life and some spheres of private life, including education, employment, health, access to services, etc.

These laws lay the foundations for non-discrimination and provide protection mechanisms to discriminated persons, through complaints to the BiH Human Rights Ombudsmen Institution, the BiH Gender Equality Agency and the entity gender centres, as well as protection in administrative and judicial proceedings. However, research has shown that in BiH, one in three LGBTIQ people has experienced discrimination.⁸ Of particular concern is the fact that about 2/3 of transgender people surveyed for the problems and needs of the

⁷ Amar Numanović, *Numbers of Equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings*. Sarajevo, Sarajevo Open Centre, 2017.

⁸ Amar Numanović, *Numbers of Equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings*. Sarajevo, Sarajevo Open Centre, 2017.

LGBTIQ community in BiH have experienced some form of discrimination. This data points to the fact that transgender people are particularly vulnerable within the LGBTIQ community and that it is more difficult for them to avoid revealing their identity, given that gender expression is mostly visible to the environment.⁹ LGBTIQ persons stated that most of them experienced discrimination during education, in health care institutions, at the workplace, and in hospitality/catering facilities. The number of reported cases of discrimination is also significantly lower than the actual number of cases, which can be explained by the fact that LGBTIQ persons must initiate anti-discrimination proceedings in person and must bear the costs of legal aid and/or court proceedings.

These laws also provide for proactive action, specifically, the adoption of bylaws and policies, and the introduction of practices and procedures for combating and preventing discrimination in society. One such proactive policy is the 2019-2022 Gender Action Plan of Sarajevo Canton. Civil society organisations were directly involved in the development of the action plan; of a total of 18 initiatives proposed by Sarajevo Open Centre, 14 were adopted – concerning the position of women and LGBTIQ people.¹⁰

Another example of a proactive policy is the recently developed proposal for the 2021-2023 Action Plan for the Promotion of Human Rights and Fundamental Freedoms of LGBTIQ People in BiH. This proposal, coordinated by the Gender Equality Agency of the Ministry of Human Rights and Refugees of BiH, was prepared by a working group composed of representatives of civil society and institutions of all three administrative units in BiH. The text of the Action Plan is currently in the process of public discussion and its adoption will follow.

It is clear, therefore, that LGBTIQ people in BiH do not enjoy all the human rights guaranteed to their cis and heterosexual fellow citizens, and that, as already mentioned, they cannot enjoy the human rights guaranteed to them without fear of discrimination or violence. Existing prejudices and stereotypes also lead to discrimination within the system and make it impossible to publicly point out injustice and use democratic mechanisms to represent their interests and needs and demand change.

Although the right to freedom of assembly in BiH is regulated by a number

9 *Life beyond the Norms: Being transgender in Bosnia and Herzegovina*. Sarajevo: Sarajevo Open Centre, 2015.

10 14 SOC's initiatives have been incorporated into the Sarajevo Canton Gender Action Plan. Available at: <https://soc.ba/14-socovih-inicijativa-inkorporirano-u-gender-akcioni-plan-kantona-sarajevo/>.

of laws and bylaws: the Constitution of BiH, constitutions of the entities and cantons, the Statute of Brčko District, and international documents that BiH has ratified or integrated into its legal system, LGBTIQ citizens and citizens' associations face a number of problems and administrative barriers when organising public assemblies.¹¹

The existing legal framework (10 cantonal laws and the Law on Public Assembly of the Republika Srpska) governing this area is not harmonised¹² and, in itself, it constitutes an obstacle to the exercise of the right to freedom of assembly. However, in cases of public assemblies of LGBTIQ persons, there is a tendency to use and interpret existing legal provisions in such a way as to prevent the organisers from holding them.¹³

In 2017, the administrative silence and the Ministry of Transport of Sarajevo Canton failure to respond to the request for approval to use a section of the traffic road, within the legally prescribed deadline, prevented the protest march entitled Violence is Not Normal – the aim of which was to raise public awareness about domestic violence and peer violence suffered by LGBTIQ people.¹⁴ During 2018, the request for assembly approval by the municipality/institution/legal entity located in a public area was used twice to deny LGBTIQ people the right to freedom of assembly.¹⁵

In addition to these administrative mechanisms, another reported form of restriction of freedom of assembly was the imposition of excessive additional security measures on the organisers. During the organisation of the first BiH Pride March, the organisers had to hire and pay a security agency, ensure the presence of ambulances, firefighters and their own stewards to keep the order at the assembly, as well as iron fences at the start and end of the march and concrete barriers, the number and location of which were determined by the Ministry of the Interior of Sarajevo Canton.

In their Special Report, the Ombudsmen Institution emphasised that these practices were contrary to international standards governing freedom of

11 Special report of the Ombudsmen Institution in Bosnia and Herzegovina. Banja Luka, 2020.

12 Amila Kurtović, *Freedom of Assembly in a Maze of Laws: An Analysis of BiH Freedom of Assembly Legislation*. Sarajevo, Sarajevo Open Centre, 2020.

13 Ajla Škrbić, *Cijena protesta: Prakse nadležnih institucija u oblasti slobode okupljanja u BiH [The Price of Protests: Freedom of Assembly Practices of the Competent Institutions in BiH]*. Sarajevo, Sarajevo Open Centre, 2020.

14 *Pink Report 2017. Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina*. Sarajevo, Sarajevo Open Centre, 2017.

15 *Pink Report 2017. Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina*. Sarajevo, Sarajevo Open Centre, 2019.

assembly and stressed that freedom of assembly is a basic human right, the enjoyment of which must be guaranteed by institutions without discrimination or financial costs to citizens.¹⁶

Right to Private and Family Life, Bodily Autonomy and Integrity

Systemic discrimination and neglect of human rights and dignity of LGBTIQ people are most evident in the context of violations of the right to private and family life and the right to bodily autonomy and integrity. Same-sex couples in BiH cannot inherit from each other, visit their partner in the hospital or decide on the health of the partner in situations that require such a decision, they cannot share insurance with their partner in case of unemployment or receive tax deductions, or benefits when buying an apartment, they cannot seek to become a dependant or exercise many other rights and obligations that heterosexual couples in marriage or cohabitation enjoy.¹⁷

In the 2017 survey of the needs of the LGBTIQ community conducted by Sarajevo Open Centre,¹⁸ over two-thirds of LGBTIQ people stated that they live or plan to live with a partner, and more than half of them would have entered into a same-sex partnership if they had the option.

In the neighbouring Croatia, same-sex couples' lives have been regulated since 2017, whereas Serbia has appointed a working group that is currently working on a law to regulate life partnerships of LGBTIQ citizens.

Same-sex partnership is thus not recognised in the entities or in the Brčko District, despite the fact that, according to its membership in the Council of Europe, but also according to the judgments of the European Court of Human Rights, Bosnia and Herzegovina is obliged to regulate the rights and obligations of same-sex partners.

So far, only the Federation of BiH has taken the first step towards regulating this issue and appointed an interdepartmental working group, which should present an analysis of existing regulations in 2021 and propose new ones to be adopted in order for same-sex couples in partnership to exercise their

16 Special report of the Ombudsmen Institution in Bosnia and Herzegovina. Banja Luka, 2020.

17 Natalija Petrić, Boris Krešić, Gordan Bosanac, Goran Selanec and Fedra Idžaković, *Outside the Law: Regulation of Same-sex Partnership in Bosnia and Herzegovina*. Sarajevo, Sarajevski otvoreni centar, 2017.

18 Amar Numanović, *Numbers of Equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings*. Sarajevo, Sarajevo Open Centre, 2017.

rights stipulated by the European Convention on Human Rights – those already enjoyed by heterosexual couples in BiH. The process of appointing and commencing the working group, after the adoption of the conclusion on its establishment in 2018, has been going on for three years.¹⁹

Transgender people in BiH, as already shown, are exposed to constant discrimination and fear of violence due to the inability to reconcile personal documents with their gender identity. They can change the gender marking in personal documents and the unique ID number only after “full” medical gender reassignment. The reassignment can only be done abroad because the medical institutions in BiH do not have staff trained to support people in the transition process, and the costs are borne by trans people themselves, because the official health insurance system does not reimburse part of these costs, despite the fact that the procedures cannot be performed in BiH. The required gender reassignment services, depending on the type of reassignment, range from BAM 5 for testosterone hormones to almost BAM 16,000 for gender reassignment surgeries.²⁰

The complete ignoring of the needs of trans people in the health and legal system in BiH further prolongs the transition process, increases financial costs and the level of risk of violence and discrimination. This conditioned process of document change also limits the right of trans people to self-determination, forcing them to full transition, although every trans person experiences transition individually and decides whether they want to start medical reassignment and to what level.

For the sake of comparison, in the neighbouring Croatia, trans people can change their gender marker and unique ID number based on their life in a different gender identity, without going through the full medical procedure of transition. The neighbouring Serbia covers up to 60% of gender reassignment costs for trans citizens. Both states have their own teams of medical professionals covering different gender reassignment procedures. The neighbouring Montenegro covers up to 80% of reassignment costs, and before training its team of medical professionals, it also covered medical reassignment costs of procedures performed abroad.

Although BiH is one of the few countries in Europe that explicitly protects

¹⁹ *Pink Report 2017. Annual Report on the State of the Human Rights of LGBTI People in Bosnia and Herzegovina*. Sarajevo, Sarajevo Open Centre, 2020.

²⁰ Liam Isić, *Cost Assessment of Gender Reassignment: Recommendations for Improving the Legal and Medical Approach to Transgender Persons in Bosnia and Herzegovina*. Sarajevo, Sarajevski otvoreni centar, 2018.

intersex people in its anti-discrimination legislation by prohibiting discrimination on the ground of sex characteristics, clear medical guidelines and procedures have not yet been established on how to deal with different intersex cases. Specifically, in BiH, no umbrella guidelines for all medical institutions were ever considered or adopted to prevent the so-called medical normalisation of sex, i.e., medical and surgical treatments guided exclusively by the need to aesthetically adapt the child's appearance and their sexual characteristics immediately after birth, regardless of the fact that the child's health is not threatened.²¹ The laws on registry books of the entities and the Brčko District do not provide for exceptions in the case of an intersex child, so parents and health workers are forced to register an intersex child as male or female in a short period of time, although the child may later identify differently.

A growing number of intersex activists and international legal experts consider that the subjection of intersex children and persons to medical procedures to which they have not consented and/or are unaware of is considered a violation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Council of Europe and the European Parliament have adopted resolutions calling, *inter alia*, for a ban on medical interventions to normalise sex and other treatments applied to intersex children without their informed consent.²²

Improving the human rights of trans and intersex people in BiH and ensuring access to sensitive and educated healthcare requires a systematic approach and explicit regulation and protection of the right to self-determination, bodily autonomy and integrity, the right to sensitised healthcare and health insurance, the right to private and family life, and legal recognition of gender identity and sex characteristics.

21 *Between the Sexes and Reality: Handbook for Medical and Healthcare Professionals on the Treatment of Intersex Persons*. Sarajevo, Sarajevo Open Centre, 2020.

22 *Between the Sexes and Reality: Handbook for Medical and Healthcare Professionals on the Treatment of Intersex Persons*. Sarajevo, Sarajevo Open Centre, 2020.

ADVANTAGES AND BENEFITS OF AN INCLUSIVE ORGANISATION

The concept of diversity and inclusion transcends mere tolerance and involvement of people with different individual characteristics in the team. True embracing of diversity and inclusion means accepting and respecting, i.e., a move from simple tolerance to accepting and celebrating the rich dimensions of diversity contained in each individual.

Successfully implemented, diversity and inclusion bring with them multiple benefits that can greatly improve organisation's work and enhance its performance.

Intra-Benefits

In an organisation that nurtures diversity and inclusion policies, there is an increase in productivity and creativity, information flow, innovation, a wider range of skills emerges within the team, there is less turnover, increased loyalty, greater job satisfaction, but also commitment to growth and development of the organisation.

To illustrate, people who come from different backgrounds bring with them different knowledge, perspectives and experiences that shape into new ideas that can contribute to the work of the organisation – in the form of exchange of views, more open communication, increased creativity – but also result in innovative problem-solving approaches. It is through everyday communication, living or working with people who are different from us, that we increase the likelihood of our own progress – we will be exposed to new ideas and new ways of thinking about our values and beliefs.

When we work in a uniform team, where the culture of true inclusion is not nurtured, there is a great danger of falling into the so-called "group thinking", i.e., the absence of different ideas and ways of thinking precisely for fear of being different and the desire to conform. As a result, we fall short of alternative ideas or different approaches to a task or problem, which could have had multiple benefits to the organisation. This can best be illustrated by the example of fundraising for the organisation. To submit a project proposal, we are often faced with the condition of innovation, i.e., an innovative approach

in solving a social problem. If there is no diversity of opinions of people who come from different backgrounds, we will find ourselves in a situation where we cannot see the social problems from different perspectives or how different groups in our society are affected, and there will be no innovative or fresh ideas to address the mapped problems. This no longer makes us a distinctive and attractive organisation for funding.

With respect to internal documents, policies and practices, organisations that have a clear policy of equal treatment, non-discrimination, prohibition of sexual harassment and mobbing, clearly communicate the message of openness and inclusion, as well as willingness to prevent all possible work situations that may disadvantage the employee due to their personal characteristics.

Extra-Benefits

With respect to the benefits that an organisation can have with the proper introduction of diversity and inclusion policies, they are also directed towards the external environment. Thus, they lead to an increase in the number of talents/persons who can be recruited for the needs of the organisation, to the improvement of reputation and brand of the organisation with different actors/audiences, and finally, to an increase in profits – more successful fundraising.

If the values of diversity and inclusion are built into the values of the organisation and successfully implemented through the organisation's practices, this sends a clear message to people coming from different social categories that the organisation is open and that their needs will be recognised and respected if they decide to join that organisation, and not some other as they are not sure how it will recognise and accommodate their needs. In that case, a person comes to work motivated, loyal and ready to support the growth and development of the organisation. The principle is similar in the case of recruitment. The person in charge of this process, who nurtures these organisational values, will know how to lead this process and provide all people with equal employment opportunities, regardless of their individual characteristics or social status – they will know that talents are hidden in different categories of society and that recruitment should be so directed. Also, they will be able to keep the choice blindness under control, i.e., remove all information that can in any way trigger prejudices and provide equal opportunities for the employment of the best candidate.

In addition, NGOs have an additional moral obligation to recognise and reach out to underrepresented and vulnerable groups in our society and recognise their potential, because NGOs, by default, should have the most understanding when it comes to their disadvantaged social position and very limited employment opportunities. Thus, in addition to direct assistance to individuals, they would serve as an example to other organisations, but also to public institutions and (both public and private) companies that such approaches have multiple benefits, both for them and for the society.

The issue of diversity and inclusion permeates other organisational structures, not only the management-team or organisation-society relation. Different bodies, such as the board of directors, the assembly, the advisory board and others, have a special role for the organisation's work. The basic function of these bodies, in addition to supervisory, is to contribute to the improvement and diversification of the work of the organisation with their expertise and experience. In this context, the combination of different backgrounds, experiences and personal characteristics of people who make up these bodies play a key role, otherwise, we face the same problem of group thinking, and consequently, in the best-case scenario, stagnation.

Why is LGBTIQ Perspective Important for Diversity and Inclusion?

LGBTIQ people in Bosnia and Herzegovina have a rather unfavourable social position and face stigmatisation, which leads to a negative impact on the economic aspects of their life, primarily employment, work and career advancement.

Many studies on the socio-economic position of LGBTIQ people in our society have indicated their disadvantage. The analysis of data collected by the 2017 survey of the daily life of LGBTIQ people in Bosnia and Herzegovina, conducted by Sarajevo Open Centre²³, concluded that more than half of the respondents hid their LGBTIQ identity from work colleagues and some of them faced problems in their workplace solely because of their LGBTIQ identity. Additionally, in a 2015 regional survey conducted by the National Democratic Institute, 36% of LGBTIQ respondents reported experiencing some form of discrimination in the workplace or employment. In addition, 30% of respondents from the general population reported that they would have stopped any communication with their co-workers if they revealed their sexual

²³ SOC research.

orientation.²⁴ Also, in 2020, SOC conducted a research on the socio-economic position of LGBTIQ people in BiH, which showed that the majority LGBTIQ people, compared to the general population, have fewer opportunities to enter employment, they do not meet the requirement to take a loan to solve housing, they mostly have part-time jobs or, which is extremely important in the context of this handbook, they work in the informal sector.²⁵

As to inclusive policies and practices, a survey conducted by the MarketMakers project and Sarajevo Open Centre,²⁶ on a sample of companies in Bosnia and Herzegovina, showed that very few companies have policies that clearly prohibit discrimination or unfair treatment of persons based on sexual orientation or gender identity. In addition, there is a lack of awareness of an adequate approach when it comes to these concepts, as well as of understanding of the benefits of properly implemented diversity and inclusion policies.

In light of these results, it is not surprising that stigmatisation, disadvantage and discrimination based on sexual orientation or gender identity also have consequences for the mental health of LGBTIQ people, which has its negative outcomes in the workplace as well. People who hide their LGBTIQ identity experience higher levels of stress and anxiety²⁷ which results in health problems and insufficient performance in work tasks, and reduces the chances of advancement and increases the chances of losing a job.²⁸

All of the above needs to be taken into account to create adequate strategies and approaches in introducing diversity and inclusion policies into the organisation, which will be discussed in the next chapter.

Examples of Practices of LGBTIQ Inclusive Organisations

There are several organisations operating in Bosnia and Herzegovina, which successfully integrate approaches that promote the human rights of LGBTIQ people. The Institute for Youth Development KULT,²⁹ an organisation that deals with development, advocacy for legal and strategic solutions, building and strengthening of associations and authorities in BiH and the region for

24 NDI research.

25 SOC research.

26 Not published, available upon request.

27 <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>; <https://www.glaad.org/blog/value-lgbt-equality-workplace>

28 <https://blogs.worldbank.org/europeandcentralasia/economic-benefits-lgbti-inclusion>

29 <https://mladi.org/v2/bs/>

a successful and sustainable youth policy, worked actively to improve the position of LGBTIQ people through its Human Rights Programme and by awarding grants to organisations dealing with LGBTIQ issues. In addition, this year, KULT organised trainings on the rights of LGBTIQ people.³⁰

The CURE Foundation³¹ is a feminist activist group working for positive social change through educational, cultural, and research programmes, and is one of the organisations that can serve as an example of LGBTIQ inclusion. In their work so far, they have had several activities and initiatives directly aimed at improving the position of LGBTIQ people through legal empowerment of the community,³² street activism and activities to improve the position of LGBTIQ women.³³

The Helsinki Committee for Human Rights is an organisation dedicated to promotion, protection and monitoring of human rights in the Republika Srpska, Bosnia and Herzegovina and the region, and education of citizens, especially young people, on the fundamental values of human rights and transitional justice.³⁴ A part of their work portfolio is dedicated to improving the position of LGBTIQ people through training for civil society organisations on LGBTIQ rights, advocacy meetings with relevant stakeholders and awarding small grants to local civil society organisations to launch initiatives in 6 local communities in BiH to advocate for the rights of LGBTIQ people effectively and long-term.³⁵

Mediacentar Sarajevo³⁶ worked on promoting LGBTIQ issues through active monitoring of media reporting, but also in direct work with the media, as well as with other important stakeholders. The Foundation had the coordinating role within the Equality for All Coalition, which through various activities worked to promote a more active role of civil society organisations in preventing and combating discrimination in BiH, and advocated for the improvement and effective implementation of the legal framework, especially with respect to vulnerable groups such as women, Roma, people with disabilities and the LGBTQ population.³⁷ A particularly important resource where you can

30 <https://www.ppmg.ba/ba/vijesti/vijesti-projekta/1258-javni-poziv-lokalnim-organizacijama-civilnog-drustva-za-ucesce-u-drugom-ciklusu-treninga>

31 <https://fondacijacure.org/en/>

32 <https://fondacijacure.org/en/legal-empowerment-of-lgbti-persons-in-bih/>

33 <https://fondacijacure.org/en/lbt-art-strategy-and-building-community/>

34 <https://helcommrs.org/index.php/usluge/2017-01-25-09-41-39>

35 <https://helcommrs.org/index.php/2017-03-23-11-22-59/aktuelni-projekti/28-ne-vidljive-manjine-nulta-tolerancija-prema-diskriminaciji-lgbt-osoba>

36 <https://media.ba/bs>

37 <https://www.analitika.ba/bs/projekti/jednakost-za-sve-koalicija-organizacija-civilnog-drustva-protiv-diskriminacije>

find many relevant information on the human rights situation in Bosnia and Herzegovina, including the rights of LGBTIQ people, is their portal www.diskriminacija.ba.³⁸

One of the organisations that clearly demonstrates its commitment to regionally improve the position of LGBTIQ people through inclusive programmes and activities is Civil Rights Defenders. CRD is a Swedish international organisation working to improve people's access to freedom and justice through increased respect for their civil and political rights.³⁹ They have offices in the Western Balkans – in Albania, Serbia, Bosnia and Herzegovina and Kosovo. Through their advocacy work and providing support and assistance primarily to human rights defenders, they have also addressed the human rights of LGBTIQ people in various parts of the Western Balkans. The good guiding practice in their work is to use the network and credibility to advocate for the advancement of LGBTIQ people and to actively respond to mapped human rights violations, hatred and violence using the available communication channels such as their website⁴⁰ and social networks. A great example of inclusion of these topics in the work of the organisation is the Academy for Human Rights Defenders, which produced and published several extremely important policy papers, including papers on the regulation of same-sex partnership or regulation of hate crimes against LGBTIQ people.⁴¹ In addition, the CRD seeks to employ an intersectional perspective in their work, and have therefore produced a guide for the LGBTIQ Roma population that clearly shows the disadvantages of these people affected by multiple discrimination.⁴² Cooperation with local NGOs working on LGBTIQ issues is reflected in providing assistance during the organisation of pride parades.

38 <https://www.diskriminacija.ba/>

39 <https://crd.org/our-work/>

40 Example: <https://crd.org/2021/06/17/hate-speech-against-lgbti-community-and-hrds-in-albania-must-be-held-to-account/>

41 <https://crd.org/2021/04/06/hrd-academy-policy-papers/>

42 CRD, 2021. *How to fight multiple discrimination*.

STRATEGY FOR THE PROMOTION OF LGBTIQ INCLUSION IN ORGANISATIONS

Protection of and Support to LGBTIQ Staff Members

The work on LGBT inclusion can be outward and inward. Therefore, there are several strategies, activities and approaches that can enable employees, but also clients, beneficiaries, partners, to send a message about the commitment to work on the inclusion of LGBTIQ people in the work of the organisation, to support LGBTIQ people through activities and generally to contribute to reducing homophobia/biphobia and transphobia.

When it comes to inclusion within the organisation, it is primarily necessary that the leadership of the organisation (executive director, president of the association, steering board) be explicit in communicating their values and support to LGBTIQ people and equality to the employees, members, volunteers. Developing a clear mission for LGBTIQ inclusion, setting goals, planning activities and allocating certain budget funds, monitoring progress in this regard and changing organisational culture ensures the sustainability of this approach.

Internal documents stipulating protection against discrimination, labour regulations and similar acts should contain explicit prohibitions of discrimination against LGBTIQ persons in employment and work, and of sexual harassment in the workplace. Every occurrence of unwanted homophobic, biphobic and transphobic behaviour towards LGBTIQ employees, no matter how irrelevant it may seem, needs to be addressed promptly – sending a clear message that such behaviour is not allowed in the organisational culture.

In addition to protection against discrimination, it is desirable to create separate or incorporated policies of affirmative action towards LGBTIQ employees. In addition to creating such LGBT inclusive internal acts, it is necessary to establish mechanisms and clearly indicate the persons to whom unwanted behaviours can be reported in the organisation; depending on the internal organisation and division of work within the organisation, these will most often (but not necessarily) people responsible for human resource management.

One of the illustrative examples of how this can be done are job advertisements or other calls of the organisation (volunteer positions, e.g.). It is desirable that job advertisements or other calls, in addition to professional and technical requirements that need to be met, also contain a clause that encourages talented and capable LGBTIQ people to apply.

On the other hand, it is necessary to recognise, adequately promote, and provide a platform for, actions and initiatives within the organisation that have an adequate and positive attitude towards general inclusion, especially the inclusion of LGBTIQ people. Additional benefits at work within a civil society organisation are an essential factor for those looking for a job or engagement. However, often the internal acts are unintentionally exclusive of LGBTIQ families and transgender people. Make sure that all employees, regardless of their sexual orientation, gender identity or sex characteristics, have the right to parental leave, care for others in the family (partners, children), days off and other benefits. Therefore, through the aware and careful use of language, even when labour law does not necessarily require so, you can create better and more attractive working conditions for LGBTIQ people, their partners and families.

All this information should be easily accessible to all employees, who must be familiar with such provisions, policies and approaches: whether it is through bulletin boards within the organisation, the organisation's website, or on-boarding processes for members, employees, volunteers and others who actively participate in the work of the organisation.

An excellent, undemanding and illustrative example of creating a trans inclusive culture, bearing in mind the particularly difficult position of transgender people, can be nurturing the so-called gender-neutral environment, which can be achieved by introducing changes such as the unisex toilet and the use of a gender-neutral language, e.g., a "partner" instead of a husband or wife.

In addition, it is necessary to communicate these approaches and policies to partner organisations and other bodies, as well as to the general public through the various organisational communication channels. This can apply to agreements or memoranda of cooperation with partners, clear and visible messages on the website and social networks, and through any form of public appearance of the organisation.

Organisational Capacity Building for LGBTIQ Inclusion

For both the management and employees to have sufficient resources, knowledge and tools to put all policies and commitments to LGBTIQ be inclusion into practice, an initial step could be trainings and coaching on LGBTIQ identities, rights and position. In addition to basic knowledge about LGBTIQ people, community and activism, it is necessary to work separately on processes that will ensure an inclusive environment.

Assistance in these processes can always be sought from local LGBTIQ organisations that have the knowledge and ability to strengthen the capacities of civil society organisations that want to improve their approach to the inclusion of LGBTIQ people and issues.

All of these activities do not have to focus exclusively on the inclusion of LGBTIQ people, but can be part of a broader effort to work on inclusion of marginalised groups such as Roma and people with disabilities.

Including LGBTIQ Perspective into Organisational Activities

Through various types of actions – research, advocacy, providing legal or other type of support and assistance to end users – we should bear in mind that there are great chances that lesbian, gay, bisexual, transgender and intersex people are among potential clients or in other segments of organisation's work.

Organisations dealing with human rights from a general perspective (e.g., the right to freedom of assembly, reproductive and sexual rights) should have an intersectional approach and recognise that beneficiaries of rights and freedoms will have different backgrounds, positions and needs depending on their affiliation to social groups, including LGBTIQ people. This does not necessarily presuppose directing work at LGBTIQ people, but it means awareness that LGBTIQ people live, work and act in every segment of society, public and private life, and that this fact should be taken into account in planning. A parallel that can be drawn, as well as an approach that can be applied, is gender or LGBT analysis in the design, planning, implementation, monitoring and evaluation of projects, programmes and activities.

Support to Local LGBTIQ Community and People

You can show support to the local community by informing employees, members and volunteers about LGBTIQ events and groups, by participating and volunteering in the Pride March, by joining the celebration of important dates such as the International Day Against Homophobia (May 17), Coming Out Day (October 11), Pride Month (June), and Pride Day, as well as other important dates for individual identities within the LGBTIQ community (Transgender Visibility Day, etc.).

Of course, direct advocacy activities and media campaigns conducted by LGBTIQ groups and organisations are a great opportunity to get involved. The LGBTIQ movement is increasingly turning to supporters who are not part of the LGBTIQ community, but who share the values and principles of equality and inclusion so that messages and work relevant to improving the human rights and position of LGBTIQ people reach the general public and meet goals for which they were developed.

These types of activities are not demanding, and often involve simply communicating support directly to LGBTIQ individuals and organisations, or through websites and social networks.

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ABOUT SARAJEVO OPEN CENTRE

Sarajevo Open Centre (SOC) is working on human rights promotion, especially the position and human rights of LGBTI persons and women in Bosnia and Herzegovina, by interpreting, presenting and promoting the authentic experiences of persons suffering human rights violations and unequal position, and advocating for legal, political, economic, social and cultural changes in all spheres of life.

We will set forth here only some of the achievements related to the equality of LGBTI persons and women. In addition to psychosocial and legal counselling, we continued to run the only LGBTIQ media in the country – the www.lgbti.ba portal. We organised trainings for the police, prosecutor's offices and courts, focusing on the topics of hate crimes, hate speech and the application of anti-discrimination law; for medical experts and healthcare workers, focusing on trans-specific and trans-inclusive gender reassignment; and for the LGBTIQ community.

We worked intensively on creating a local institutional network to support LGBTI people in Sarajevo Canton, improving the regulation of bio-medically assisted fertilisation in the Federation of Bosnia and Herzegovina, female workers' rights in relation to discrimination based on gender and maternity leave, introducing gender-sensitive language in parliaments and universities, adoption and implementation of cantonal gender action plans, but also raising awareness on gender-based violence in Bosnia and Herzegovina. Over the past years, several of our legislative and policy initiatives have entered government or parliamentary procedure.

Our advocacy focus has been placed on policy issues for women's and LGBTIQ persons' equality in Bosnia and Herzegovina, issues of women's and men's reproductive rights, parenthood in the context of harmonisation of private and professional segments of life, freedom of assembly for LGBTIQ persons and improvement of the institutional framework for protection against violence and discrimination, and we intend to continue working on issues concerning transgender persons, intersex persons, same-sex partnerships, their social inclusion, but also the position of LGBTI persons in education, health, work and employment. Over the past few years, we have conducted media campaigns, which have reached over one million BiH citizens, and we also organised the LGBTIQ film festival Merlinka, which will be known as the local film festival Kvirhana from 2021, organised in cooperation with Tuzla Open Centre.

You can find out more about our work at www.soc.ba.

This paper is produced as part of the Human Rights Series, published by Sarajevo Open Centre.