

DR. IUR. JOVAN KOJIČIĆ

THEATRE OF JUSTICE

THE TRUTH BEHIND REALITY

LGBT FORUM PROGRESS

Theatre of Justice: the Truth Behind Reality

Dr. iur. Jovan Kojičić

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Foreword

This publication was created because of analysis of attitudes and contributions of the community gathered around LGBT Forum Progress, with the dedicated support of international partner organizations and a group of prominent international experts, at our invitation. It presents a realistic view of real problems of the LGBTI community, which have been the focus of our activities so far. The document was created as a sublimation of the detailed analysis and presentation of real situations that we provided as partners in the World Bank project, titled “Understanding and Addressing Barriers to Access to Justice for LGBTI People in the Western Balkans”, implemented by Egale Canada with support of the Williams Institute UCLA School of Law and LGBT Forum Progress. Additionally, this publication discloses a novel concept of advocacy, planning and activities of our organization, but also the content structure of all future activities of the LGBT Forum Progress for the period 2022-2026. I am also grateful to the European Commission on Sexual Orientation Law (ECSOL) for cooperation. Their experts, to whom the author of this publication belongs, provided important support and contribution in the design and promotion of this publication.

Our policy and culture of human rights will be conditioned by clear social obligations and duties towards the LGBTI community on the path of European integrations and the fulfilment of the UN Agenda 2030 and the Sustainable Development Goals. Instead of the current state policy outcomes, which are usually only declarative, the focus of our advocacy will be determined by specific directions focussed on the development of various programs in relation to the real consequences and meaningfulness of public policy outcomes for the LGBTI community and based on efforts to prevent further ignoring of real issues and the overall development of the Montenegrin society.

Structural stigmatization, marginalization, and the absence of a vision to improve the status and rights of LGBTI people in public policies must stop and focus on the real problems and needs of the LGBTI community, to work together to achieve equality and make the entire process meaningful. The presented conceptual framework of this analysis explains in depth our views and the real problems through the prism of decade-long experience and work and is aimed at solving various situations and real problems that LGBTI people face in everyday life, but also providing novel opportunities for the Montenegrin Government for joint work and improved approaches.

John M. Barac

Executive Director
LGBT Forum Progress

Introduction

... It is a secret from nobody that the famous random event is most likely to arise from those parts of the world where the old adage "There is no alternative to victory" retains a high degree of plausibility. Under these circumstances, there are, indeed, few things that are more frightening than the steadily increasing prestige of scientifically minded brain trusts in the councils of government during the last decades. The trouble is not that they are cold-blooded enough to "think the unthinkable", but that they do not think. Instead of indulging in such an old-fashioned, uncomputerisable activity, they reckon with the consequences of certain hypothetically assumed constellations without, however, being able to test their hypotheses against actual occurrences. The logical flaw in these hypothetical constructions of future events is always the same: what first appears as a hypothesis – with or without its implied alternatives, according to the level of sophistication – turns immediately, usually after a few paragraphs, into a "fact", which then gives birth to a whole string of similar non-facts, with the result that the purely speculative character of the whole enterprise is forgotten (Arendt 1970: 6 and 7).

The contents of discussion, methods of observation and attitudes regarding the problems of the LGBTI community in this analysis are based on the motives of considering profiles that are at intersections and include observations related to new scientific perspectives, on the basis of which the author seeks explanations for the real problems of the LGBTI community in society. All of this is observed in relation to social processes that should provide conditions for change and overall improvement for LGBTI persons: social environment, ideas, public policies, actors, institutional approaches and readiness, ways of managing and delivering legal content in the community. This dominantly determines the social discourse towards distributive and social justice, but also reveals the representation and determination of such approaches in relation to the concepts of equity, intersectionality and inclusion. The study of norms, adaptation and further development of the concept of norms by Professor **Håkan Hydén** at Lund University in Sweden, proposed new approaches in their study, that sociology of law (SoL) ought to broaden its scope ("science of norms"), as methods of a new scientific perspective on ways of understanding human choice and behaviour (Hydén 2022).

The analysis before you, through different aspects of consideration of the rule of law, public governance, interaction and norms that are placed in a wider perspective provides a comprehensive view in relation to the causality – and sociological, legal, philosophical and socio-psychological approaches to the exercise of rights in key areas that affect the actual position of LGBTI persons in society. What Professor Hydén calls the "science of norms" helped me to discover and understand the "interplay" between social norms and (legal) rules, and in relation to the actual position of LGBTI people in Montenegrin society. It also helped me to determine what is the only "real" component contained in today's public policies – the same policies that should „really" care about the position of LGBTI people in society, but also

to see the “real” influences and forces behind such behaviours. All this imposes the need for an interdisciplinary approach in removing obstacles and generating solutions for the LGBTI community, which should consequently lead to the current contents of the law being applied in legal practice and delivered as values in the community.

The concept of norms has to be expanded in different respects. Norms constitute both (1) an existing empirical phenomenon, something “real”, and (2) an analytical tool which can be used in order to analyse the driving forces behind human behaviour. In this last respect the study of norms attributes to SoL an important role in the perspective of social science. Moreover, norms, as an analytical tool, contribute to (3) the need for interdisciplinary development. As a consequence, (4) SoL will become more adequate as a legal science and of greater relevance for legal practice. It will also create (5) an understanding of the interplay between norms and (legal) rules and not least (6) an expansion of the scope of the social sciences (Hydén 2022: 253).

The political conceptual framework of **Hannah Arendt** points us to the reasons for disclosure of the absence of political action, which, among other things, we can look for in the differences between action (praxis), on the one hand, and speech (promises) about it, on the other (d'Entreves 2019). In the process of distinguishing personalities, her political theory reveals the identity of the “agent”, precisely between the power of action (praxis) and narratives (speeches and promises), which leads to a connected series of interactions in the discovery of identity and different personalities, making a clear distinction between “**who**” are they versus “**what**” they are (d'Entreves 2019). Therefore, according to Arendt's theory of action, the Montenegrin public arena in the context of LGBTI rights could be understood as follows: instead of political action being implemented in such a way that LGBTI topics are connected with freedom, pluralism, speeches and the memory of age-old humiliation, suffering, discrimination, harassment and violence according to the LGBTI people (actions, praxis), it is reflected in narratives that are “fabrication” (*poiesis*) – in the influences and connections of norms, actions, power and space for such action, in the unpredictability and un-realization of action (practice), and in the powers of promise and forgiveness.

We can say that Montenegrin public policies, laws and promises are determined by the phrase “everything for the LGBTI community”. However, public and political action in the presented conceptual discussion refers to “fabrications” (*poesis*) in this regard – which is reflected in inactions: (a) In the absence of statistical data on the LGBTI community generated by the state; (b) In the misunderstanding of the status of LGBTI persons as a prerequisite for the improvement of human rights: in the conceptual respect, protection and fulfilment of human rights; (c) In the absence of social determinants of health; (d) In the absence of socio-economic determinants; (e) In the absence of practices on combating discrimination of LGBTI persons in employment and in the workplace; (f) In loud silence about LGBTI topics in inclusive education programs; (g) In multiple forms of discrimination and difficulties in exercising rights in administrative and judicial proceedings; (h) In the absence of significant improvements regarding homophobic incidents, threats and discrimination, as well as

regarding access to health care, justice, employment and housing; (i) Consequently, in the invisibility of the LGBTI community and their social exclusion.

By ignoring the above conditions, social changes and improvement of the quality of life for the LGBTI community will happen very slowly or not at all (it will be lost in the “interplay”). In that case, the changes will continue to be dominantly determined by reasons of “identity politics” and structural sexual stigma in political and public discourse. From the aspect of political thought and philosophy, such phenomena are best linked to Arendt's political theory of action, which recognizes and explains these differences. Regardless of different doctrinal approaches about the goals of political theories (concerning conflict resolution or not), one thing is unquestionable – it is important for everyone to follow the impulses of change, classify uncertainties and opportunities within the understanding of one's own politics, and create an environment for political action (Duhacek 2014). Even on the occasion of different doctrinal approaches, political action must not have an impact on today's poor position of the LGBTI community. First, the real influence would have to be *primarily* determined by the *rule of law*, i.e., constitutional and legal guarantees and binding international legal standards. Second, the impulses of social changes in the process of negotiations and accession to the European Union oblige political and public entities to harmonize national and European values. This creates additional *duties* on the part of political and public subjects to adjust their actions accordingly. However, all that is not the case today. The identity of (political and public) governance is determined by arguments that resemble sexual stigma, not constitutional and legal guarantees, the rule of law, dignity, participatory democracy, and freedom. All this further complicates and negatively affects the already very poor position of the LGBTI community in Montenegrin society.

After more than 10 years of different types of training, there will probably still be a lack of such training in public policies to avoid the application of the promised (and adopted) values. The edition in front of you indicates that “lack of capacity” is actually just an excuse for “*poiesis*”, which is why there is no conceptually based public and political action (practice). This inevitably brings us back to the beginning of this introduction, to the explanations regarding the initial approaches in considering the thematic areas of this edition, including the importance of understanding human choice and behaviour in it (“the science of norms”).

Dr. iur. Jovan Kojičić

Author

About the Author



Jovan Kojičić is a law professor. He has received his Ph.D. in Law (Doktor der Rechte, Dr. iur.) at the European University Viadrina in Germany (2001/2005). During his doctoral studies he was awarded the prestigious German Academic Exchange Service (DAAD) Fellowship. He finished postdoctoral studies at the Lund University in Sweden in the relation of law to social change, with a profile which sits at the intersection of the laws and social sciences, and with emphasizing on policy development, distributive justice, institutional reforms and practices (2008/2010).

Dr. Kojičić joined the Faculty of Administrative and European Studies (FDES) in Podgorica in April 2008. He worked as an international consultant at UCLA School of Law - the Williams Institute in Los Angeles, California, the United States (2018/2019), as a researcher and developing expert for Egale Canada Human Rights Trust, in Canada (2018/2019). He also was the first international visiting scholar at UCLA School of Law - the Williams Institute in Los Angeles, California, the United States (2011), a visiting researcher at the department of European, Public International and Public Law at the Faculty of Law, University of Leipzig, Germany (DAAD return visit, 2008).

Since 2006 he was engaged in the project “Justice in the Balkans: Equality for Sexual Minorities”, which outgrew to international-wide movement of renowned professors, lawyers, public figures, and civil organization representatives with series of conferences in the Balkans. Dr. Kojičić is a member of the DAAD Alumni Club Montenegro, member of the European Commission on Sexual Orientation Law (ECSOL) for Montenegro, principal organizer of the international conference(s) “Justice in the Balkans”. He is the author of numerous scientific articles, books, book chapters and theses in his areas of expertise.

i Intersectional Analysis

In human rights policies today, there is a complete set of “phrases” which remain a dead letter and are not carried into practical effect. Phrases are not connected, harmonized, and oriented to real problems, but represent a “set of words” that do not support the development and achievement of (alleged) goals. Such policies produce disadvantageous situations as far as the role of human rights differs among them, including coverage of and access to employment, access to justice, equality, public services, and other resources available in the community to meet basic needs and universal rights; but also, opportunities to develop personal potential, autonomy, dignity, and overall well-being.

Discrimination and Social Distance

LGBTI community faces a high-level of discrimination and social distance (Kojicic 2021: 183). The largest number of citizens believe that LGBTI people are sick, mentally disordered and should be treated (66%), for (44%) of the population homosexuals are depraved, while (29%) believe they are unnatural and immoral (Besic 2020: 34 i 35, cf. Kojicic 2021: 183). Out of total number of respondents, only 5.3% expressed a positive attitude for LGBTI people (Besic 2020: 34 i 35, cf. Kojicic 2021: 183). In such circumstances, for LGBTI people, the most important aspects of social life and opportunities for employment, household maintenance and engagement in personal and social relationships are limited and for some almost impossible. The necessary data on the status of LGBTI people in society do not exist. At the same time, the Government of Montenegro promotes the phrase that “everything regarding the LGBTI community”, will be covered by policies. Instead of focusing on problem solving, there is only a “set of words”, which are not enough and do not reflect the real problems of the community. However, there is nothing that would really be aimed at solving the everyday problems of the community. There are not enough clear measures aimed at solving pressing problems and situations.

Subtle Heterosexism

Despite the legislative and policy changes at many levels and places in the administration and society, LGBTI people are not welcome. Their discrimination continues. Even if active discrimination is “not the case”, there are many other subtle and invisible ways that the dominant attitudes and beliefs of most of the social community, including employees in the administration, cause damage, discriminatory behaviour, and injustice towards the LGBTI community. The concepts of heteronormativity and cisnormativity reveal many insights into the ways in which LGBTI people experience discrimination in society, including subtle approaches to it. Presumptions that all people are heterosexual and that all people are cisgender impose norms or normative characteristics of attitudes and behaviour, reflecting the most common effect of social norms on the position and discrimination of LGBTI persons in society (Riggs & Bartholomaeus 2016: 21).

Non-heterosexuality is deviant and not desirable, and heterosexuality is understood. This defines heterosexual bias (Berkman & Zinberg 1997: 320). All this creates temptations of increased social caution and precaution for LGBTI people, due to the fear that they may be rejected or discriminated against (Feinstein 2016: 88). This also explains the (forced) invisibility of the Montenegrin LGBTI community, that many develop parallel lives and forcibly enter into heterosexual relationships and marriages, all while a large number internalize homophobia (Kojicic 2021: 184). Among other things, such social interactions with members of the dominant group can cause anxiety in sexual minorities, and to a much greater degree for those who try to minimize or conceal their sexual orientation than those who do not (Feinstein 2016: 88). Such a social environment combined with the subtle effects of the actual (social and cultural) interpretation of the adopted standards represents the most insidious and serious obstacle for LGBTI persons to live freely and exercise their rights. In political theories, Giddens' expanded concept of violence defines such circumstances as violence, thus encompassing all social conditions that limit the life chances of an individual (Giddens 1999: 246; cf. Kojicic 2021: 184).

Unique Inequalities

In addition to other differences compared to heterosexual and cisgender people, the LGBTI community faces specific problems such as minority stress and psychosocial inequalities that are unique to sexual and gender minorities (Balsam 2016: 481). These specificities are contained in health inequalities and approaches to health care. Health inequalities are “gaps in the quality of health, which result from disadvantages and differences in group status such as race, ethnicity, income, level of education, and sexual and gender identity” (Fredriksen-Goldsen 2016: 54). Such inequalities indicate a difference in the health of a social group that is in a disadvantageous position compared to a privileged social group, and due to systematic adverse health outcomes that group experiences or is at risk of negative health outcomes (Reisner 2016: 487). These are unfair and potentially avoidable systemic health disparities. On the one hand, disadvantages negatively affect health and are conditioned by social position, while unfair differences arise from factors such as wealth, power, or prestige (Wallace & Santacruz 2017: 178; Kojicic & Krstic 2020: 34 and 35).

Minority Stress

Minority stress arises from general environmental circumstances that lead to exposure to stressors and is determined by socioeconomic status (Meyer & Frost 2013: 252). As circumstances of the social environment, sexual minorities face stigma, and this creates stress reactions that are harmful to health in the long term (Pachankis & Lick 2018: 479). For example, minority stress for a gay man who is poor is conditioned by his sexual orientation and his poverty, which together will determine his exposure to stress, but also the resources to face such circumstances. Job loss, hate-motivated violence or employment discrimination are just some of the common stressors unique to members of the LGBTI community (Meyer & Frost 2013: 252). There are numerous scientific studies that point to various disproportionate barriers to employment and discriminatory practices in the workplace towards LGBTI persons (Holman 2018; Pachankis & Lick 2018). Compared to heterosexual

job applicants in a number of quantitative studies and experiments, LGBTI job applicants whose resumes and skills matched the job requirements received fewer interview invitations and were perceived as less qualified (Holman 2018). This leads to financial problems and increases the risk of poverty for sexual minorities. Due to such discriminatory employment practices, they especially suffer poverty-related stress (Pachankis & Lick 2018: 481). In a dominantly hostile social environment such as Montenegro, obtaining employment for LGBTI persons can be exceedingly difficult, as employers will consider them less desirable.

Stressful Experiences

By its basic premise, minority stress implies a social theory of stress and health – and this is understood in the way that as the social context changes, so do stressful experiences, and consequently health outcomes (Meyer et al., 2021). A focus on health inequalities would mean “taking into account differences in disease incidence, disease prevalence and disease mortality and how these differences manifest for different population groups” (Wallace & Santacruz 2017: 178). This is not the case in Montenegrin public policies. At all levels and in all areas of activity, the socioeconomic status of LGBTI persons is not recognized. As a result, deficiencies and differences in status are not considered, minority stress is not recognized, and policies are not determined by such deficiencies in quality and access to health. All this explains and conditions the (forced) invisibility of the Montenegrin LGBTI community, but also why the negative social environment does not change, or changes happen very slowly, proportionally to the invested resources and the passage of a whole decade of government advocacy for LGBTI rights.

Four Conceptual Frameworks

Medical and social science literature have framed health inequalities for LGBTI people in the context of an overall “societal inattention to the unique experiences and health needs of this population” (Balsam 2016: 482). With this in mind the Institute of Medicine (IOM) reviewed four conceptual frameworks: (1) life course perspective (taking into account relevant historical contexts); (2) minority stress model (taking into account experiences of internal and external stressors within the social context and community); (3) an intersectional perspective (considering the interaction of multiple stigmatized identities and the ways in which they affect health); and (4) a social ecology model (considering the various influences on people's lives and how they affect health) (Balsam 2016: 482). The considered models provided different perspectives of looking at health needs, status, and inequality, they complement each other and facilitated understanding of how individuals' identities and experiences interact with their health, health care access, and health care outcomes (Balsam 2016: 482).

UN Agenda and Distributive Justice

The concepts of equality and distributive justice in contemporary normative political theory promote social equality in a way that requires “primary goods to be available to families, to help them meet their basic needs and not hinder or prevent their development and self-realization in terms of freedom of choice” (de França, Modena & Confalonieri 2020: 132). In this regard, means and ends must be satisfied to develop the abilities, activities, and potential

of individuals. The provision of public services that affect the quality of life must also be systematically regulated. In this way, development and better options for individuals are encouraged (de França, Modena & Confalonieri 2020: 132). This requires sustainable public policies in a formal and practical sense that will respect the demands of the local environment (de França, Modena & Confalonieri 2020: 132). In other words, this conceptual framework of Amartya Sen's theory of justice and the overall efforts of the World Health Organization regarding health equity and the right to the highest available standard of health were, among other things, the conceptual basis of the global development framework – the UN Agenda 2030 and the seventeen Sustainable Development Goals (UN: Agenda 2030). The agenda establishes synergy and strengthens the direct and indirect interaction of goals on health outcomes. The intention is for humanity to develop on a sustainable basis and achieve progress in ending poverty, hunger, and inequality, to improve the quality of the environment and prevent its degradation, to achieve better approaches in education and health care, and to make societies fair, peaceful and fair (Saxena et al. 2021). This requires a multidimensional approach to development, cross-sectoral coordination, but also synergy and interaction within and between goals (Pradhan et al. 2017; Kroll, Warchold & Pradhan 2019). Such compromises emphasize the need for innovation and encourage it, with the aim of sustainable progress (Kroll, Warchold & Pradhan 2019).

LGBTI and the School Environment

The minority stress model indicates that LGBTI youth are exposed to numerous stressors in society, including in the school environment. All of these affect their overall ability to thrive and lead to various health problems (Glazzard & Stones 2021). This is also reflected in their direct experiences of prejudice and discrimination due to their sexual orientation, i.e., identity concealment and internalized homophobia because of exposure to such stressors (Glazzard & Stones 2021). Compared to heterosexual peers, research shows that LGBTI students in the school environment are less safe, less engaged, and less respected and valued (Page 2016: 117). Compared to their heterosexual peers, LGBTI youth of high school age (11 to 18 years of age) experience higher rates of bullying, depression, alcohol use and binge drinking, and are at greater risk of suicide (Johnson 2022). In addition to the fact that such situations have a harmful effect on students' attitudes towards school, a negative school environment has a damaging effect on the goals and academic achievements of students, and all of this can lead to poor social and economic stability and power of students in the community (Page 2016: 117). Victimization is only one of the key issues related to psychological and educational risks in the school environment. There are numerous other forms of stigmatization and violence, and it is not enough to only work on anti-bullying policies in schools, but educational authorities are expected to develop a whole set of other means to prevent stigmatizing messages (Page 2016: 117).

Loud Silence

In Montenegro, homosexuality is seen as a deviant and undesirable phenomenon in society. In the absence of relevant research and data, it is logical to assume that the functionality of inclusive education programs for the LGBTI community is developing slowly and that the

programs are determined by “loud silence”. First, it is suggested that the program is conditioned by the power component (see chapter “Structural Sexual Stigma”, on page 27), which is otherwise an important and related characteristic regarding the creation and adoption of educational programs (Page 2016: 118). Numerous studies suggest that heterosexual and cisgender norms are also permeating in schools, through the “teaching silence” about LGBTI identities in teachers' manifestations, through dominantly binary gender identities and heterosexual relationships in teaching materials – all of which are adopted by students as norms in their conversations and activities (Johnson 2022). The lack of research and national surveys on homophobia, biphobia and transphobia in Montenegrin schools is a serious obstacle for teachers and educational authorities to understand the problems and status of LGBTI students. This is important to respond to the real needs and challenges of LGBTI youth, as there are major problems that LGBTI youth face in society. Schools would have to understand and address such challenges in the school environment. The occurrences of homophobic and transphobic bullying, which are systematically ignored and not spoken about, are not rare and harmless occurrences in society and the school environment, and this requires a responsible and innovative approach of the educational authorities in creating a climate for inclusive education. It is also a basic assumption of democracy and democratic education, that the LGBTI community, which is concerned with curricula, has an active role in the creation of such plans and has its voice in it (Camicia 2016: 13).

There is a loud silence in the curriculum that tells all students that there are people in school who do not deserve to be talked about and that even some who are interested in protecting sexual minority youth are willing to use the community agreement on civil silence as protection. [...] Official silence makes schools hostile places for sexual minority youth and any youth perceived to be sexual minority (Maio 2009: 267 and 268; Cited in Page 2016: 118).

Equality, Inclusion, and Transformative Actions

Montenegrin approaches to inclusive education require the transformation of curricula that will be based on the principles of equality, inclusion and transformative action and take into account the multidimensional intersections of the representation of LGBTI topics in curricula. It is necessary to make them fair for LGBTI youth in their outcomes. That is not the case today. Such approaches must be accompanied by national research and surveys, in order to see the real conditions on the ground. Therefore, LGBTI inclusive curricula are a necessity in terms of creating positive, friendly, and safe school environment for all, but also to reduce the effects of minority stress in LGBTI youth (Glazzard & Stones 2021; Page 2016). Researchers argue that the Government's policy of delaying the introduction of LGBTI inclusive education has the potential to increase minority stress among young people (Glazzard & Stones 2021). Also, the absence of LGBTI topics and issues in curricula sends the message that LGBTI people and the issues of this community are unimportant or even abnormal. However, where LGBTI inclusive education exists – students' health, safety and academic achievement are improved (Camicia 2016: 73). Recent research in the UK also

indicates that more than half of LGBTI teachers have suffered from anxiety or depression related to their sexual identity and role as a teacher (Lee 2021). Because of all this, it is also important to improve approaches and make Montenegrin schools a safe environment for LGBTI youth, teachers and their families. Such plans also represent the necessity of an overall social response in relation to the dominant hostile Montenegrin environment and the sexual stigma to which the LGBTI community is exposed in everyday life.

Inclusive Practice

Teachers must have a broader understanding of the LGBTI inclusive environment and experience the benefits of inclusive practice in action (Page 2016: 118). Teachers are expected not only to work on solving peer violence and mistreatment of LGBTI students, but also to support them by integrating LGBTI topics into school and classroom curricula, and to work on establishing equitable practices in the school environment (Page 2016: 118). Therefore, it is necessary to develop research and case studies regarding specific support programs and practices to see how inclusion is established in the Montenegrin education system and how LGBTI topics are included in curricula. How much, for example, does a teacher of literature or physical education integrate LGBTI issues into the curriculum in the classroom or gymnasium.

Data Collection

All considerations in this review point to a wide and almost complete absence of evidence on the actual situation of LGBTI persons in Montenegro. There are no statistics in relation to LGBTI persons generated by the state. The state statistics system is in no way designed to collect data on the LGBTI community. For example, there is no evidence on the socio-economic position of LGBTI people. It is not possible to monitor or investigate the structural causes of poverty of the LGBTI community, neither it is possible to monitor the social determinants - and relatedly, the conditioned processes in the labour market, social protection systems and households that interact to create and maintain this lack. There are also no individual state analyses and studies on key perspectives such as health inequalities. For example, if the Institute for Public Health considered and researched how overall social neglect, hostility and exclusion affects the health and health needs of the LGBTI community. The lack of basic statistical data, as well as important state analyses and professional considerations completely limit the different perspectives of viewing the status and social inequality of LGBTI persons, but also their health needs and access to health, access to education, employment, justice and understanding the life experiences of the LGBTI community.

Systemic Approaches

Without adequate statistical data, it is not possible to work efficiently and systematically to improve the quality of life of the LGBTI community. It is not possible to make informed decisions, but also to measure approaches without them being based on indisputable evidence. It is not even possible to undertake activities without them being reliable and efficient. It is not possible to respond to crisis situations, nor to measure the effectiveness of

the government's LGBTI strategies. The lack of basic statistical data in the ten-year government's efforts best shows the state's attitude towards the LGBTI community, but also explains the reasons for the slow changes. Or changes that do not happen at all, without affecting the real quality of life of LGBTI people. Some progress has been made. However, the lack of statistical data and the systematic denial of the existence of the LGBTI community par excellence suggest heteronormative ideology and heterosexual assumptions as the reasons, and clearly indicate that it is not enough to simply adopt laws that in the essential sense do not or cannot be applied in practice without appropriate systemic measures and data. This review in all presented chapters clearly points to such systemic shortcomings and suggests that the current practice in government approaches regarding LGBTI issues is abstract, wrong, and methodologically unclear and/or incomplete - and without a clear vision, which can lead to the waste of resources based on assumptions and/or wrong conclusions.

Multidimensional Approaches

To understand the context of real life and the discrimination to which the LGBTI community is exposed to at every turn, the state must recognize in its policies the different dimensions of inequality that affect LGBTI people and define different cross-sectoral assessment methods. Such government approaches are conditioned by the methodology of the General Secretariat of the Government of Montenegro (Regulation) which is not applied at all. Despite the fact the methodology requires that programs and goals must reflect the reality faced by LGBTI people for policies to be enforceable and legitimate, all of this is not the case today. LGBTI issues are excluded from multidimensional methods and approaches, and the real-life experiences of LGBTI people are, instead of inclusion, subordinated to exclusion from the society and to the denial of various negative social influences. In this way, the LGBTI community does not have the understanding of the Government to express dignity, nor the opportunity to express the perception of its own survival.

Real Factors

LGBT Forum Progress will insist on a broader understanding of poverty within the scope of the Government policies. This includes advocating for urgent interventions by various government approaches to support the LGBTI community, which must take into account the real factors of structural stigmatization and discrimination caused by daily pressures, violence, prejudice and loss of quality of life, on one side, and overall negative social realities, hatreds and stigmas that emphasize the "idea of deprivation" and inadequate approach on the other. Social problems must be recognized in governance, while poverty, inequality, authoritarian rule and lack of understanding and tolerance have increased repercussions on the quality of life of the LGBTI community.

Health should be viewed and understood as the main social resource and wealth, and Montenegrin health policy should be based on the values of the World Health Organization and real, authentic interpretation of definitions. Health policy should recognize real social and political weaknesses in society, and include social, demographic, epidemiological and financial challenges, clearly define vision, priorities and access to health (for all) (Kojicic 2021a).

ii Predatory Culture

Predatory culture conditions the systemic inequalities and creates poverty (Mohan 2011: 3). Transformative social policy is viewed as a vehicle of progressive change that is vital to achieving social democracy, free from ideological dogmas of power (Mohan 2011: 3). Public and social policies, however, determine the contents and counters of developmental processes (Mohan, 2011: 4). A society that thrives on its neurotic trappings that sustain inequality, insecurity, and inhumanity in various forms of cultural stratifications and patterns is a predatory system that incubates the poverty of culture. The structure and the dynamic of such social design is reflected in institutional predation (stability vs. chaos) axiological inequality (morality vs. anarchy) and cognitive arrogance (knowledge vs. ignorance) (Mohan 2011: 11). The dynamic of this relationship is based on both rational (conscious) and irrational (unconsciousness, frustration) motivations, and their dimensions create “cultural dissonances” that cause patterns of behaviour against social expectations (stability, morals and knowledge), generate instrumental opacity, narcissistic repression and ideological breakdown, and evolve into a symbiotic bond of organized dysfunction, rewarding wickedness at the expense of virtues (Mohan 2011: 11).

iii Governmental Approaches

When speaking about government approaches, then “approach”, as a terminological determinant by definition, encompasses four basic elements, namely: availability, acceptability, affordability, and information (de França, Modena & Confalonieri 2020: 132). **Availability** consists in the “existence or non-existence of the service in the appropriate place and at the time it is required”. In this way, it broadly encompasses the geographical and physical relationship of institutions in relation to the individual’s need. **Acceptability** reflects the population’s perception of services. **Affordability** refers to the price of services and individuals’ purchasing power, including the possibility of paying for the direct or indirect costs of service provision. **Information** refers to the knowledge that allows the services to be used. Information is required in adequate quality and quantity for people to be able to enjoy the service network and use it sufficiently and in a way that allows them to resolutely fulfil their basic needs (de França, Modena & Confalonieri 2020: 132).

The LGBTI shelter was closed in early 2022 due to a lack of government support. During the full decade of its operation, the shelter served 235 LGBTI persons who were rejected by their families and who were economically dependent. The Shelter was their only refuge and livelihood. Ignorant attitude and dysfunctional public policies caused the Shelter to close, and this kind of support was taken away from the LGBTI community. The community was

humiliated by its own state. All this in the processes of “deliberation” (in reality: simulation) which are represented by “concern about inclusion”. There are ongoing problems with the unavailability of hormone therapy for trans women, women who have had their uterus removed, and women who have gone through menopause. The government of Montenegro is silent on all this, and government policies that promote “everything for the LGBTI community” continuously confirm dysfunctional approaches, shortcomings and confirm to be a dead letter. In the absence of state care, the affected women, due to their physical and mental health, are forced to pursue therapy through illegal means and at very high prices (Maksimovic 2021). Therefore, doctrinal definitions and approaches, as well as basic elements - about availability, acceptability, accessibility, and information related to services do not exist. Taken together, these conditions represent a denial of the right to social justice (de França, Modena & Confalonieri 2020: 132). This also conjures the Montenegrin concept of inclusion but also the understanding of poverty, cross-sectoral conditioning, and connectivity, as well as the real problems of LGBTI people by the government.

1. Justice Reform: Protect LGBTI Rights

“Pollution” and “purity” sustain each other. Anthropologically, caste is based on this notion of “pollution” (Mohan 2011: 100).

Despite non-discrimination laws that expressly prohibit discrimination based on sexual orientation, social and legal protection for the LGBTI community is not being achieved. The data does not exist, the judicial practice does not exist, and everything looks “perfect” on paper. Therefore, we must ask ourselves whether the conceptual approach to the rule of law is threatened by the disagreement of the dominant majority, which postulates how, and which law can rule, if those who pass and apply it, 66% of them, have extremely negative attitudes towards LGBTI people? Or the universality of human rights is just a myth, with rights respected differently in different countries (Casese 1999: 152) – and in Montenegro for the LGBTI community they exist only to the extent that the dominant majority recognizes them, and in a way that case law does not recognize them. In doing so, the state fails to properly interpret legal standards and take appropriate measures and policies, respecting the concepts of the rule of law, social justice, social cohesion and basic democratic principles, standards, and processes (Kojicic 2021: 183).

Scientific research, studies, and practice, however, indicate the opposite. Discrimination, harassment and violence or threat of violence (DHV) as behaviours stemming from homophobia, biphobia, and transphobia, themselves premised on hetero-cisnormative social structures, institutions, and practices (Bayrakdar & King 2021: 4). In Montenegro, 66% of the population believes that LGBTI people are sick, mentally disturbed and should be medically treated. (Besic 2020: 34 i 35, cf. Kojicic 2021: 183). Such a social environment creates the most serious obstacle for LGBTI people to live freely and exercise their rights (Kojicic 2021: 183). If we compare this data to the one of United Kingdom, 66% of the population thinks sexual relations between same-sex adults are not wrong at all, and 50% think that homosexuality is justifiable (Bayrakdar & King 2021: 6). OECD report which uses comparable data from the European Social Survey, suggests that more respondents in Germany (around 60%) think that homosexuality is justifiable (Valfort 2017; cf. Bayrakdar & King 2021: 6), while the overall number of 88% German respondents were partly or entirely in favour of marriage equality in Germany months before it was granted (Kupper et al. 2017; cf. Bayrakdar & King 2021: 6).

Understanding human rights is seen as a precondition for their advancement. This implies a structured framework of activities that will focus on the concepts of “respect, protection and fulfilment” of human rights (Karp 2020). Respect means “do no harm” in a political context, while protection means empirical functioning, that human rights are respected and based on the responsibility “not to dehumanize”, rather than exclusively on the duty to do no harm.

(Karp, 2020). All the above involves the consideration of each person as moral equal, and moral agents are in the core of judgement and the elevation of human rights practice as the basis for political responsibility (Karp 2020). The arguments presented have a direct implication in terms of understanding the legal order, doctrine and practice of human rights in Montenegro – in terms of the authorities' ability to translate and embed into practice the conceptual meanings of the terms: “respect”, “protect” and “fulfil”, and to include LGBTI persons as morally equal in society. All of this is not the case within the Montenegrin approach and public policies aimed at the LGBTI community in Montenegro. In the ILGA-Europe Rainbow Map for 2022, which measures the realization of LGBTI human rights, Montenegro is in eighth place and records an overall score of 63% success. Germany and the United Kingdom are six and seven places lower on this map, respectively, and their success rate is 53% (ILGA-Europe: Rainbow Map 2002). The Netherlands also lags significantly behind Montenegro (by five places) with an overall score of 56.39% (ILGA-Europe: Rainbow Map 2002). However, this should be interpreted as a cultural phenomenon of a political nature that Montenegro, with 66% of the population that is extremely negative towards LGBTI people, managed to surpass the legal protection mechanisms and social values of LGBTI rights in relation to Great Britain and Germany (as well as the Netherlands), whose population predominantly supports the LGBTI community and whose efforts are globally recognized as examples of community support.

Finally, for the LGBTI community, the respect of human rights constitutes hope, which is to say a “fulcrum of possibilities of hope beyond despair” (Mohan 2011: 182). Access to human rights is fundamental to the creation of a civil society (Mohan 2011: 182), in terms of hope, but also a basic condition for the existence of the LGBTI community in such a pronounced hostile Montenegrin social environment. The rule of law and social change must be the only constant, and government advocacy and approaches in public policies must be transformed to become progressive – towards societal transformation that will follow the multifaceted demands of human rights and the needs of the LGBTI community and be focused on solving our real problems.

1.1 Political Culture

Human and social development is conditioned by political culture, and politics is the bearer of all development processes (Mohan 2011: 47). Models of transformation in a society and its overall development, whether progressive or regressive, are conditioned by politics in terms of different structural and normative patterns that will determine human and social existence (Mohan 2011: 47). In Montenegro, rights for LGBTI people exist (on paper) but not the meaning and essence of the rights thus created. Where the right loses its intention, it also loses its meaning (Hydén 2008). All this is in direct correlation with the rule of law and key derived principles, that the rule of law is a durable system of laws, institutions, norms, and community commitment that delivers (WJP 2021). This includes *accountability* of all to the law, *fair laws* (which are clear, published, and stable and which ensure human, procedural, and other rights and equitable enforcement), *open government* (that administrative processes are accessible, fair, and efficient), *accessible and impartial justice* (competence, ethics and

independence of representatives who deliver justice to the community they serve in a timely manner) (WJP 2021). Therefore, it would be bad if the models of social transformation were still conditioned by structural-normative patterns and protection mechanisms that will exist only on the ILGA Europe Rainbow Map, without the essential and real impact of such solutions on the legal, social, and human existence of LGBTI people in Montenegro.

1.2 Deliberation

The World Justice Project (WJP) points to research that the rule of law is linked to economic growth, greater peace, less inequality, better health outcomes and more education, and that the basic foundations of the rule of law are based on justice, opportunity, and peace, as preconditions for development, responsible government, and respect for fundamental rights (WJP 2021). Additionally, they also emphasize, everyday issues of safety, rights, justice, and governance affect us all; and that in this manner everyone becomes a stakeholder in the rule of law (WJP Rule of Law Index 2021: 13). However, all this is not reflected in our policies. Public consultations, in the way they are conducted, do not represent the concept and standards of deliberation, but consist of the mere presence of us as actors in the act of consultation and are combined with the ideology of power. According to the findings of LGBT Forum Progress, within the process of consultations it is expected to respect pre-determined political views. Otherwise, the ideology of power can influence us to be labelled as an “enemy of the state” or as a “conflict and disruptive factor” of non-existent synergies and alleged deliberations.

1.3 Confusion or Social Change

The manners in which the Government treats LGBTI issues and why societal processes remain often confused in a state of flux, are nothing but evolutionary expressions of various forms of violence and decades of suffering of the LGBTI community. Violence refers to a wide set of conditions that inhibit the development of individuals' life chances. Barriers refer to social rather than natural.: “If people are starving when this is objectively avoidable, then violence is committed” (Giddens 1999: 246; cf. Kojicic 2021: 184). Despite the advancements LGBTI issues remain unsolved. Political, human, and social (predatory) anomalies, and the complexity of behavioural patterns confound this deadly condition. The community continues to suffer. Real disenfranchisement still persists. The community is at a high and disproportionate risk of poverty compared to heterosexual people. Maybe the laws have been passed, maybe we are among the best on the ILGA-Europe Rainbow Map, maybe we have changed strategies and become leaders in EU integration – but respect, protection and fulfilment of human rights, as well as (non) acceptance of the Government to be morally equal in society, still remain as serious societal challenges and require urgent revision and reform of the judiciary and public policies in access to justice for LGBTI people.

2. Same-Sex Partnership Law*

The problem of the completeness of a legal system is linked with that of extra-statutory analogy (“analogy extra legem”), where legal consequences are ascribed to facts, which are not singled out in enacted legal rules. In interpretation, there is a problem of using analogy intra legem, where one does not go “outside the valid law” but only tries so to fix the meaning of the legal rules that they constitute the most harmonious whole possible. Thus, interpretation by analogy is singled out according to the reasoning it uses (Wróblewski 1992: 103; Quoted in Damele, 2014: 245).

The Law on Life Partnership of Persons of the Same Sex exists. The norm also exists, but to a significant extent the rules are not precise and exist as an abstract phenomenon and dilemmas about how to apply them. Such situations are doctrinally conditioned by legal gaps because the state has not clearly regulated the requirements of legal relationship (in subject). The logical syllogism invoked by the Law is not sufficient, nor is it a guarantee of legal certainty. This view should not be automatically understood as an exclusive impossibility of applying such norms, but as par excellence certainty about the unpredictability of supplementing norms by supplemental rules. That is the problem, because uncertainty is set as a solution, which should be shown by application – until a certain norm (the statutory analogy) provides a solution to fill in legal gaps (provide a solution). So, to the detriment of the LGBTI community. However, it is already (doctrinally) evident that without prior harmonization of laws, some approaches in exercising granted rights will not be possible.

The Constitution of Montenegro, stipulates that marriage is only a union (of a free consent) of a woman and a man, calling them spouses (Article 71). In the “Family” section, the Constitution uses term “parents”, who take care of their children, to bring them up and educate them (Article 72). The Family Law governs marriage and relationships in marriage, the relationships between children and parents, the adoption ... and the actions of the authorities in connection with marriage and family relationships (Article 1). The family is a community of living consisting of parents, children and other relatives who have mutual rights and obligations, as well as the other basic community of living in which children are raised and cared for (Article 2). In contrast, the Law on Life Partnership of Persons of the Same Sex (in Article 4) prohibits all forms of violence in the union of same-sex partners, which will be achieved in accordance with the Law on Domestic Violence Protection. In Article 31, in terms of annulment and termination of a life partnership the provisions will apply accordingly to the law governing family relationships. In Article 31, in terms of annulment and termination of a life partnership the provisions will apply accordingly to the law governing family relationships. According to Article 32, same-sex partnerships of Montenegrin citizens concluded in

* Published opinion of the author in the daily newspaper Vijesti (Kojičić 2022: 19), June 7, 2022.

Montenegro or in another country, as well as partnerships of foreigners concluded in Montenegro, will be entered into the registry of same-sex partnerships. In Article 65, the provisions governing family relationships will apply accordingly to joint property. Regarding inheritance (Article 66), the provisions of the law governing inheritance shall apply.

All this and much more the legislator left “unfinished”, casting aside (for interpretation) “to be applied accordingly” by competent and judicial bodies – for which the European Union in the last report from 2021 assessed that effective implementation of the law remains a challenge (...), and the vulnerable groups survive multiple forms of discrimination and difficulties in exercising their rights in administrative and judicial proceedings (EC Montenegro Report: 5).

Models designed in this way, to be applied accordingly, on the application of important laws, comparing to similar or identical legal situations (such is a marriage law) do not exist. However, this was not a barrier to be done towards same-sex unions. But this reflects serious disagreements, as well as an infantile and inferior behaviour of the authorities towards the LGBTI community.

2.1 Legal Theory

Legal theory distinguishes between statutory analogy (*analogia legis*) and legal analogy (*analogia iuris*). The first one is considered an “interpretive argument” in relation to a similar case for which no legal norm exists (Damele 2014). In terms of Montenegrin law this would mean “provisions that apply accordingly”. However, *analogia legis* is a complex concept. In terms of interpretation, it also absorbs extensive interpretation, as to extend the meaning of one or more legal terms, to cover a new case (Damele 2014: 244). In the context of criminal law or tax law or civil law, the doctrinal understanding is different, making a clear distinction between analogy and extensive interpretation (Damele 2014: 244). Extensive literature points to differences between analogy and extensive interpretation, as well as between the logical and argumentative structure of the argument and its soundness, rationality, or reasonableness (Damele 2014: 245).

2.2 The Legal and Lay Model

A failure to recognize the argumentative disjuncture between “the legal and lay models” places responsibility for many political, doctrinal, and philosophical controversies and paradoxes on discrimination and on discrimination law, but also imputes to the stark divergence between the scope of discrimination and the extent of its wrongfulness (Khaitan 2015: 4). This is pointed out by Tarunabh Khaitan, the professor of public law and legal theory at the Faculty of Law at the University of Oxford, who further underlines that: “The divergence between the legal and the lay models is large enough to require explicit justification of the assumption. Otherwise, there is the danger that we end up converting a moral debate into a linguistic one – for, once the assumption is made, everything that lies outside the central case must either be justified as its logical extension or stand condemned as linguistically insupportable and possibly illegitimate” (Khaitan 2015: 5 i 6). And that is exactly what happened to us with the conception of this Law. It is a layman's opinion that the norms do not

represent a logical whole, they are not defined as clear and enforceable by their character but are filled with other norms according to a “consistent” and “harmonious” interpretation. The absence of demarcation indicates that the law by its design is not harmonious, unique, clear, logical, and connected as a whole, instead the logical continuation of its assumption is unpredictable, and the solutions may become illegitimate (in practice). Therefore, there is no explicit justification for such an assumption.

2.3 Heteronormative Incivility

Argument which imposes itself is that such a legal conception arose as a political response of balanced reality (of the public) about the moral advantages between understanding European values, on the one hand – and (political) aspirations and visions of how (it) should (to) be in relation to the attitudes of the same public, on the other. After five years of work, the legislator offered “unfinished” rules. This shows also that the proposer (of such rules) is seriously confused to dare to explicitly express the solutions for which they are striving. It is no longer politically miraculous why such a law would not have happened in the second round of voting without strong international pressure. The absence of legal doctrine and methodology, political (lack of) culture and (in)decency are not values that can determine mutual success. In this way a moral debate about our future we have turned into a “rotten egg(s)”, i.e., linguistic (aspirations) of empty populist promises.

3. Poverty Reduction

The poor live in such a structural situation in society that itself a main cause of poverty, more so due to institutional discrimination, entrenched in the usual ways of doing things, predominant outlooks and expectancy, and recognized structural preparations (Eitzen, 2000: 200; Quoted in Panday 2020: 32).

In Montenegro, there are no statistical data related to LGBTI people that are generated by the state. The only thing that exists as limited sources, or in ad hoc programs, is the data of LGBTI organizations, where this and similar data are collected according to the sources of various problems. Such a reality and the absence of a state vision for socioeconomic indicators in relation to the LGBTI community directly conditions the economic dimension of poverty. This refers to a lack of resources needed to lead an acceptable life, have a decent standard of living, or meet basic needs (G. F. R. Ellis 1984; SIDA, 2017; cf. Gweshengwe & Hassan 2020: 1768669). Economic deprivation also refers to a lack of employment or having a low-paid, irregular, and insecure job (Hulme & McKai 2007; cf. Gweshengwe & Hassan 2020: 1768669). It could also refer to a lack of access to business or entrepreneurial opportunities (Gweshengwe & Hassan 2020: 1768669). It is therefore clear, that the approach to employment and the workplace position of LGBTI people must reflect as a multidimensional concept involving situations and bonds marked by contexts of social inequality. This is what the UN Agenda 2030 and the Sustainable Development Goals require from the state, which are not applied purposefully, and the goals are not connected and harmonized. In this way, the UN Agenda is not implemented according to its authentic interpretation.

Marginality, helplessness, dependency, and a deep sense of exclusion permeates the poor's psyche (Lewis 1959, 1961, 1975; cited in Mohan 2011: 10). These are all attributes that unequivocally characterize the LGBTI Montenegrin community. The concern is justified, but in Montenegrin circumstances it has been reduced to the idea of science fiction. The livelihoods of most members of the LGBTI community are seriously threatened. Many members of the community are forced to work without insurance and adequate protection, while in such a negative social environment it is easy to assume that "for gays" employment opportunities are very limited. In all this, there is not even a welfare system i.e., programs that would be designed to help the community. Such a situation deprives the LGBT people from different amenities of life including education, health, and sanitation, and this, according to Eitzen develops an institutional structure which pushes people into poverty and is the main cause of poverty (Panday 2020: 33).

The doctrine indicates that the culture of poverty is reinforced by the support received in the social protection system (Panday 2020: 32). By failing to address the real

problems, the Government is pushing the LGBTI community into even greater poverty. Specific needs and real problems are not recognized. The state does not understand or does not want to understand the concepts of intersectionality, inclusivity, social justice, and equity, and achieve social balance in accordance with real circumstances.

3.1. Cultural Problem

Poverty is largely a cultural problem in determining “what is, or what should count as, inadequate social functioning” (Jackson 1972: 13). This includes various aspects of social life, and the most important are employment, household maintenance and engagement in satisfying personal and social relationships (Jackson 1972: 13). Researcher from the University of Cambridge, Dudley Jackson, emphasizes that when these aspects of life are in danger, a person can be considered to be living in poverty (Jackson 1972: 13). Although the definition of poverty is not primarily limited to these premises, but to the widespread consequences of material poverty, this approach to problem definition explicitly explains the strong influence of intersections on the very pronounced dangers and risks to poverty for the Montenegrin LGBTI community.

3.2 Feeling of Exclusion

The Functionalist Theory, as the oldest and dominant theory can be particularly useful in terms of understanding and illustrating the poverty of the Montenegrin LGBTI community. This is especially true of the ideological realization of alleged justice and impartiality for all in society, but also in the application of ontology to differentiate between individual organizations and society. Thus, political, functional, and institutional shortcomings, an ignorant attitude, and a lack of vision in management led to the closure of the LGBTI shelter in early 2022. LGBTI communities, which need this type of existential assistance, have been left without key programs of necessary and substantive protection: physical, psychosocial, legal and any other. More importantly, Functionalism emphasizes a concern about employment opportunities and the wage gap between individuals (Panday 2020: 31).

3.3 Inequality, Insecurity, and Inhumanity

Stigma influences many critical life domains which are related to the social determinants of health, such as housing, employment, education, interpersonal relationships, and health care (Major et al. 2018: 4). Besides the fact that stigma induces stress and exclusion through the processes of “enacted, felt, internalized, and anticipated stigma”, these forms also elicit affective, cognitive, behavioural, and physiological responses which, down the line, negatively impact health (Major et al. 2018: 4). All of the above has severe consequences and increased risks of poverty for the LGBTI community, and it seems that da je the real explanation for why the Montenegrin LGBTI community is poor is that they made the mistake of being born as such, in the wrong country, in the wrong concept of governance and socio-economic thinking based on neurotic traps of inequality, insecurity and inhumanity.

4. Access to Employment

Large levels of inequality divert effort and hence productive resources away from growth and development and towards distributional matters. Opportunities for growth, and the development of the society in general and of some people in particular, are reduced. However, some levels of inequality may be necessary to maintain incentives (Johnson 1996: 5).

Montenegro does not have well-established inclusive workplace policies aimed at protection and gaining leverage based on sexual orientation diversity in the workplace. Tackling poverty requires reconsideration of not only quantitative factors related to “who” is poor and by “how much” they are poor, but also qualitative factors addressing what the situation of poverty means in the lives of these individuals (de França, Modena & Confalonieri 2020: 132). Based on the general available statistical data, economic parameters, as well as available research on the position of the LGBTI community in Montenegro, where the dominant majority of citizens (66%) share extremely negative attitudes towards LGBTI people, it is clear that the poverty of the community is not determined only by quantifying aspects of inequality within the population, such as income, education, health and housing, but mainly of gaining understanding of “how” and “why” such disparities influence the LGBTI community, including the hostile societal environment. Therefore, it is necessary that government policies at all levels highlight the imperatives for establishing appropriate support programs in relation to the real-life problems and needs of LGBTI persons. In this way, the state will recognize the real status of the LGBTI community, which is a hostile environment, violence and pressure caused by structural stigma, violence, prejudice, and loss of quality of life. The literature also points to researchers who suggest that legislation alone may not be enough to alter „the intolerant social and cultural atmosphere that opposes the existence of LGBTI employees in the workplace (Wang & Schwarz 2010; cf. Ozeren 2014: 1212). These attitudes best illustrate the Montenegrin reality, following the passage of legislation aimed at sexual orientation equality in the workplace, but the effects of practice remained in the declarative shadow of the complete limitation of the application of such rules – on all levels.

Social problems must be recognized in the processes of governance, as poverty, inequality, authoritarianism and lack of understanding and tolerance have increased repercussions on the quality of life of LGBTI people. The debate on the concept of poverty must be based on cross-sectoral approaches and the mutual coherence of such policies, and this refers to many more disturbing factors than income deprivation. Resolving the situations of deprivation of access to the items necessary to live a dignified life, which include aspects such as freedom, education, health, rights, employment, and quality of life (de França, Modena & Confalonieri 2020: 132) are coherent and mutually conditioned. In the economic dimension of resources, human capital like implies educated, skilled and healthy people (Brand 2002; F. Ellis 2000;

SIDA 2017; cf. Gweshengwe & Hassan 2020: 1768669). LGBTI persons do not have such a chance in accessing employment in a hostile environment in Montenegro today. In addition to *human capital*, resources also include *environmental capital* (land, clean air and water, forest products and fish stocks) and *physical capital* (infrastructure and productive assets). Given the overall hostile environment, as well as contexts of high exposure and risk of poverty for the LGBTI community, all these resources are equally limited for the largest number of members of our community. Compared to the parameters of other countries where there are data on this, it is to be expected that in Montenegro there is a (proportionally) significantly higher degree of discrimination against LGBTI persons in access to employment and in the workplace. It is a taboo topic that is not talked about.

Therefore, the LGBTI community demands that the state consider the real opportunities and needs of LGBTI persons, which are still not fundamentally reflected in the expected support mechanisms in government programs. Only an adequate and responsible approach to this can open the way and provide guidelines for the establishment of clear priorities for the implementation of public policies (de França, Modena & Confalonieri 2020: 132). LGBTI community expects that the state shows a commitment and harmonize the various public policies related to the described intersections – social, economic, educational, environmental, health, investment, and human rights policies. Each of these policies and their effects must be directed to the LGBTI people, and policies need to coexist in relation to access to employment and the workplace.

4.1 Discrimination and Employment

Researchers have identified workplace policies and practices that discriminate against members of the LGBTI community (e.g., hiring practices, organizational discrimination policies, etc.) as well as incidents of verbal and physical aggression directed toward LGBTIs (Sheridan et al. 2017). Moreover, scholars have argued that the workplace discrimination suffered by sexual minorities is also likely to be subtle and covert due to the nature of heterosexism and homophobia, which is often implicit (Waldo 1999; Ragins and Wiethoff 2005; Sue 2010; cf. Zurbrugg & Miner 2016: 565). Zurbrugg and Miner identified that sexual minorities may be at risk for experiencing subtle maltreatment in the workplace, and around education and cultural studies (Zurbrugg & Miner 2016: 565). Renowned scholars have argued that anti-LGBTI harassment is the product of a heterosexist/homophobic society (D'Augelli & Grossman 2001; Herek 1987; Rie & Meanei 2010; Silverschanz, Cortina, Konik, & Maglei 2008; cf. Whitfield et al. 2019: 238). LGBTI individuals experience higher rates of harassment than their heterosexual counterparts (Whitfield et al. 2019: 237). For LGBTI adults aged 60 or older, researchers found high rates of lifetime assault, with verbal and physical attack rates as high as 66%. These estimates cover a wide range of locations in which LGBQ adults encounter harassment (e.g., in public places, at work) and by different perpetrators of harassment (e.g., civil servants, family, friends) (Whitfield et al. 2019: 238).

4.2 Disparities and a Hostile Environment

The comprehensive systematic literature review points out that LGBTI employees face a variety of problems and challenges in the workplace that range from being forced to remain closeted to actual job dismissal (Ozeren 2014: 1203). Literature review also suggests that organizational heterosexism and homophobia are obvious phenomena that pervade the workplace which elicits unequal, unjust, and dehumanizing treatment of LGBTI persons, due to which most of this community exhibits the tendency of remaining “in the closet” (Ozeren 2014: 1204). In comparison with heterosexual employees, the career prospects of LGBTI employees can become extremely difficult if other workers found out about their sexual orientation. On the other hand, Discrimination and harassment, or fear of those experiences, negatively affects the wellbeing of employees, which leads to poorer health, decreased job satisfaction, and decreased job commitment, among other negative outcomes. These employee outcomes can have economic consequences for employers (Sears, Mallory, Flores & Conron 2021: 23).

4.3 The Persistence of Discrimination

Numerous analysis and studies throughout the world point out that employment discrimination against LGBTI people continues to be persistent and widespread. The latest study by the Williams Institute of the UCLA School of Law, from 2021, which included the time of the Covid-19 pandemic, shows that 45.5% of LGBTI workers reported experiencing unfair treatment at work, including being fired, not hired, or harassed because of their sexual orientation or gender identity at some point in their lives (Sears, Mallory, Flores & Conron 2021: 5). The study emphasizes that the trend of discrimination and harassment of LGBTI people in their access to employment and work continues: 37.7% of LGBTI employees reported experiencing harassment at work (Sears, Mallori, Flores & Conron 2021: 5). 35.6% of LGBTI employees of colour experienced verbal harassment at work compared to 25.9% of white LGBTI employed faced the same time (Sears, Mallori, Flores & Conron 2021: 11). 8.9% of LGBTI employees experienced discrimination in the past year (Sears, Mallori, Flores & Conron 2021: 13). 11.3% of LGBTI employees of colour reported being fired or not hired in the last year (Sears, Mallori, Flores & Conron 2021: 3). 57.0% of LGBTI employees reported the unfair treatment was motivated by religious beliefs (Sears, Mallori, Flores & Conron 2021: 14). 50.4% of LGBTI employees are not open about being LGBT to their current supervisor and 25.8% report that they are not out to any of their co-workers (Sears, Mallori, Flores & Conron, 2021: 19). 34.2% of LGBTI employees said they left their job because of the way they were treated by their employer (Sears, Mallory, Flores & Conron 2021: 24).

5. Structural Sexual Stigma

Within social institutions and ideological systems, stigma creates and legitimizes inequalities of power and status. Such structural stigma “is formed by socio-political forces and represents the policies of private and governmental institutions that limit the opportunities of stigmatized groups” (Corrigan et al. 2005: 557; quoted in Herek 2010a: 13).

The Montenegrin LGBTI community lives in a dominantly hostile social environment. Nonheterosexuality is deviant and is not desirable within the society. LGBTI people are exposed to daily pressure, harassment, discrimination, and violence, and in the eyes of most of the population they are still seen as sick, unnatural, and immoral. Such an environment directly affects the behaviour and thinking of sexual minorities (Ong et al. 2021: 97). High level of internalized homophobia negatively affects the development of gender identity, but also creates greater difficulties in the process of self-discovery (Duc et al. 2020). The negative effects of stigma and widespread prejudice and discrimination leave multidimensional harmful consequences for the well-being of the LGBTI community, but also for the overall democratic and economic development. All this is conditioned and reinforced by the traditional cultural model of Montenegrin masculinity, which is based on the tribal structure of society (Banovic, 2016: 188) – but also on the effects of subtle heterosexism upon which the social institutions and governance are built.

Heterosexual bias is reflected in the demonstration of institutional power and the emphasis on the heterosexual assumption, that heterosexuality is assumed to be normal and natural, and when differences in society become visible, homosexuality is problematized as a deviation and explanations are sought (Herek 2010a: 13-14; Herek 2010b). This is the case with the political opposition to the adoption of the same-sex life partnership law, which was first disputed by the Parliament of Montenegro, and later adopted under intense pressure from the international community. The dominant political majority publicly questioned the binding rules of practice of the ECHR, including political subjects – who today the bearers of Montenegrin anti-discrimination policy are. Heterosexual bias is also reflected in the fact that even after a decade of efforts, there are still no national surveys which in any sphere of research includes gay and lesbian individuals and same-sex couples (Herek 2010a: 14). In this way, the state effectively denies the existence of the LGBTI community and limits the scope of its own policies, as well as the necessary support for various programs and services.

Over time, significant attention in the world has been devoted to documenting negative attitudes and behaviours directed towards LGBTI people. Research shows that prejudice and discrimination against LGBTI people are widespread and have negative consequences for the “physical and psychological well-being of members of sexual and gender minorities”

(Morrison et al. 2019: 549). There are numerous studies that confirm the effects of stigma in creating health disparities between members of privileged and vulnerable (marginalized) social groups (Major et al. 2018). The processes that occur cause harmful consequences for health, lead to stress and accompanying affective, cognitive, behavioural, and physiological responses at the individual level, but also exclusion from important domains of life at the level of society and community (Major et al. 2018). There is not a single word about all this in the Montenegrin health policy, nor in other public related policies. Social determinants are not defined at all, and they are neither visible nor reflected in public policies.

Heterosexual bias is also reflected in the fact that there is no proportionate and adequate judicial practice for the protection of LGBTI human rights. The European Commission in the last report on the progress of Montenegro, from October 2021, points out that the access to justice, in particular for vulnerable groups remains to be improved and that fundamental rights challenges remain in effective implementation: "Vulnerable groups continue to experience multiple forms of discrimination and difficulties in exercising their rights in administrative and judicial proceedings" (EC Montenegro Report: 5). The European Commission points out that there are still no significant improvements in terms of "homophobic incidents, threats and discrimination, as well as in terms of access to health care, justice, employment and housing" for the LGBTI community (EC Montenegro Report: 36). Heterosexual bias is also reflected in the fact that the state adopted the Law on Life Partnership of Persons of the Same Sex and left a large number of legal gaps (in the doctrinal sense). Such "gaps" are not the case in procedures regarding the adoption of other laws of the same or similar importance. Moreover, even after two years of its adoption, the state has not harmonized the necessary secondary rules for the smooth implementation of this Law. The law exists, the norm also exists, but to a significant extent the rules are not precise and exist as an abstract phenomenon and dilemmas about how to apply them.

All of this reflects serious disagreements, as well as an infantile and inferior behaviour of the authorities towards the LGBTI community. Also, "subtle heterosexism" in public administration is recognized, as well as latent dysfunctions of heterosexual bias that lead to inconsistencies in the functioning of procedures and public policies. Such an effect shows an example of a policy that was created to do good, while at the same time causing harm in functioning, development, and cohesion – in a way that the LGBTI community is kept invisible in most social situations, and the solving of real problems is absent.

5.1 Heterosexism

Heterosexism as a term in literature was first introduced by Morin S.F. and describes it as "a belief system that values heterosexuality as superior to and/or more "natural" than homosexuality" (Morin 1977: 629). This can be understood as beliefs and attitudes that do not equally value the lifestyles of the same and different sexes but assume that heterosexuality is a social and cultural norm, but also on prejudices about the social and cultural superiority of heterosexuals compared to homosexuals. At the level of social ideology and institutional patterns of behaviour, structural sexual stigma, also called heterosexism,

“creates and legitimizes inequalities of power and status” that limit the opportunities of stigmatized groups (Herek 2010a: 13; Herek 2010b). The conditions that lead to these reactions describe both terms more precisely. Thus, in the case of homophobia it is fear, while with heterosexism it is “shared beliefs” (Rye & Meaney 2010: 158). Both terms, homophobia and heterosexism describe general negative reactions to homosexuality. Non-heterosexuality is deviant and not desirable, and heterosexuality is implied – it is a “subtler concept” than homophobia and defines heterosexual bias (Berkman & Zinberg 1997: 320). Therefore, heterosexism is often manifested by people from whom we would not expect it or consider it obvious, which is why it is emphasized that this kind of “subtle heterosexism” is conditioned by the culture on which social institutions and the practice of social work are built (Berkman & Zinberg 1997: 320). Professor Gregory M. Herek, who is an internationally recognized authority on prejudice against sexual minorities, anti-gay violence, and AIDS-related stigma, defines sexual stigma as a particular manifestation of stigma (Herek 2010a: 13). According to him, stigma implies a negative attitude of society and an inferior status (of the same) society towards members of a certain group or category and is conditioned by culturally shared knowledge about it (Herek 2010a: 13).

5.2 Stigma

Stigmatization is a process in which a person feels inferior because of some of their personal characteristics. If we define stigma as negative labelling of people or groups of people who differ in some way from social norms, then sexual attraction to the same sex is a characteristic that stigmatizes homosexual people (Kojicic 2014: 43). The dominant beliefs of the Montenegrin general population that LGBTI people are sick, mentally disordered, perverted, unnatural and immoral, and that they should be treated, are also ideas about “bad people” that stigmatize them. The problem with stereotyping is that individuals are treated as members of a group to whom generalized characteristics are attributed, rather than as individuals (Sargeant 2004: 10). It can be a generalized assumption, for example, that men are stronger than women, although it is wrong to interpret that all men are stronger than all women. In this way, assigning generalized characteristics to an identified group creates stereotypes that generate discrimination (Sargeant 2004: 11).

5.3 Prejudice and Stereotypes

Stereotypes have a prevailing negative character, because they highlight the negative generalization they use within the group (us) in relation to people outside the group (them) (Fedor 2014: 323). Stereotyping, which includes the assumption of characteristics based on sexual orientation, is one form of prejudice against LGBTI people (Kojicic 2014: 43). Therefore, prejudice should be understood as a process within a set of relationships that manifest in different ways and are directed at a wide range of groups as “biases that devalue people because of their perceived membership in a social group” (Abrams 2010: 8). Prejudices are characterized by negative feelings and are determined by cognitive beliefs, affects and discriminatory behaviour towards people due to belonging to a certain group (Fedor 2014: 324). Among heterosexual men, Herek emphasizes, prejudices are closely related to attitudes about masculinity and heterosexuality, while heterosexual masculinity also defines what a man must not be, namely not being feminine and not having a homosexual orientation (Herek 1986; Kojicic, 2014: 44).

6. Social Determinants of Health

Structural inequities are the personal, interpersonal, institutional, and systemic drivers – such as, racism, sexism, classism, ableism, xenophobia, and homophobia – that make those identities salient to the fair distribution of health opportunities and outcomes (Baciu et. al., 2017: 100).

Health equity and its achievement is key in planning health policy, examining the state of health of the population, and influencing various aspects of the Montenegrin economy. This implies the possibility for everyone to be as healthy as possible based on fairness, as a value principle of distribution (Kojicic 2021a: 53). To achieve this, it is necessary to recognize and remove differences in health status or distribution of health resources between different social groups in the community and work to remove related barriers, such as discrimination, poverty, quality education and housing, income level, safe environment, environmental conditions, and other conditions in which people are born, grow up, live, and work and which they cannot influence (Kojicic 2021a: 53). Social Determinants of Health (SDOH) are a prerequisite for achieving that goal because they recognize and value health according to the conditions in which people live, and not only according to personal lifestyles and seeking medical treatment within the health system. Failure to recognize such differences leads to the creation of systemic differences in achieving optimal health, but also unfair and unavoidable differences in health outcomes (Kojicic 2021a: 53).

Montenegrin public policies in all areas and at all levels of activity are still not determined by the concept of health equity: (1) differences in health status or the distribution of health resources between different social groups are not recognized and acknowledged; (2) social determinants are not defined at all in the health policy; and (3) the state does not have proactive approaches regarding the determinants of health inequality, it has not identified them, nor are intersectoral activities promoted. Therefore, it is hypocritical speak of commitment and activities to improve inclusion and tolerance in society, while Montenegrin programs, reports, documents, and guidelines of public policies related to the LGBTI population simultaneously do not contain measures and interventions that, in a realistic approach, affirm the LGBTI community and alleviate institutional heteronormative barriers, emotional reactions and hostile attitudes of the dominant ideology directed against LGBTI persons.

Due to all this, the LGBTI community expects that the state shows intervention efforts and establishes intervention programs, which at all levels of activity will strive to improve tolerance of same-sex sexual behaviour and mitigate emotional reactions and hostile attitudes towards the LGBTI community. This is not the case today, and state efforts are not connected and mutually coordinated to (a) adapt intervention programs

to the specific needs of the LGBTI community (b) create an appropriate context for the training of civil servants at all levels of public and administrative action (c) apply adequate methods and new skills and (d) using meaningful ways of measuring the outcomes of implemented programs.

6.1 Health Equity

Health equity is recognized as a key component on any country's path to universal health coverage (UHC), while reducing inequality is a basic prerequisite for achieving that goal. Also, the establishment of health equity is a key to achieving the UN Program for Sustainable Development by 2030 and the seventeen promoted goals (SDGs) (Kojicic 2021a: 53-54). To establish an "integral and vital component" of the national health planning process governments are required to take proactive approaches regarding the determinants of health inequality, but also to identify and promote cross-sectoral activities (Kojicic 2021a: 54). Under international law, there are three key components obliging the states in fulfilling their obligations regarding the right to health: (1) to respect and refrain from direct violations of rights, such as e.g. systemic discrimination within the health system; (2) to protect the right from interference by third parties, such as e.g. measures in environmental regulation; and (3) to fulfil the right by adopting reviewed measures and strategic directions in order to achieve universal access to care as well as to preconditions for health (Yamin, 2005: 1157; Dittrich et al., 2016: 24; cf. Kojicic 2021a: 54).

6.2 Heteronormative Ideology

Heteronormative ideology serves as a "social force" that maintains the dominant discourse of community members and highlights the heterosexual assumption as a cultural pattern of behaviour (Ray & Parkhill 2021). In such a social structure, homosexuality and same-sex sexual behaviour cause different emotional reactions and motivate hostile attitudes towards homosexuals (Ray & Parkhill 2021). Disgust, pathogenicity, or moral disgust are the emotional reactions hypothesized to have the strongest association with violations of heteronormativity and hostility against homosexuals (Ray & Parkhill 2021). This is exactly what most Montenegrin citizens consider LGBTI people to be, that they are sick, perverted, mentally disturbed and need to be treated (Besic 2020: 34 i 35, cf. Kojicic 2021: 183). Therefore, social, cultural, and institutional approaches that highlight the heterosexual assumption as natural and normal – as in Montenegro, lead to social exclusion, devalue the sexual orientation of others, condition psychosocial stress, and the marginalized position of LGBTI persons (Schrimshaw et al. 2013; Perez-Brumer et al. 2019; Kojicic 2021: 184).

6.3 Effects of Stigma

The effects of stigma negatively reflect on the health of marginalized groups, restrict access to relevant resources for good health, are an important source of stress and produce a toxic social environment (Major et al. 2018: 3). This happens through multiple mechanisms of influence. At the social level this is reflected in exclusion, while at the individual level there is psychosocial stress (Major et al. 2018: 4). Stigma, prejudice, and discrimination create a hostile and stressful social environment that causes mental health problems (Meyer 2003).

Social stress has a strong impact on the lives of members of stigmatized groups, including categories based on socioeconomic status, race/ethnicity, gender, or sexuality (Meyer 2003). As a result of stigma, sexual minorities are more exposed to stress, elevated general emotional dysregulation, social (interpersonal) problems, and cognitive processes – which mediate stigma-induced stress and pose a risk for psychopathology (Hatzenbuehler 2009). Scientific literature clearly indicates that sexual minorities under the influence of stigma experience disproportionate physical health burdens compared to heterosexuals, but the two-way processes between stigma and health are also emphasized (Pachankis & Lick 2018: 477-497). General emotional support, emotional support for same-sex behaviour, and internalized homophobia have significant indirect effects on mental health. Concealment of sexual orientation has significant effects on depressive symptoms, while in the case of anxiety symptoms, the effects are reflected through internalized homophobia (Schrimshaw et al. 2013).

7. Recognition of Power

Inequality is simply the absence of equality and equality, in turn, is defined as sameness (the same in quantity, quality, size, degree, rank, level etc) (Johnson, 1996: 5).

There is a general agreement among scholars that stigma is a social construction, that it is recognizable and socially conferred, and that it signals the recognition of difference and devalues the person (Major & O'Brien, 2005; cf. Major et al. 2018: 4). What then are the parameters of construction, recognition, and signals for recognizing differences in relation to Montenegrin state institutions, which assign a structural component of power to sexual stigma and thus devalue the LGBTI community?

The analytical mediation framework is in the content of this document and makes five key arguments in this regard:

- (1) Montenegrin public policies are not methodologically based: examination of assumptions, goals, problems, and evidence regarding LGBTI topics do not correspond to the prescribed conditions and assessment standards of the adopted Government methodology.
- (2) Montenegrin public policies do not contain a complete analysis of why they are proposed, nor a statement about the problems they are designed to deal with: it is not possible to think in a reasonable and reflective way, nor is it possible to self-consciously follow the Government's strategies in relation to the actual LGBTI problems – with a focus on what to believe and what not to believe, regarding the implementation of proposed Government measures.
- (3) Montenegrin public policies are not predictable and certain: the clarity of expression is not recognized in relation to the evidence and reasons regarding the certainty of the application and practice (activities and actions) of the proposed LGBTI measures, and a reflexive view suggests the opposite – those public policies do not think about what should be done.
- (4) Montenegrin public policies are not focused on the needs of vulnerable groups and achieving social justice for the LGBTI community: policies are not designed on the basis of transformation, to transform society in order to respond to the needs of the LGBTI community but are deeply rooted in heteronormative social concepts and systems beliefs of neoconservative philosophy, according to which social changes are slow and evolutionary.
- (5) Montenegrin public policies do not create processes that in turn mediate the relationship between the problems they deal with and the sustainability of the solutions, and the actual improvement of the position, access to justice, social, health and other public programs and services that would be designed to solve the real problems of the LGBTI community.

The manners of managing public policies over time have remained unchanged, while the imperatives for changes in the choice of instruments are increasing. Therefore, the created policies are not commensurate with the goals they strive for, and the practices are not oriented towards maintaining a specific instrumental model of management (*"instrumental constituencies"*).

Heterosexual assumptions and political effects dominate real effects, and this is visible in the way that vague, disconnected and unfinished instruments of governance are adopted. The benefits to the LGBTI community from such efforts are incidental, selective, and slow – and not systemically grounded. Changes to the policy space from such efforts have been equally slow and timidly supportive. Altogether, support for solving the real problems of the LGBTI community is missing, while the instruments of such policies cannot be considered as bearers of social and political values, identity, and view of reality. On the contrary, the overall impression is that the instruments are based, conditioned, and limited by the conflicts of the dominant social (and institutional) heteronormative ideology.

7.1 Policy Making

Policies are made and pursued through policy instruments (Capano & Howlett 2020). There are many ways to study public policy, but the most adopted theoretical frameworks all examine the dynamics of actors in attempting to make sense of policymaking (Capano & Howlett 2020: 2). Policy making assumes a process in which different political actors engage in defining political problems, articulating solutions, and harmonizing or adopting them (Béland et al. 2018). This includes defining broad and specific policy goals, identifying, or creating means and mechanisms for achieving these goals, but also a set of bureaucratic, party, electoral and other political struggles to adopt and turn goals into action (Béland et al. 2018). In each area, different sets of instruments are adopted, from the establishment and formulation of policies to the use of other different instruments, such as financial subsidies, but also government agencies and other means to achieve policy impacts on the ground, to make changes happen (Capano & Howlett 2020: 2). Instruments refer to the basic types of tools (procedural and substantive or implementation-oriented or non-implementation-oriented) (Capano & Howlett 2020: 3). The idea of flows represents different events that take place under the umbrella of various aspects of this process (Béland et al. 2018: 3). Within the framework of the multiple flow, in order for the policy-making process to be feasible, two important previous approaches must be satisfied: that the different flows of events and activities are operationalized, and that they can be analytically distinguished, monitored and analysed during the different stages of the process; And secondly, that policy making can be analysed in relation to different relations between actors, during different phases of activity (Béland et al. 2018: 4). This would be Kingdon's (1984) initial framework for policy formulation which implies multiple streams and multiple stages. However, policy making is a much more complex process to study, in which the concept of an "instrument constituency" is of particular importance.

7.2 The Concept of an Instrument Constituency

According to the concept of “*instrument constituencies*”, policy instruments do not only include scenarios that should be applied to establish changes in society, but also consist of a “*constituency*” made up of “practices and actors oriented towards the development, maintenance and expansion of a specific instrumental model of governance” (Simons & Voß 2018: 14). This concept complements our understanding of the dynamics of politics, encourages social interaction and the formation of practices, and through communication, practice, development, and innovative approaches contributes to the maintenance of knowledge and management models. The concept also links academic research strategies, business opportunities or policy demands, and allows to recognize, explain, and make visible the specific knowledge of governance and its links to the innovation of political practices (Simons & Voß 2018: 14-15). In this way, it is also better understood how policy streams interact within different subsystems than in the case of the undifferentiated conception of more traditional approaches (Béland et al. 2018: 5). In this regard, the responsibility for achieving, articulating, advocating, and adopting such policies relates to three groups of different groups of actors within the subsystem, namely experts in the subject area, policy-making experts, and administration in the sense of decision-makers (Béland et al. 2018: 5). For example, in the domain of LGBTI politics, although the actors in these processes can be intertwined, within the political subsystem they can be differentiated, monitored, and analysed during different phases. If we define a political arena such as health policy and its segments regarding social determinants, marginalized social groups and the LGBTI community, then a special group of actors must be observed, which, independently of other groups and the influence of different administrative beliefs, should work to define the real nature of the problem that they have to solve. This is not to say that separate groups cannot share membership in a range of activities, but their internal activity within each subsystem is clearly distinct from the activities occurring between them (Béland et al. 2018: 5). The presented concept in its premises shares the essential values of the concept of open government, but also the particularly good, clear, and substantive methodology of the General Secretariat of the Government. Therefore, it is completely unclear how public policies are created with a focus on marginalized groups and LGBTI persons, without defining the social determinants, nor are they the basis of such policies. It is also unclear which group of experts justified and confirmed this, and thus denied the concept of intersectionality, that LGBTI people are still not recognized in health policy, and domestic violence is also not a determinant of importance for health policy. Public policies in all segments and at all levels are not connected and cross-sectionally harmonized with other policies in relation to the problems of the LGBTI community. Finally, it remains unclear which concepts are used in the creation of public policies, because the officially adopted GSV methodology does not recognize such (current) approaches in work.

7.3 Politics and Health of the LGBTI Community

On the example of access to health for LGBTI persons, the presented arguments would look like this. This is in direct correlation with the failure to achieve the 2030 Agenda and the seventeen defined goals for sustainable development.

First, barriers are not being overcome, and instead the policies are being created in the absence of evidence regarding management tools and frameworks for improving LGBTI health. Social determinants of health are not defined. Inequalities in health and social determinants are not considered, and the concepts of social justice and social cohesion are thereby rendered meaningless. Examination of assumptions, objectives, problems, and evidence also do not meet the standards of methodology and assessment.

Second, the umbrella strategic health documents, do not recognize LGBTI persons as a vulnerable social group at all. The vision of health policy in this regard is also unclear. Under the auspices of the LGBTI strategy, there are activities carried out by health authorities, however, this is nowhere clearly explained and reflected in health plans, predictions, and visions. Therefore, the scope of such planning is limited and not measurable – nor is it linked to other relevant sectors that need to play their roles in reducing health deficiencies. It is not possible to think in a reasonable and reflective way, nor is it possible to self-consciously follow strategies in relation to real problems and access to health for the LGBTI community.

Third, the lack of frameworks, evidence, neglect of inequality and social determinants, cross-sectoral disconnection, and inconsistency, clearly indicate that approaches are not predictable and certain, and that such activities and actions do not create a sense of expediency of policy that is oriented towards results and solving LGBTI problems community.

Fourth, the approaches are not transformative and do not have stronger and more responsible approaches in decision-making. There are no health impact assessments for the LGBTI community, nor are there health service assessments in this regard. The existing network of public health institutions is not recognized as a system framework for proactive action in health support programs for the LGBTI community, and the available capacities for potential cooperation have not been strengthened and utilized. Social determinants are not determined, not defined, and cannot be monitored. Therefore, social responses to the real health needs of the community, especially regarding mental health and HIV treatment, are slow and evolving.

Fifth, a thoughtless, unintegrated, and uncoordinated approach to public policy planning does not lead to processes that in turn mediate the relationships between the real problems and needs of the LGBTI community, as well as the sustainability of such policy solutions for access to health. This creates mistrust of the community and is reflected as the ineffectiveness of policies, but also the waste of resources in the absence of appropriate health frameworks, health mechanisms and the meaningfulness of the expected support for marginalized groups and the LGBTI community.

8. Health Disparities

Stigma represents a social construction that is an expression of social power; it involves identifying a socially conferred mark that distinguishes individuals who bear this mark from others and portrays them as deviating from normality and meriting devaluation (Major et al. 2018: 4).

The Montenegrin social environment is predominantly hostile to sexual minorities, and health disparities are extremely pronounced. The umbrella health strategic documents do not mention or recognize LGBTI persons as a vulnerable social group. The visions of health plans are unclear, and concrete activities and systemic approaches that would authentically reflect the concepts of health equity and the reduction of inequality in access to health do not exist. LGBTI people continue to face strong impacts of sexual structural stigma, discrimination, and social disadvantages. EU reports on the progress of Montenegro unequivocally suggest this. There is no good health policy and practice in Montenegro – including strategies for implementing the HIV and other health-related Sustainable Development Goals, which are fully into compliance with states obligations under international human rights law of the signatory states and members (party) of the International Covenant on Economic, Social and Cultural Rights. Montenegrin health policy and practice is not based on social determinants. This adversely affects the effective and equitable delivery of HIV prevention, diagnosis, treatment, care and expected support for marginalized groups.

Research has consistently demonstrated poorer mental and physical health outcomes in sexual minority populations (i.e., lesbian, gay, bisexual, queer, and other individuals who do not identify as heterosexual) relative to their heterosexual cisgender peers (Frost et al. 2022: 2299). Theoretical and research approaches also indicate that such health disparities are conditioned by stigmatization processes and the social climate (Frost et al. 2022: 2299). In addition to the fact that a negative social environment exposes individuals to toxic influences, it exposes individuals to more toxic environments, and is an important source of stress in the lives of members of marginalized groups (see title “Minority Stress”, on page 8). In this manner, stigma restricts access to resources relevant to good health for marginalized groups (Major et al. 2018: 3). Health disparities are occurring in vulnerable populations due to differences in social status, which leads to potential gaps in health (Wallace & Santacruz 2017: 178). However, the umbrella strategic health documents do not cover any (of) measures to improve the quality of mental health service delivery in the sense of creating an inclusive environment that is conducive to the realization of the human rights of LGBTI persons. This suggests a systematic exclusion of human rights in health policy and non-recognition of the human dignity of LGBTI persons. Real opportunities and real problems in the health sector are either not recognized or ignored. There is no vision nor methodologically adequate, detailed, and harmonized approach in planning. The concepts of social justice and

social cohesion are meaningless or have lost their relevance or are not even visible in the plans. Inequalities in health and social determinants in this regard are not considered. There is no adequate systemic connection and inter-sectoral coherence in action, nor is it recognizable as properly interpreted (Kojicic 2021a: 27-28; cf. Kojicic 2021b: 11).

Montenegrin public policies at all levels and in all areas of activity do not recognize the socioeconomic status of LGBTI persons. Therefore, they do not consider deficiencies and differences in status, do not recognize minority stress, and are not determined by such deficiencies in quality and access to health. These differences do not only exist in relation to heterosexual and cisgender counterparts, instead, they are significant within the community of sexual minorities (Dodge, Friedman & Schick 2016: 137). This is also not reflected in Montenegrin policies. By way of illustration, there are no differentiations in relation to the increased risks and disadvantages affecting older and younger members of sexual minorities compared to heterosexual persons of the same age. Montenegrin policies systematically do not consider the significant differences in health in relation to geographical location and environmental deficiencies. On the other hand, the national legal definitions, doctrinal standards, and approaches of the World Health Organization indicate that health is conditioned by socioeconomic and environmental factors – which are related to mental health, sexual orientation and identity as important components of overall health and well-being (Dodge, Friedman & Schick 2016: 137). The minority stress theory as a predominant conceptual framework precisely explains these differences and the increased health risks associated with the stigmatized social status of the LGBTI community (Feinstein 2016: 88).

Stigma, prejudice, and heterosexual biases in national and state policies limit access to health services for the LGBTI community and do not protect their rights. All this negatively affects members of sexual minorities to reveal their sexual orientation and gender identity to making it difficult to sufficiently identify LGBTI health disparities (Jennings et al. 2019: 100864). Taken together, health inequalities for LGBTI persons in Montenegro are extremely pronounced – but also completely systemically neglected, because the social determinants and status of LGBTI persons are not known. The right to health and access to health of LGBTI people are also neglected. Definitions of the right to health as well as national legal standards and guarantees on equality, non-discrimination and access to justice and health are significantly limited. Moreover, they can take the form of "abuse", such as failure to provide necessary medical care to transgender people and sharing medical information. Such phenomena, disrespect, and denial of hormones to transgender people are documented in the literature, among other things, as forms of abuse (Witten 2016: 74).

8.1 Reduce HIV Transmission

The American Institute of Medicine (IOM) has defined the substance of public health as “organized society efforts aimed at the prevention of disease and promotion of health” and described a mission of public health as “the fulfilment of society’s interest in assuring conditions in which people can be healthy” (Levin & Hanson 2020: 1; cf. Kojicic 2021b: 23).

In this regard, three core functions of public health being are emphasized – (1) assessment, (2) policy development and (3) quality assurance, including ten essential public health services defined by the US Department of Health (Levin & Hanson 2020: 2; cf. Kojicic 2021b: 23). Following American definitions and approaches, the essence and mission of access to health for all does not exist in Montenegro for LGBTI persons. In health plans, none of the ten key functions of public health are correctly interpreted. Otherwise, it would mean, among other things:

- ♦ Monitor health status to identify society health problems.
- ♦ Diagnose and investigate identified health problems and health hazards in the society; Inform, educate, and empower people about health issues.
- ♦ Develop policies and plans that support individual and society health efforts.
- ♦ Enforce laws and regulations that protect health and ensure safety.
- ♦ Assess effectiveness, accessibility, and quality of personal and population-based health.
- ♦ Research for new insights and innovative solutions to health problems.

Instead, our policies and practices impede – and sometimes altogether bar – the disadvantaged and marginalized from accessing information, health goods and services that are critical to the prevention and care of HIV. Among other things, these are (1) Barriers that LGBTI people face when accessing PEP (post-exposure prophylaxis) medications; (2) Complete absence of PrEP (pre-exposure prophylaxis) therapy; (3) Wide range of administrative and institutional barriers to access to basic health services related to HIV prevention and/or treatment; (4) Asylum seekers and migrants, due to their legal status, most of the time cannot get any HIV medication, which is also a violation of their basic human and health rights. In practice, it is nearly impossible for an LGBTI person from the, for example, North of Montenegro to timely receive PEP medication within the recommended post-exposure time frame, given the fact that the only clinic and five doctors allowed to prescribe the medication is in the capital Podgorica, as well as the fact that these medications are often in deficit or cannot be timely prescribed due to administrative barriers.

8.2 Key Institutes

Key institutes such as the right to health, health equity and the highest attainable standard of health are not properly interpreted and do not reflect fundamental values (Kojicic 2021b: 11). The enjoyment of the highest attainable standard of health is a fundamental human right that includes non-discriminatory, affordable, and acceptable access to quality health care services, goods, and facilities. Montenegro, as a state parties to the International Covenant on Economic, Social and Cultural Rights have a core obligation to fulfil the minimum essential levels this right, particularly in ensuring the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups (including LGBTI); in ensuring access to adequate food and nutrition; in ensuring access to basic shelter, housing and sanitation; providing access to essential drugs; in ensuring an equitable distribution of all health facilities, goods and services; in adopting and implementing a national public health strategy and plan of action which address the health concerns of the whole population – including child health care, education and access to health information

and appropriate training for health personnel, including education on health and human rights.

8.3 Health Risks

Most research indicates that LGBTI people have elevated levels of mental health symptoms, higher rates of some psychiatric disorders, higher levels of risky health behaviours, and a higher risk of some physical health problems (Balsam 2016: 482). 80% of members of sexual minorities have experienced some form of harassment during their lifetime, which is associated with the appearance of serious deficiencies in mental health (Wallace & Santacruz 2017: 179). Compared to heterosexual people, the increased risk of discrimination and violence is one of the unique minority stressors for LGBTI people, resulting in a risk factor for anxiety (Feinstein 2016: 88). Expectations that they will be rejected because of their sexual orientation condition the vigilance of sexual minorities in social interactions, and some hide their sexual identity to prevent potential negative consequences. This can cause constant anxiety, caused by whether others will find out about their sexual orientation (Feinstein 2016: 88-89). All this further leads to numerous other mental and physical health problems, including the development of depression, substance use and risky sexual behaviour (Feinstein 2016: 90). The probability of a lifelong mood and anxiety disorder is one and a half to two times higher, there are higher rates of suicide attempts, a higher prevalence of mental disorders, a higher risk of trauma during life, a higher exposure to discrimination, victimization, and violence, as well as a general risk for decreased mental health (Wallace & Santacruz 2017: 179-180). In terms of physical health outcomes, studies indicate an increased prevalence of asthma among sexual minorities (Frost, Lehavot & Meyer 2015: 8; Wallace & Santacruz 2017: 180), higher rates of tobacco use, suicide attempts and HIV infection among men, increased risk for various cancer diagnoses, higher rates of lung cancer and cardiovascular disease, higher prevalence of diabetes and other chronic health conditions, worse outcomes and higher rates of obesity, alcohol, tobacco use and higher probability of becoming disabled at a younger age (Wallace & Santacruz 2017: 180).

According to the reports of the American Institute of Medicine (IOM), in LGBTI the risk of suicide attempts among LGBTI young people are three times higher than in the general population, and the risks of tobacco, alcohol and drug abuse are increased (Ayhan, 2020: 45; cf. Kojicic 2021a: 106). A review of the scientific literature indicates that LGBTI youth are also at higher risk of sexually transmitted diseases (STDs), cancer, cardiovascular disease, obesity, bullying, isolation, rejection, anxiety, and depression (Hafeez et al. 2017). Gay, bisexual, and transgender people are two to three times more likely to have ongoing psychological or emotional problems compared to the general population, and for those under 35 and over 55 the health risks are even greater (Egale Canada 2020: 10). Compared to heterosexual people of a similar age, LGB people aged 50 and over have increased rates of disability and psychological distress (Fredriksen-Goldsen 2016: 54). Older lesbian and bisexual women have higher rates of cardiovascular disease and obesity compared to heterosexual women of a similar age (Fredriksen-Goldsen 2016: 54), while obesity, high blood pressure and arthritis are the most common health problems of older lesbians (Averett

2016: 68). Gay and bisexual older adult men are at greater risk of ill health, loneliness and HIV/AIDS compared to heterosexual men (Fredriksen-Goldsen 2016: 54).

Trans elders have significantly higher rates of stress, depression, anxiety, and fear than their LGB peers or gender nonconforming individuals, but also have an increased risk of suicidal ideation regardless of whether they are gender nonconforming or not (Witten 2016: 74; Henry et al., 2020). Research on trans elders document numerous forms of suffering violence and abuse during their lifetime, such as physical, mental, financial, sexual, and verbal, and increased vulnerability to such abuse in old age (Witten 2016: 74). 75% of trans adults have thought about suicide and 43% have attempted suicide at some point in their lives (Egale Canada 2020: 7; cf. Kojicic 2021a: 106). Intersex people also show an increased frequency of suicide attempts (19%), with 60% of them having suicidal thoughts compared to 3% of the general population (Egale Canada 2020: 10; cf. Kojicic 2021a: 106).

9. Conversion Therapy

“Conversion therapy” is wrong because it disrespects LGBTI persons. It disrespects them not only because it places them at real risk of grave physical and psychological harm; or only because it denies them key freedoms related to sexuality and gender identity; or only because it depends on, and reflects, their social subordination. “Conversion therapy” disrespects LGBTI persons for all those reasons, at the same time. Both by design and in effect, “conversion therapy” flouts protected areas of liberty and equality which are..., inherent in the idea of human dignity (Trispiotis & Purshouse 2022: 113).

To protect the equality and dignity of LGBTI persons, Montenegro must show determination in suppressing conversion therapy. These activities require the reform of criminal legislation. The Government of Montenegro must react to harmful phenomena in society and show commitment to human rights, but also ensure that all Montenegrin citizens, regardless of gender expression, gender identity or sexual orientation, live freely and are equal. That is why the LGBTI community demands from the Government to amend the Criminal Code to prohibit: (a) providing conversion therapy; (b) advertising or promoting conversion therapy; (c) inducing another person to undergo conversion therapy; and (d) taking a minor out of Montenegro to undergo conversion therapy abroad.

Despite the warnings of national and regional non-governmental organizations, conversion therapy represents widespread insecurity in Montenegro. Such therapies are not prohibited by law, and professional medical organizations such as the Medical Chamber of Montenegro, the National Psychological Association and the National Association of Social Workers have not condemned or communicated official positions against such practices. Public access to information about the harmfulness of conversion therapy also does not exist. In contrast, there is a growing trend in the democratic world to ban conversion therapies, while leading American medical and social service organizations such as the American Psychiatric Association, the American Psychological Association, the American Academy of Child and Adolescent Psychiatrists, the American Medical Association, and the National Association of Social workers, condemned and rejected such practices due to the growing number of evidence that they harm patients and their families and that they are ineffective (Blosnich et al. 2020; AACAP 2018; Drescher et al. 2016; Adelson & AACAP 2012; Anton 2010; APA 2000). Although many jurisdictions have criminalized conversion therapy, it exists in over 60 countries (Bradfield 2021: 52). Moreover, such practices aim to eradicate LGBTI sexuality and gender identities, thereby violating protected areas of freedom and equality in relation to human dignity. Such practices represent humiliating actions that violate human dignity, are in contradiction with anti-discriminatory values and do not respect equal moral values for LGBTI persons (Trispiotis & Purshouse 2022). Research also shows that conversion

therapies represent a wider phenomenon of "deliberate and explicit efforts to change", as well as social norms that dominate the application in a wide range of environments and circumstances (Kinitz et al. 2022). To ensure the safety, equality, and health of the LGBTI community, scientists in this regard warn that the authorities should take into account and provide answers in health policies to the "open, hidden and insidious ways" of the functioning of these methods in the attempt changing sexual orientation (Kinitz et al. 2022).

Conversion therapy represents the "systematic disempowerment" of LGBTI people, it sends messages of contempt and belittling towards LGBTI identities, because they need to be eradicated – and it promotes social images of LGBTI people as abnormal and disgusting, which is the basis for sexual stigma in society (Trispiotis & Purshouse 2022: 111). And that is precisely what is the characteristic of Montenegrin society, in which most Montenegrin citizens (66%) believe that homosexuality is immoral, unnatural and that LGBTI people need to be treated (Besic 2020; cf. Kojicic 2021). In this way, conversion therapy affects not only the people undergoing it, but also the entire LGBTI community, as well as the attitudes of the general population towards LGBTI people (Trispiotis & Purshouse 2022: 111) and the strengthening of heterosexist norms in society (Bradfield 2021: 52). Research clearly indicates that efforts to change sexual orientation and gender identity and expression occur through interventions at the societal level that LGBTI people experience in everyday life, not only through formalized efforts to change, but also in "insidious everyday interactions" (Kinitz et al. 2022: 447).

Therefore, by ignoring the request to ban such harmful practices, the Government of Montenegro would show its determination to strengthen heteronormative and cis-normative ideology in society, as well as gender-conformity among LGBTI persons. In this, the Government's responsibility is much greater, because any ignoring of the demand for the criminalization of conversion therapy will be an additional argument about the entrenchment of structural sexual stigma on the continuity of the social context of historical stigmatization based on homosexuality.

9.1 Negation of Sexual Orientation

Conversion therapy represents a set of scientifically discredited and harmful heterosexist practices that deny and suppress the sexual orientation, gender identity and/or gender expression of sexual and gender minorities and attempt to re-align them in the individual (Kinitz et al. 2021; Bradfield, 2021). Such practices cause significant negative health and social outcomes (Kinitz et al. 2021; Shidlo & Schroeder 2002) and are one of the unique stressors for sexual minorities (Blosnich et al. 2020: 1024). They aim to change an individual's sexual orientation to heterosexual in a way that prevents mental and physical attraction to the same sex (Blosnich et al. 2020: 1024). Such practices include various approaches, namely psychotherapy, aversion therapy, exorcisms, spiritual cleansing (Bradfield, 2021: 52), group therapy or ambient treatments (Drescher et al. 2016), shame-enhancing therapies, heterosexually focused cognitive exercises, and physical punishment (electric shock therapy) (Blosnich et al. 2020: 1024) or hormonal pharmacotherapy (Bradfield 2021: 52). All these

practices are based on scientifically discredited and heterosexist assumptions about the changeability of sexual orientation and heteronormativity as a legal, social, and moral value (Berg et al. 2016; cf. Bradfield 2021: 52). In this way, the social rejection of homosexuals is achieved, and non-heterosexual forms of identity, behaviour, relationships, and communities are belittled and devalued (Berg et al. 2016: 541).

9.2 Physical, Mental, and Social Damage

Research also points to the less formal ways people are subjected in efforts to correct or suppress their sexual orientation or gender identity. Thus, religious leaders performed exorcisms, psychiatrists performed electroshock therapy and hypnosis, and doctors prescribed drugs to suppress sexual desires (Kinitz et al. 2022: 447). Conversion therapy practices are discriminatory and proven to be harmful to the physical and mental health of the victim. They cause increased anxiety, depression, hopelessness, suicidal thoughts, and behaviours (Blosnich et al. 2020: 1024), internalized homophobia, self-blame, reduced self-esteem, intrusive imagery, and sexual dysfunction (Shidlo & Schroeder 2002). The practices of conversion therapy have been proven to create significant social damage for the victim: they lead individuals to alienation, loneliness, and social isolation, thereby further stigmatizing sexual minorities (Shidlo & Schroeder 2002). In this way, equality and human dignity are undermined, but also various anti-discriminatory approaches about equal moral values in relation to LGBTI persons are promoted (Trispiotis & Purshouse 2022).

9.3 Risks of Suicide Attempts

Recent research from the Williams Institute at the University of California Law School (UCLA) has shown that gay and bisexual people who have experienced conversion therapy are twice as likely to think about suicide than their peers who have not experienced such a practice (Blosnich et al. 2020: 1027-1028). More specifically, they are 92% more likely to have lifetime suicidal thoughts, 75% more likely to plan a suicide attempt, and 88% more likely to attempt suicide without or with minor injury (Blosnich et al. 2020: 1027-1028). In addition to significantly increasing the risk of suicidal ideation and attempts, research by the Williams Institute also indicates that 80.8%, or four out of five LGB adults, have received conversion therapy from a religious leader (Blosnich et al. 2020: 1026). An Ipsos/Reuters poll of US public opinion at the national level found most US citizens (56%) support a ban on conversion therapy for youth, compared to a small percentage (18%) of citizens who support it (Mallory, Brown & Conron 2019: 2-3). An estimated 698,000 LGBTI adults (ages 18-59) in the US have received conversion therapy, including about 350,000 who underwent the practice as adolescents (Mallory, Brown & Conron 2019: 4 i 5). It is also estimated that around 57,000 young people (aged 13-17) will receive conversion therapy from religious or spiritual counsellors before they turn 18. Out of these, approximately 38,000 young people (ages 13-17) will receive conversion therapy from religious or spiritual counsellors rather than from licensed health care providers in states where conversion therapy is not currently prohibited, while some young people will also receive conversion therapy from a licensed health care provider, and from a religious or spiritual advisor before the age of 18 (Mallory, Brown & Conron 2019: 4).

10. Persistence of Heteronormative Conditions

The interaction of political, economic, and sociocultural inequalities shapes the institutions and rules in all societies. The way these institutions function affects people's opportunities and their ability to invest and prosper. Unequal economic opportunities lead to unequal outcomes and reinforce unequal political power. Unequal power shapes institutions and policies that tend to foster the persistence of the initial conditions (World Bank 2005: 20).

By denying the right to satisfy basic existential needs, as well as adequate (both in terms of quality and quantity) access to goods and services, the LGBTI community is pushed into even greater, extreme poverty. Such situations further emphasize social exclusion, but also the thwarted ability to acquire basic goods and services needed for a dignified life (de França, Modena & Confalonieri, 2020: 132). Such restrictions have an impact on health, education, access to clean water and sanitation, physical security, autonomy, and participation of people in society, to make their voice heard. This limits opportunities for economic growth, social inclusion, and human capital development (de França, Modena & Confalonieri, 2020: 132). All of this is in direct relation with the UN Agenda and the Sustainable Development Goals (SDGs), which are not implemented in their conceptual sense. Public policies do not understand the functionality, connection, and indivisibility of these goals. Policies are not systematically arranged – neither in a formal nor in a practical sense. The Sustainable Development Goals (SDGs) are not synergistic: there is no connection within the goals and sub-goals, nor is there any interaction between these goals. A serious lack of coordination and integration between sectors is visible. The changes that are taking place are slow, episodic, and not system based.

This review shows that the overall political and social shortcomings, especially the low socioeconomic status and the health burden it carries, are not at all reflected in Montenegrin public policies. First, eradicating poverty in all its forms and dimensions is a key challenge for sustainable development (UN: Agenda 2030: Preamble). Second, poverty leads to poor health and affects the social determinants of health at multiple levels (Kojicic 2021a; Meyer et al., 2021; Badgett, Choi & Wilson 2019; Dhaliwal, 2019; Pachankis & Lick 2018; Shahid 2018; Marmot & Bell 2018; Nunes et al. 2016; Popay et al. 2008; World Bank 2005; Haigh 2002; Murray 2001). Third, ignoring these facts increases health inequalities, which threatens economic stability, education, lifestyle and access to health care, the environment, social contacts, and contacts with the community (Zhang et al. 2022; Kojicic 2021a; Meyer et al., 2021; Gweshengwe & Hassan 2020; Panday 2020; Badgett, Choi & Wilson 2019; Dhaliwal, 2019; Whitfield et al. 2019; Marmot & Bell 2018; Pachankis & Lick 2018; Shahid 2018; Nunes et al. 2016; Popay et al. 2008; World Bank 2005; Haigh 2002; Murray 2001). Finally, all of this is associated with an increased prevalence of a number of physical and mental health

disorders, especially for a vulnerable and stigmatized social group such as the LGBTI community (Frost et al. 2022; Kojicic 2021a; Ayhan, 2020; Henry et al. 2020; Meyer et al. 2021; Leung et al. 2020; Jennings et al. 2019; Major et al. 2018; Wallace & Santacruz 2017; Hafeez et al. 2017; Balsam 2016; Dodge, Feinstein 2016; Fredriksen-Goldsen 2016; Friedman & Schick 2016; Reisner 2016; Witten 2016; Meyer & Frost 2013). To illustrate, improving health reduces poverty (SDG 1) and improves productivity (SDG 8), improves food and nutrition quality (SDG 2) and overall health and well-being (SDG 3), improves educational outcomes (SDG 4), advances equality (SDG 5 and SDG 10) and reduces traffic accidents (SDG 11) (Zhang et al. 2022; Dhaliwal 2019).

Montenegrin state statistics do not include LGBTI persons in any sphere of research. Minority stress and psychosocial inequalities are not reflected in the synergy of public policy goals – while stigma, prejudice, stereotypes, violence, and discrimination against LGBTI people are widespread in society. In accessing justice, the LGBTI community suffers multiple forms of discrimination and difficulties in exercising their rights. The government has not earmarked funding for housing and housing-related services for LGBTI people and has not provided opportunities for the various needs within the community to make these services available. The LGBTI Shelter, the only form of support for the community, which, in addition to the main function of care and various forms of psychosocial support from violence, is also a refuge for the homeless or those who have acutely faced housing insecurity, is closed today. There was no purposeful and deliberative consultation by the authorities with LGBTI actors and LGBT Forum Progress about this (LGBT Forum Progress 2022). Or were the preferences, values, and interests of the care that the LGBTI Shelter, in a social environment where 66% of the general population believes that sexual minorities are sick, mentally disturbed and should be treated, be closed? Or have the heterosexual assumption and power component evolved into organized dysfunction, rewarding the 66% at the expense of minority stress?

However, Montenegrin public policies do not define social determinants of health at all, and policies are not determined by the socioeconomic status of LGBTI persons. All this has a negative impact on the health, access to health and health inequalities of LGBTI persons, and points to significantly limited contents and scope of public policies. It also points to the absence of appropriate measures and interaction between challenges and solutions, which public policies should deal with between conceptualization, implementation, and evaluation regarding the improvement of the rights and position of LGBTI persons in society.

10.1 Support Services

The COVID-19 virus pandemic has additionally and significantly worsened the situation and overall negative effects on the LGBTI community. The demand for social services, psychological support, and legal assistance, as well as the economic and social vulnerability of LGBTI people, has increased due to the COVID-19 pandemic (EC Montenegro Report: 36). The need and requirements for providing several types of support have increased by three times. In the previous 12 months, LGBT Forum Progress provided psychological

support to 136 people, psychiatric support to 37 people, and social support and counselling to 182 people (LGBT Forum Progress 2022). The LGBTI Shelter, as a key support program, also provided housing and protection for community members who were victims of violence. At the same time, all support services faced constant financial pressures and problems (LGBT Forum Progress 2022). The lack of social support made the LGBTI Shelter close at the beginning of 2022. As a result, the LGBTI community, who need this type of existential assistance, was left without basic support and protection programs – physical, psychosocial, legal, and any other. The reports of the LGBT Forum Progress also show that the community has faced an extremely high level of hatred, violence, and discrimination in the past 12 months. This was mostly manifested as hate speech on social networks and in public space, but also through the “worrying trend of growing domestic violence and peer violence” (LGBT Forum Progress 2022). 127 reports of hate speech on the Internet were submitted to the Police Directorate of Montenegro, and legal support was provided in 78 cases (LGBT Forum Progress 2022).

10.2 Environmental Justice

Health and human rights are mutually conditioned, and for the effects of such a relationship to be useful, it is important to determine the perspective, recognize and harmonize the differences between human rights and health access to health, and fulfil the needs of intersectoral action. (Haigh 2002). This requires broad engagement of government agencies, such as agriculture, trade, justice, and urban planning, to work together and in partnership with civil society (Gostin et al. 2017: 1756; cf. Kojicic 2021a: 43). Laws must also be effective and promote justice to reduce health disparities and differences based on socioeconomic status (Kojicic 2021a: 43). According to the latest data from the World Health Organization, 486 citizens of Montenegro die prematurely each year because of air pollution (measured by the concentration of PM2.5 particles) (WHO, 2022). Sensitive and marginalized social groups, including the LGBTI community, are significantly more affected by this. However, Montenegro has not been conducting comprehensive analyses of air pollution for two decades, and appropriate measures are not proposed in health and other public policies to consider and solve such an unacceptably elevated level of air pollution. There are no studies and data on how environmental conditions such as increased concentrations of PM2.5 and PM10 particles affect people's health, especially sensitive and vulnerable groups. For the sake of illustration, in Pljevlja, the concentrations of PM10 and PM2.5 particles on December 19, 2019 (at 5 p.m.) were 15 times higher than the permitted values per cubic meter (756.9 micrograms for PM10 particles), i.e., 27 times higher than the target value of 25 micrograms per cubic meter (666.7 micrograms per cubic meter for PM2.5 particles) (Banovic, 2020; cf. Kojicic 2021a: 67).

10.3 Socioeconomic Status

Human rights and public health in their approach include social determinants, and their economic, social, and cultural context is related to health and diseases. (Haigh, 2002: 168). Socioeconomic status affects people's health and limits access to health resources. For example, it conditions risky behaviour in people that leads to illness and even death (e.g.,

use of drugs, alcohol, etc.) (Murray, 2001: 680). Socioeconomic status includes other negative social factors such as poverty, stigmatization and discrimination, social norms about risk factors, environmental sanitation, poor and low-quality resources, ethnic profiling, and contributions to health inequalities (Galea & Vlahov 2002; Murray 2001; cf. Kojicic 2021a: 45-46). According to World Bank data for 2019, 22.6% of Montenegrin citizens live below the poverty line (World Bank 2022). Converted into numbers (Monstat 2011)¹, this percentage shows that at least 140,127 Montenegrin citizens live below the poverty line. Among them are LGBTI persons. The share of direct payment of health services by Montenegrin citizens, so called "Out-of-pocket spending" is quite large, in the value of 39.6%, i.e., 677.8 US dollars per capita when purchasing power parity (PPP) is considered. This share is approximately three times higher than the EU average (15.55%), while at the same time the Montenegrin gross domestic product per capita is four times lower than the EU average, and the at-risk-of-poverty-rate is one and a half times higher than the amounts in the EU (Kojicic 2021a: 34 i 49; Kojicic 2021b: 28).

However, Montenegrin public policies are not determined by social determinants and socioeconomic status. There are no activities and measures aimed at achieving the concept of health equity. This means that there are no activities that create a social and institutional approach to achieve: (a) social justice based on the principles of the concept of health equity, which respect systemic inequalities between social groups and oppose their social exclusion; (b) the concept of health equity, which understands the difference between unfair differences in health between certain population groups (health inequalities) and unfair differences as systematic differences in the health status of different population groups (health inequities); (c) health equity as a human right and an inevitable content of the right to health (Kojicic 2021; Kojicic 2021a; Dhaliwal 2019).

¹ According to the last Census data from 2011, total population of Montenegro is 620,029 individuals.

11. LGBTI Manifesto

The question of certainty was to become decisive for the whole development of modern morality. What was lost in the modern age, of course, was not the capacity for truth or reality or faith nor the concomitant inevitable acceptance of the testimony of the senses and of reason, but the certainty that formerly went with it (Arendt & Canovan 1998: 277).

This manifesto represents a new concept in the approach and activities of the LGBT Forum Progress, but also the new opportunities for the Montenegrin Government to improve on areas such as data collection, healthcare and social justice, distributive justice, justice reform and access to justice, discrimination (state, institutional, and social), gender equity, poverty reduction, LGBTI inclusive education, access to employment, accessibility of support services, homelessness, specifically speaking to the Equal Marriage campaigns and same-sex laws reforms along with reflections and analysis related to LGBTI people's experience across the board.

Social and structural inequities for LGBTI people are extremely pronounced. Over the course of 10 years, the state of Montenegro did not show sufficient concern for cooperation with the community and did not provide meaningful support for pushing the limits of endurance – to reduce structural inequalities and improve the position of LGBTI people. There is no data on the LGBTI community, and the state statistics system is not designed to collect such data. Legislative reforms are necessary and access to justice for LGBTI people must be made meaningful. Health inequities and access to health and health services for the LGBTI community are rendered completely meaningless. The social determinants of health are not considered, and the concepts of health equity and social justice do not exist. Public health policy does not recognize national laws and the actual definition of the right to health, nor does it recognize the adopted standards of the World Health Organization.

The Government of Montenegro does not respect its own methodology and procedures in the creation of public policies, and the processes of public consultation and deliberation do not correspond to doctrinal and democratic standards and values. Public policies are not connected, mutually coordinated, and not interacting – all together, they do not have a focus on LGBTI people and a systemic solution to the real problems of the community. Discrimination against LGBTI persons is widespread in all areas and at all levels: in access to justice, health, employment, inclusive education, social services, and everyday life. The community is exposed to constant pressure, hate speech and violence, and is forced to be invisible. Since the time of the COVID-19 pandemic, the community's demands for several types of psycho-social support have increased manifold, and the Government does not have adequate answers, the support is insufficient or constantly absent. State policy and the

attitude towards the community are determined by a heterosexual assumption, which is why there are no real and meaningful results that are systemically based.

Within this manifesto, in the review of the document (in 12 chapters), we have offered an adequate expert analysis and expert explanations and approaches regarding all the presented positions and our efforts to improve the position of LGBTI persons. Each of the priority areas of action is presented in chapters with a series of arguments that clearly point to the real needs of the LGBTI community, but also to the necessity of changing the Government's overall approaches to the conceptualization, implementation, and evaluation of LGBTI policy – to improve the position of LGBTI persons and for the positive changes in society in general to happen.

1. We request the adoption of measures to define and monitor administrative resilience in relation to heterosexual biases in management methods at all levels. The administration should humanize the character of management in such a way that everyone's chances in society are clearly foreseen in public policies and approaches. Such policies should lead to the unhindered realization and enjoyment of rights. Humanizing for the LGBTI community means making opportunities better for LGBTI people, and this is not the case to date. That is why it is important to stop “pink washing”, i.e., bad national marketing and the further pretending of Government services in their creating of superficial approaches that have little or nothing to do with equality and the inclusion of LGBTI people in society. Real problems must be recognized, and heterosexual bias in governance must be identified and suppressed, because it carries significant risks, shocks, new threats, and repercussions for the quality of life of LGBTI persons, but also for the overall legal order.

2. We request innovative approaches in the conceptualization, implementation, and evaluation of LGBTI policy. We insist on strict adherence to the Government's methodology and demand consideration, review and mandatory alignment, interaction, and joint commitment of various cross-sectoral policies in relation to the objectives and activities of the Government's policies. We insist that policies must be evidence-based, and we will not tolerate, support, or vote for assumptions and abstractions. We stand for the principles of good governance and will warn the public against all obstacles and trials of deliberation that will be imposed before us.

3. We request the establishment of a system of state statistics for the collection of data that is of key importance for LGBTI persons and their status in society. We insist on mechanisms that will guide and require systematic approaches to the collection, processing, and analysis of such data. We will immediately request ad hoc programs of systemic support for such aspirations, but also direct dialogue, discussion, and capacities to support permanent systemic solutions in state approaches. We will warn the national

authorities, the international community, and our partners that without adequate and good LGBTI data, government programs cannot be predictable, effective, and meaningful.

4. We request legislative reforms. We insist that the numerous legal gaps that exist within the Law on Life Partnership of Persons of the Same Sex are removed and that the state clearly regulates the requirements of the legal relationship. Legal rules must be clear, precise, and predictable in terms of their effects – and equal (for all). This is not the case with the law in question today, and such solutions can have harmful consequences for same-sex communities. We insist that to protect the equality and dignity of LGBTI persons, the state must, through the amendments to the Criminal Code, prohibit the provision of conversion therapy, advertising or promotion of conversion therapy, inducing another person to undergo conversion therapy, and taking a minor from Montenegro to undergo conversion therapy abroad.

We insist that the amendments to the Criminal Code classify hate crimes based on sexual orientation or trans status, as serious crimes, and guarantee funding for the victims of these crimes. We insist on the adoption of the meaningful Law on Gender Recognition based on self-determination and the active participation of the LGBTI community in the work process of creating such a law. We insist that legal gender reassignment options for trans and non-binary people be simple administrative processes based on best practices and international human rights guidelines.

5. We request that access to justice for LGBTI people is made meaningful.

We insist that the state, after 10 years of efforts, finally ensures the unhindered realization and enjoyment of LGBTI rights. Access to justice for LGBTI persons needs to be significantly improved, and the unhindered exercise and enjoyment of LGBTI rights must be made meaningful. This is not the case today, at all levels and in all areas of existence of the LGBTI community. Prejudice, threats, discrimination, violence, and homophobic incidents are widespread, and the effects on the exercise of fundamental rights in administrative and judicial proceedings are disastrous. This has negative consequences for the community, especially in the social environment where 66% of citizens see homosexuality as a sick and deviant phenomenon in society. We invite the national authorities and the international community to closely monitor the case before the court regarding the lawsuit for discrimination filed by the LGBT Forum Progress against the state of Montenegro. This is related to the discriminatory application of the Law on Life Partnerships of persons of the same sex and caused by the non-compliance of a number of key laws with the Law on Life Partnerships. We call upon the national authorities and the international community to consider the clear arguments from this case in relation to European legislation and the practice of the European Court of Justice on the one hand, and Montenegrin constitutional guarantees and positive legal regulations on the other.

6. We request that access to health and healthcare for the LGBTI community be made possible. We insist on defining the social determinants of health

in health public policy, but also on clear, meaningful, and achievable measures that will recognize and monitor the effects of health inequities in relation to the LGBTI community. We insist on the concepts of health equity and social justice, and on the adopted standards of the World Health Organization. We demand that such measures be connected and coordinated with appropriate analogous or equivalent measures in character in other public policies (social, economic, environmental, investment, etc.) – and all together be integrated in relation to the effects of minority stress and accompanying effects for LGBTI persons at the individual level, and the effects of social exclusion of LGBTI persons at the societal level. After 10 years of advocating for the LGBTI community, Montenegrin health public policy today does not define, recognize, or monitor the social determinants of health by which access to health and health care can only be measured. We insist and call on national authorities, the international community, and the World Health Organization to demand respect for Montenegrin laws and adopted international standards in access to health and health care for LGBTI persons. We insist, among other things, that clear measures are defined in public health plans that will (a) Provide ways to remove the obstacles that LGBTI people face in accessing PEP therapy (post-exposure prophylaxis); (b) Provide clear mechanisms for establishing PrEP therapy (pre-exposure prophylaxis); (c) In the deliberative processes, review the administrative and institutional obstacles for the access of LGBTI persons to basic health services related to the prevention and/or treatment of HIV and take into account the real problems and demands of the community; (d) To envisage ways to remove barriers so that asylum seekers and migrants, due to their legal status, can receive HIV treatment at any time and without hindrance.

7. We request that social policy for the LGBTI community is made real. We insist on socioeconomic indicators and indicators on the economic dimension of poverty of the LGBTI community. We insist on measures in public policies that will clearly indicate the necessary resources for leading an acceptable life and meeting the basic needs of LGBTI persons. Marginality, helplessness, dependence, and a deep sense of exclusion pervade the psyche of the largest number of community members who seek our support. Even today, the government does not have answers to these problems. We insist on the establishment of social protection and safety programs for LGBTI persons, and we will immediately seek Government support for ad hoc programs of community support. In the meantime, we will monitor and report to the public on the Government's activities to establish sustainable measures and permanent solutions and programs for the social protection and safety of LGBTI persons, and the alignment of such measures with other sectoral policies. We insist that the state demonstrates in action that it understands the concepts of intersectionality, inclusivity, social justice, and equity, and we ask that a social balance be established in this regard that will recognize the real position of LGBTI persons and the negative social effects of their status.

8. We request that discrimination against LGBTI persons is reduced and stopped in access to employment and in the workplace. We insist on clear measures in public policies that will recognize economic deprivation, but also systemic and

structural elements for motivation regarding discrimination of LGBTI persons in access to employment and in the workplace. This includes measures to counter instrumental opacity, heterosexist assumptions and other subtle effects within governance – based on the neurotic trappings of various forms of cultural stratification and patterns of cultural dissonance on inequality, insecurity, and inhumanity for LGBTI people. Many members of the LGBTI community are forced to work without insurance and adequate protection, in poorly paid, irregular, and insecure jobs. For the largest number, employment opportunities in a dominantly negative social environment are significantly limited, and for all of them, the possible working environment is characterized by social anxiety. In this way, the state generates an institutional structure that pushes LGBTI people into poverty. The debate on the concept of poverty must be based on cross-sectoral approaches and mutual coherence of such policies, and this refers to many more factors of interference than income deprivation. We insist on clear protection measures and mechanisms, multidimensional approaches in public policies and state programs to support the community in action. We will not vote for transparent (pink), abstract and wrong proposals based on narcissistic and ideological heteronormative management repression of meltdown, in which the state and employers will once a year assure us of LGBTI inclusion and 0% statistics on discrimination of LGBTI persons in access to employment and in the workplace.

9. We request LGBTI-inclusive curricula. We insist on improving access to creating a safe and inclusive school environment for LGBTI youth. It is not enough to just talk about policies against bullying in schools, but it is necessary to actively work on establishing specific programs and measures in government policies that will encourage improved plans to combat prejudice and discrimination based on sexual orientation and gender identity in the school environment. The loud silence of the official educational policy of inclusion and the LGBTI community that is not talked about, because “we do not deserve to be talked about”, is not a good assumption of inclusion, democracy, and democratic education. We insist on the establishment of representative and appropriate national research and surveys on homophobia, biphobia and transphobia in Montenegrin schools and progressive government measures to respond to the real needs and challenges of LGBTI youth. We insist on transforming curricula that will be grounded in the principles of equity, inclusion, and transformative action and acknowledge the multidimensional intersections of LGBTI representation in curricula – and make them equitable for LGBTI youth in their outcomes based on clear and researched evidence. We insist on training and support for teachers with such new guidance and additional and detailed guidance on how to implement improved LGBTI inclusive approaches. The silent occurrences of homophobic and transphobic bullying are not rare and harmless phenomena in society and the school environment and require original approaches in creating a climate for inclusive education.

10. We request tougher actions against discrimination and violence directed towards the LGBTI community and sustainable systemic support with various programs and services (physical, psychosocial, legal, and other assistance). We insist on tougher actions against hate crimes and systemic measures that will guarantee

funding for victims of such crimes. We insist on the establishment of strong actions, consideration of legislative improvements (additional interventions) and specific support measures to improve the practice of reporting, monitoring, recording, and suppressing hate speech, domestic violence, and peer violence, which are on a worrying increase. We insist on sustainability measures to support diverse services for the LGBTI community (physical, psychosocial, legal, and other assistance). We insist that special support measures related to housing and services be available for LGBTI people. Due to the lack of government support, the LGBTI Shelter is closed. Insufficient support, ignoring the real problems and the absence of systemic responses represent nothing but the systematic exclusion of human rights in public policies and non-recognition of the human dignity of LGBTI persons.

11. We request the Government's support for the social acceptance of the LGBTI community, in accordance with the best democratic practices, specifically speaking to the marriage equality campaigns and same-sex laws reforms along with reflections and analysis related to LGBTI people's experience across the board. We insist on inclusive dialogue and clear measures of Government support in advocating best practices and promoting LGBTI diversity. This is especially important in the context of the best democratic experiences and outcomes of the LGBTI community in efforts for equal marriage, respect for the dignity and human rights of same-sex communities – and in full cooperation with renowned international partners and institutions. In this, we see new opportunities and potential affirmative approaches for the Montenegrin Government to conduct an inclusive dialogue and work together to improve the position of same-sex communities in Montenegro. We insist on concrete measures to support such dialogue and with the support of our international partners we will offer meaningful discussions on diversity and inclusion, concerns, problems and potential common successes and solutions, guided by experiences, analysis, and examples of best practices of same-sex communities around the world. We insist on a multidimensional concept in the Government's openness, understanding and approaches to inclusive dialogue, as well as on a joint commitment to the application of proven methods in discussions, work and delivery of effective mechanisms that will lead us to improve the overall social climate and improve the real position of same-sex communities in society.

12. We request the implementation of the UN Agenda 2030 and the Sustainable Development Goals. We insist that public policies at all levels and in all areas be connected, harmonized in a cross-sectoral context and to represent an indivisible whole. We insist on the correct interpretation and implementation of the UN Agenda 2030 and the Sustainable Development Goals. That is not the case today. It is necessary that Government policies highlight imperatives in relation to tangible evidence, life problems and needs of LGBTI people and to harmonize the interaction between different policies, such as social, economic, educational, environmental, health, investment, human rights, and others – but also interaction between goals and sub-goals within individual policies.

12. Ensure a Diverse and Inclusive Montenegro

This chapter, from the point of view of internationally renowned professors, lawyers, public figures, and human rights defenders, explains the Montenegrin challenges in relation to the subject study, as well as their thoughts regarding the needs in achieving diversity and inclusiveness on the European integration path. The author and LGBT Forum Progress wish to thank the talented and distinguished group of individuals who have agreed to serve as contributors on this chapter. All have agreed to contribute without any fee. Without their invaluable inputs, this approach would be impossible. And that made all the difference.



“The strength and beauty of this analysis lies in its seeming simplicity, which, to a casual reader, may seem like the matter at hand is in itself simple or even of little significance for a wider population. But, upon a deeper look and a careful read, we come to understand just how profoundly and comprehensively all LGBTI-related topics and issues, as well as broader social and societal ones, have been woven together, not just with law and policy, but various relevant areas and scientific fields.

As a queer person living openly and proudly in Montenegro, I see that this book puts in one place, for the first time since the LGBTI movement in our nation has started, a nearly complete overview of all the obstacles, inequalities, instances of discrimination and hate, and other systematic and systemic barriers facing all of us who identify with the LGBTI acronym. Reading through its chapters I can see my own life and lives of my friends and colleagues, as they are developing and have developed in the last several decades.

I wholeheartedly believe that this analysis is a tool for progressive, extensive, and meaningful change in Montenegro and that, as such, should be embraced by all those who wish well upon this country and all its people.”

John M. BARAC

Executive Director

LGBT Forum Progress, Montenegro

John has extensive experience in communications, public relations, and research. For his academic achievement, early on, John was awarded the Global UGRAD scholarship in the USA. He is an alumnus of the HRC Global Innovative Advocacy Summit. He (co)authored many analyses and data collection publications, focusing on hate speech, human rights, elections, and antidiscrimination. He is a member of different expert teams which report internationally on the status of LGBTI rights in Montenegro, as well as the Team of Trust between the LGBTI community and the Police Directorate.



“Before the reader of this publication, the author, dr. Jovan Kojičić, has set a simple and at the same time quite a complex task, so even the writer of these lines felt that this was the most important thing to point out through a few, perhaps insufficient, subsequent thoughts. Simplicity is, firstly, reflected in its dominant meaning, which refers to the ease of understanding of the presented text, it is an indispensable tool of the author for conveying any message, especially the one that concerns social phenomena that are complex in their particularity, and in societies—such as Montenegrin—which do not respond to these phenomena with a clear and strong consensus. Dr. Kojičić

completely succeeded in this. It should be added to the aforementioned that the publication Theatre of Justice: the Truth Behind Reality is simple in another sense, which is that, despite the delicacy and variety of individual topics and their aspects, nevertheless merged into a unique whole that points to the thoroughness of the author and to which special recognition should be given. The pages and topics are lined up in a clear order, rounding off the previous one and announcing the next one, but always without excessive embellishment and stilted speech that would lead to pathos, to which even experienced people often succumb to with such topics.

The complexity of this publication lies on a meta-level, which is not only reflected in the mere multidisciplinary approach that the author was reaching for. Dr. Kojičić does not for a moment “hide” behind purely legal interpretation and deduction, nor does his platform consist only of the knowledge of jurisprudence, but persistently and skilfully reveals to the reader a wide range of sociological, psychological, and broader health, general social, and at times philosophical knowledge, which help to understand the problem and strengthen the author's argument. Finally, the complexity of the text that is now in front of the reading public is achieved precisely by the fact that it calls for further, deeper, synchronous reflection on the topics it has covered and, in the manner of a manifesto, it calls for the generation of all social forces; not for the sake of “winning” the interests or gaining the privileges of one social view or class, but for the benefit of the functioning of society as a community.

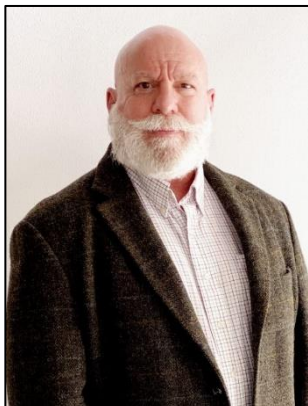
With this approach, dr. Kojičić managed to completely guide the uninformed as well as versed reader, especially decision-makers, through every part of his text, without leaving the text vague or unclear, setting a possible model for similar treatment of other social topics in Montenegrin society. I believe that this text can be useful to everyone who has an interest in this topic, regardless of which end of the support spectrum they are in.”

Andrej BRACANOVIĆ, LL.M.

Teaching Assistant

Faculty of Law, University of Donja Gorica, Montenegro

Andrej is a national consultant of the Council of Europe - Office in Podgorica, within the framework of whose "Horizontal Facility Action - Quality Education for All" program, he is engaged in consulting on the issue of building institutional capacities according to the Ethics Committee and the Agency for Control and Quality Assurance of Higher Education, analysis of valid systemic acts in the field of higher education, drafting of internal and strategic documents for higher education institutions, etc. He was engaged as the sole author of the



"The public's belief in the ability of the courts and the judicial system to provide fair and impartial justice rests on the three components of procedural fairness: voice, respect, and neutrality. Litigants must perceive that they have been provided an opportunity to tell their side of the story; that the judge, attorneys, and court staff have treated them with dignity and respect; and that the decision-making process is unbiased and trustworthy. Understanding and employing high-quality, current data and empirical research on LGBTI people, their families, and the issues they face are critical to the creation of each of these aspects of procedural fairness. Only by accurately recognizing and comprehending the LGBTI people who appear before them can judges and others working in the courts provide appropriate access to the legal system for sexual and gender minorities."

Todd BROWER, LL.M., J.D.

Judicial Education Director
The Williams Institute, UCLA School of Law, USA

Todd has worked with the courts of several nations in Europe, Africa, and North and South America, with many U.S. states and federal agencies, and with international and national judicial organizations creating and teaching judicial education programs. He is a professor of law and the current President of the National Association of State Judicial Educators and served on the California Judicial Council Access and Fairness Advisory Committee. He is the author of various law review articles, research studies, and publications on the treatment of LGBTQ persons in the courts and other legal institutions.



"Theatre of Justice: the Truth Behind Reality is a remarkable piece that scientifically analyses the realness of Montenegrin society and the lives of LGBTIQ+ people in this country.

This is one of the few reads that truly reminded me that the country I left nine years ago is far from progress. It reveals many deeply layered societal problems that many government institutions and decision makers turn a blind eye to, referring to those problems as part of Montenegrin "culture" that is impossible to change. This is far from the real truth and mostly an excuse for doing nothing about it.

So called "Montenegrin culture" can be changed if we dive deep into the root cause and problems, analyse them and make an effort to change them. Change is hard, but not impossible.

This is exactly what this analysis is doing. It takes each societal issue regarding lives of LGBTIQ+ individuals in Montenegro and shows its true colours.

I am proud to see that LGBT Forum Progress published dr. iur. Jovan Kojicic's work. I personally thank him for taking this approach to present a real picture of Montenegrin society and its treatment of our communities. This analysis should be widely presented and provided

to every decision maker, politician, health worker, community leader, law enforcement & justice system, so they work with LGBTIQ+ communities so they together create a better culture and life of LGBTIQ+ citizens who are treated equally, equitably, and with respect in every walk of life.”

Zdravko CIMBALJEVIĆ

Human Rights Defender & Co-founder of LGBT Forum Progress
Vancouver, Canada

Zdravko was the main organizer of the first ever Pride Parade in Montenegro and the first LGBTQI+ person to come out in Montenegro. He holds an Associate of Arts Degree in Peace and Conflicts Studies. Zdravko became a recognized professional and community member with experience in working with many organizations and institutions. Has experience in reporting on human rights issues to various institutions such as Canadian Parliament, European Parliament, and European Council. He is currently working for the Provincial Government of British Columbia, Vancouver.



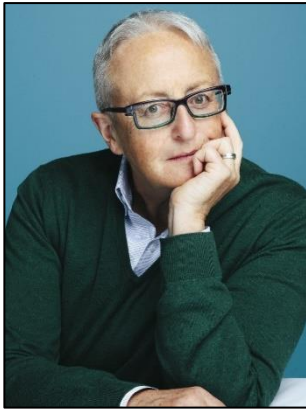
“Behind a theatre play there is a manuscript. The manuscript displays the theme of the play, but it does not reflect the truth and nothing but the truth in relation to reality. Here is a parallel to law. It has a formal side and a material or real side. The last aspect of law is influenced by existing social norms. Changes in society is an impact of norms. In relation to LGBT rights, this shown in several countries and thereby has become a part of what we call European values. It takes time before the truth behind reality becomes part of the theatre manuscript.

I met for the first time the author of this book when he approximately 15 years ago arrived as a post-doc at the department of Sociology of law, Lund University, Sweden. It was an open question what he should study during his period in Lund. Jovan Kojičić was however very determined to study LGBT rights in general and in Montenegro in particular. Since that, we have had contact over the years, and I have even visited Podgorica on a conference organized by Jovan. For me there are two characteristics of Jovan’s work; it is his perseverance and commitment to the subject combined with high academic standards. This is a rather seldom capacity which turns out well in the present publication.”

Håkan HYDÉN, Ph.D.

Professor Emeritus
Department of Sociology of Law, Lund University, Sweden

Håkan is Senior Professor in Sociology of Law, Lund university since 1988. He was before that senior lecturer in business law and Docent in Private Law at the same University. Hydén has among other things been elected Fellow of the World Academy of Arts and Sciences. Presently he works on part time as Guest Professor in NormScience and transformative innovation at Halmstad university. He has recently been appointed Section Chief Editor of the journal Frontiers in Sociology of Law.



“As a former Co-Secretary General of ILGA World, I have seen first-hand how important is to collaborate internationally, across sectors in a global context, in order to begin to address systemic inequities. Understanding the issues through data is a key step towards inclusion, which is why research has been a primary focus of Egale Canada for many years, and there still remains lots of work ahead. Massive inequities exist across the world which manifest through societies and systems that affect the freedoms of all LGBTQI people globally. It is important to analyse inclusion not only through legislation, but through policies and practices relating to social determinants of health, including access to safe, equitable and inclusive education, healthcare, housing, employment, and justice to name a few. I commend this thorough analysis on the current state of inclusion in Montenegro.”

Helen KENNEDY

Executive Director
Egale Canada, Canada

Helen has dedicated her life's work to improving the lives of 2SLGBTQI people in Canada and around the world. In 2007, with 22 years of experience in politics, Helen became the Executive Director at Egale Canada. Under Helen's leadership, Egale has made significant contributions towards equality through research initiatives which reveal the current state of inclusion, awareness campaigns and education programs to shift the culture of inclusion, and legal advocacy.



“In order to ensure diverse and inclusive Montenegro, it is of utmost importance to have the political will for changes, to secure implementation of a solid legal framework, and interpretation of norms in accordance with relevant international standards, which require adequate training of justice professionals. However, the goal will not be achieved without an increase of human rights culture in Montenegro. Media and education are proper partners for breaking stigmatization, gender stereotypes, and prejudices towards LGBTI persons. Jovan Kojicic addresses all these issues in his brilliant book, which represents a testimony of one gloomy time.”

Ivana KRSTIĆ, Ph.D.

Professor of International Human Rights Law & Director of Human Rights Centre
Faculty of Law, University of Belgrade, Serbia

Ivana is a member of several governmental bodies, including the Republic Commission for Transgender Persons. As a leading Serbian expert in the area of human rights, she is engaged in many projects run by several international organizations and agencies. She has published several monographs and textbooks, around 20 handbooks, and more than 60 articles in the area of international human rights law, international refugee law, and international public law.



“Montenegro needs to embrace the European acqui not only in economic and financial terms but also and more important in terms of rule of law including mainly human rights. LGBTIQ+ rights are inherent part of human rights, as specific expression of gender equality and equal freedom independent of sex/gender of the person(s) involved. Signing a contract of civil law, such as marriage for example, cannot depend on the gender of the persons concluding the contract. Forming families should only depend on love and care, not gender exclusions, such as excluding a person from the parental status because they have the same gender of the person to whom

this status has already been recognised. And occupying a job or political office cannot depend on the gender of the person the candidate loves spending their life with.”

Triantafyllia (Lina) PAPADOPOULOU, Ph.D.

Associate Professor of Constitutional Law
Aristotle University of Thessaloniki, Greece

Lina is a holder of a Jean Monnet Chair for European Constitutional Law and Culture, and Academic Co-ordinator of the AUTH Jean Monnet Centre of Excellence on “European Constitutionalism and Religion(s)” (2018-22). Her main teaching at the Law School includes Constitutional Law and European Human Rights Law and Gender issues. She also teaches at the Master programmes “Bioethics and Medical Law” and “Religion, Geopolitics and International Security”.



“We can’t compromise on human rights. For changes to occur, the countries first should recognize a real systemic weakness, and then create a realistic road map on problems solving accordingly. If this is not the case, the problems will continue to grow and thrive. Practical examples for this are the Western Balkans countries, where despite the efforts that some countries made to improve the situation, the rights of the LGBTI people are not fully recognized and effective institutional protection is not provided. Thus, gaps exist between what is prescribed in law and the theory with how this is put into practice.

This is the reason why I liked this book. The author brought an intersectional theory, showing clearly the aspects of a social and political oppression of LGBTI people in the Western Balkans, including different modes in relation to discrimination and violence in their everyday lives, emphasizing the power of the real interpretation of the laws that will solve the problems of the people. Showing extraordinary talent, the author effectively explores the value of inclusion, both a doctrinal and an interdisciplinary perspective of status of the LGBTI people, at the same time revealing and contributing to bridging such legal/social/humanistic gaps.”

Lenche RISTOSKA

Public Prosecutor & Liaison Prosecutor at Eurojust
Basic Public Prosecutor’s Office Skopje, North Macedonia

Lenche has extensive background in crimes of corruption, abuses of official power, money laundering, crimes that affect human rights etc. Her academical career involves bachelor's degree in law and master's degree. She also finished with great success the Academy for judges and public prosecutors. She has had several national and international consultancies for developing training materials on different topics concerning effective fight against crime. She provided lectures as an expert on numerous occasions, gaining on one occasion a runner up reward for innovation in peacebuilding and peacekeeping.



"I fully support the ideas put forward herein. Montenegro has walked a long way in developing an open attitude towards human rights and protection of vulnerable social groups. This path needs now to be finalized step-by-step. It is not an issue of LGBTI rights, it's a matter of protecting any minority, for all human beings are entitled to full dignity.

There is a need to provide specific legislation to protect them in case of hatred, violence, discrimination. It is not a matter of treating more favourably a group of individuals. It's a matter of recognizing a vulnerability and not ignoring specific risks. Finely tailored strategies

must be adapted to the specific risks that also Montenegro society harbours.

A path should lead to equal marriage. Registered partnerships are certainly a first, intermediary step, as long as they provide for the same rights and duties. As sexual orientation does not change inherent desires natural to every individual, the law should also recognize that gay, lesbian, bisexual and trans individuals may have a natural desire to become parents.

Intersexuality is also a matter that is gaining momentum. Montenegro should embrace the trend towards dismissing sex and gender categories in the law, as, by looking closer into the details, the law does not need to shoehorn people into unneeded categories. Montenegro may well pave the way in the Balkans towards a more inclusive society, trail blazing the road to a civil society led dialogue towards inclusive law reforms in the civil and criminal fields."

Alexander SCHUSTER, Ph.D.

Co-coordinator & Researcher

European Commission on Sexual Orientation Law (ECSOL) & University of Graz, Austria

Alexander currently coordinates the EU co-funded project "Identities on the move – Documents cross borders (DxB)" and previously was lead researcher of the "Rights on the move – Rainbow families in Europe" and of the project "EQUAL-JUS". He acts as board member of the Centre for Gender Studies at the University of Trento and of the Euro-Regional Association for Comparative Public Law and European Union Law. He is also an Italian attorney with pioneering work in the field of family law. He acted as an independent legal expert to the EU Commission – DG Justice and the Council of Europe.



“LGBTI people face violence and discrimination that can exclude them from equal access to employment, education, healthcare, and public services. Data is critical to understanding the extent to which LGBTI people face such exclusion in order to design services and implement policies that ensure LGBTI persons enjoy their full rights as citizens. The Williams Institute is committed to working with partners in government, academia, and civil society to strengthen the capacity for research and data collection on issues impacting LGBTI persons globally.”

Ari SHAW, Ph.D.

Senior Fellow & Director of International Programs
The Williams Institute, UCLA School of Law, USA

Ari specializes in international human rights, LGBTI politics, and U.S. foreign policy. He was previously on the senior staff at Columbia World Projects and has worked on human rights, global governance, and LGBTI issues for the Open Society Foundations, the Gill Foundation, the Council on Foreign Relations, and the United Nations Association of the USA, among others.



“Kojičić’s book presents a unique approach to the study of the LGBTI problematics in Montenegro which seamlessly blends intersectional theory, social analysis, and policy advocacy; an approach no less accomplished and comprehensive for being a pioneer study of this sort in both Montenegro and the region. The sheer scope and the depth of the issues addressed in this study is impressive: Kojičić manages to guide the reader, ever with concision and clarity, and with reliance on most recent relevant scholarship, through a broad-spectrum analysis of the position of the LGBTI people in Montenegro and a thorough critique of the hitherto policies of the Montenegrin

government in this respect. As such, this book will surely prove useful to both scholars of contemporary Montenegro and to civil rights activists. But it would perhaps not do justice to Kojičić’s work merely to focus on the more obvious qualities of his book. I would like in particular to stress here that in his all-round approach Kojičić makes visible an aspect of the position of LGBTI people in Montenegro that is, sadly, almost universally overlooked in public discourse. Rather than focusing exclusively on the issues of sexual identity, representation, and attitudes, Kojičić goes deeper to consider the problems of identity, rights, and acceptance in their relation to the hard realities of quotidian life of LGBTI people in Montenegro—socio-economic issues, poverty, access to healthcare and employment, general quality of life—depicting the vicious circle of negative cultural attitudes and negative socio-economic outcomes. Thereby Kojičić portrays LGBTI people not as a minority apart from and opposed to the prevalent mores of society, but rather as an integral part thereof, facing not only the general hardship of their fellow citizens but also being doubly disadvantaged on account of their sexual orientation. Again, this approach is not only important from a scholarly or an

activist point of view. Rather—and this is a contribution which I found particularly pertinent—it goes to the very heart of the anti-LGBTI prejudice in Montenegro and the neighbouring countries: Kojičić deconstructs the common notion that LGBTI people are some extrinsic minority which requires “special rights” and undermines the “foundations of society”, but shows compellingly that neither the wellbeing of LGBTI people nor the wellbeing of society at large can be viewed separately one from the other.”

Vuk USKOKOVIĆ, MPhil

Researcher
European University Institute, Italy

Vuk is a Ph.D. student in history at the European University Institute in Florence. His research focuses on early modern Montenegro, in particular on institutions of rural self-government and the relations of the rural communes along the Veneto-Ottoman border with the Venetian and Ottoman imperial administrations. He has also been involved in a number of research projects on contemporary Montenegro.



“Reviewing “Theatre of Justice” reminds me of the work we did to bring broad expert analysis and input together in the articulation of the Yogyakarta Principles. Similarly, this publication is a gift to policy makers in Montenegro that outlines a unique road map/manifesto for comprehensive reform that is evidence-based and linked to regional and international norms and standards. Unlike many reports and publications that reinforce a “siloe” approach to inclusion, the author has fully considered an intersectional approach that ensures meaningful and sustainable development for Montenegro and the Western Balkans, more broadly.”

Kimberley VANCE-MUBANGA

Director of International Programs and Partnership
Egale Canada, Canada

Kimberley has worked for almost 20 years to advance human rights for LGBTI persons in various UN spaces and has collaborated with civil society groups around the globe. She has been called upon as an international expert by UN Special Procedures and various governments and was a key partner in the development of the Yogyakarta Principles and Yogyakarta Principles plus 10. She is the former Executive Director of ARC International.

Editor's Choice



"Theatre of Justice: the Truth Behind Reality observes the LGBTI issues in a comprehensive way, using a more holistic approach. The author, dr. Jovan Kojicic, in a skilful way (through examples, illustrations and evidence) uses his specific academic skills and knowledge, and through an intersectional approach and theories, in a simple way, presents to the reader a real world and status of LGBTI people in society. This analysis provides an extraordinary opportunity for countries in the Region to look on real (and systemic) problems in society, to find a focus, and also to learn how to improve and change people's lives. Leaders in all sectors of society must publicly

acknowledge all weaknesses in relation to key values such as equity, dignity, equality and respect, especially for those who may face abuse, neglect and social exclusion as the LGBTI community is. That's the way how things can change and move forward. This analysis intersects and examines various topics of importance for equity, dignity, equality and respect of all people, linking them to the goals, strategies and needs of LGBTI people. This analysis is also important for human rights lawyers in the Western Balkans, who can use it for support in providing legal advice and assistance, but also for protection and for promoting legal rights. As a special note, I would like to emphasize the author's outstanding contribution in providing a clear picture in relation to social justice for LGBTI people in Montenegro and their actual position in society. This is especially visible in adapting and refining the author's legal skills in connection with the specific skills on the intersections of different social and humanistic approaches, which directs the reader to understand, as well as to meet the challenges in creating social change. This is one of special author's contribution to human rights approach and issues in the Western Balkans, even wider."

Helmut GRAUPNER, Ph.D.

Lawyer & Co-Coordinator

European Commission for Sexual Orientation Law (ECSOL)


Helmut Graupner, 1989 Master of Law; 1996 Doctor of Law; 2000 admitted to the Bar in Austria and 2000-2013 in the Czech Republic; since 1991 president of Rechtskomitee LAMBDA (RKL), Austria's LGBTIQ rights organisation; since 1992 Co-President of the Austrian Society for Sexologies (ÖGS); expert to the Austrian Federal Parliament, to the German Federal Parliament, and to the European Commission on issues of sexual offences legislation, partnership, and antidiscrimination legislation; member of the Expert Committee on the Revision of the Law on Sexual Offences appointed by the Austrian Minister of Justice (1996-2004); since 1999 member of the World Association for Sexual Health (WAS); since 2000 member of the editorial board of the Journal of Homosexuality (Routledge: Philadelphia); former Co-Director for Europe of the International Lesbian, Gay, Bi, Trans and Intersex Law Association (ILGLaw); Austrian member and co-coordinator of the European Commission on Sexual Orientation Law (ECSOL); temporary advisor of UNAIDS; since 2013 Member of the National Hiv/Aids-Commission (since 2017: National Commission on Sexually Transmittable Infections) appointed by the Federal Minister of Health; 2002-2006 lecturer in law at the University of Innsbruck ("Sexuality & the Law"); 2006-2011 lecturer at the Academy of European Law, since 2011 lecturer at the Vienna Academy of Sexology. Since 2002 state-approved counsellor-at-law for family affairs under the Austrian Family

Counselling Advancement Act. 2005-2007 member of the national Helpline for Crime Victims; since 2003 counsel of crime victims in criminal proceedings on behalf of victim protection centers (Vienna Ombudspersons for Children and Adolescents; Vienna Outreach Clinic for Men; Helpline for Raped Women and Girls). Since 2013 member of the Monitoring Board on Children Rights, Federal Ministry of Economy, Family and Youth. Since 2015 member of the Austrian Commission of Jurists. In 2016 Graupner was awarded the Vienna State Golden Medal of Merits by the Vienna State Government, and the Golden Medal of Honour for Outstanding Merits in the Interests of the Republic of Austria by the Federal President of Austria. Graupner successfully litigated leading LGBTIQ-cases in the European Court of Human Rights, in the Court of Justice of the European Union and in the Austrian Constitutional Court. In 2017 Graupner pursued a case for the rights of five same-sex families that resulted in Austria's highest court ruling that banning same-sex couples from marriage was discriminatory. The first same-sex marriage in Austria was for Graupner's clients in December 2018, with same-sex marriage available to the general public at the start of 2019; after Graupner having brought, through litigation, adoption rights and medically assisted procreation for same-sex couples to Austria as well as legal recognition of third gender.


Partnership

We would like to express our gratitude to the Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law and Egale Canada for partnering in the World Bank SOGI project, as well as to the European Commission on Sexual Orientation Law (ECSOL) for continued support and cooperation in this important endeavour for the betterment of the status and lives of LGBTI people in Montenegro and the Western Balkans. We just wanted to convey our appreciation so much to all colleagues and experts, for your hard work and close cooperation in these past few months. It has been a great spring/summer, and you have been a big part of all of this! We are looking forward to the future!

The Williams Institute

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA  School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. The Williams Institute was founded in 2001 by businessman and philanthropist Charles Williams and scholars at UCLA School of Law, with the aim of replacing the pervasive bias against LGBT people in law, policy, and culture with objective, empirical research on LGBT issues. For two decades, policymakers, lawmakers, advocates, and the courts have relied on the Williams Institute's expertise. Williams Institute scholars have published hundreds of studies and law review articles, consulted with government agencies and lawmakers, filed amicus briefs in pivotal court cases, delivered expert testimony at legislative hearings, and have educated thousands of lawyers, judges, and members of the public. Visit the Williams Institute's [website](#).

Egale Canada

Founded in 1986, Egale is Canada's national human rights organization  working to improve the lives of Two Spirit, Lesbian, Gay, Bisexual, Trans, Queer, and Intersex (2SLGBTQI) people in Canada and to enhance the global response to LGBTQI issues. We do this by informing public policy, inspiring cultural change, and promoting human rights and inclusion through research, education, awareness and legal advocacy. Egale's vision is a Canada, and ultimately a world, without homophobia, biphobia, transphobia, and all other forms of oppression so that every person can achieve their full potential, free from hatred and bias. Visit Egale's [website](#).

The European Commission on Sexual Orientation Law (ECSOL)

The European Commission on Sexual Orientation Law (ECSOL) is a non-governmental and non-political network of legal experts. Its origins lie in the European Group of Experts on Combating Sexual Discrimination which appointed by the Commission on the European Communities operated between 2002 and 2004. The members of ECSOL come from across Europe, both inside and outside the European Union. ECSOL's members have expert knowledge in legal issues pertaining to sexual orientation and/or gender identity. Their expertise includes fields such as criminal law, human rights law, anti-discrimination law, and family law. Since 2010 ECSOL is a member of the Fundamental Rights Platform (FRP) of the European Union Agency for Fundamental Rights (FRA). Visit ECSOL's [website](#).



LGBT Forum Progress

Established in 2010, LGBT Forum Progress is the oldest civil society organization that gathers LGBTIQ+ people in Montenegro and advocates respect, promotion and protection of their human rights and freedoms and full equality in society. Our vision is Montenegro as a democratic and European country, with a socially accepted, visible and protected LGBTIQ+ community. Our mission is creating safe, inclusive and supportive environment for all LGBTIQ+ people, through building and strengthening the community, public representation and advocacy, social and health care, political and economic participation, and providing development opportunities in all areas. Visit our [website](#).



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