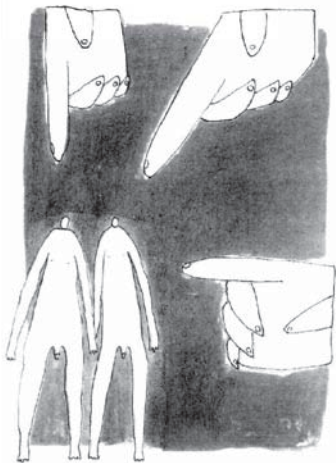


Situation of LGBT people in Ukraine



NASH MIR (Our World) Gay and Lesbian Center



Situation of LGBT people in Ukraine

When Ukraine was part of the former Soviet Union, there existed criminal prosecution concerning sexual acts between adult men punishable by up to one year in prison or exile for a term of up to three years. Sexual contact between women officially was not prosecuted, but lesbian women faced forced mental health treatment because of their sexual orientation as well.



«Fagots & drug addicts are the cause of AIDS», «AIDS is fair for gays», and «Perverts get out of Ukraine».

Kyiv, 2003.

Although gay sex was decriminalized in Ukraine at the end of 1991, at present homosexual citizens do not have the same rights as their heterosexual fellow citizens. The law does not protect them from discrimination or hate motivated crimes based on sexual orientation. This inadequacy sends the clear message that Ukrainian authorities do not consider LGBT rights to be an important issue and that they do not want to take steps to improve protections against discrimination nor to combat hate motivated crimes. In particular, no work is done to promote tolerance towards homosexuals in the general citizenry's mass consciousness.

Recent opinion polls suggest a high degree of hos-

tility towards LGBT people in Ukraine, moreover society is becoming more homophobic. The number of people who think homosexuals should enjoy equal rights has decreased from 43% in 2002 to 36% in 2011; the number of those that do not think so has increased from 34% to 49% respectively.

The Sociological Report notes that: *“The general attitudes towards LGBT persons in Ukraine are reported to be strongly negative. This negativity is often explained by the fact that being a homosexual is against Ukrainian moral standards and principles and therefore completely unacceptable. The church is also playing an important role, as the Ukrainian society is very religious and the views and opinions of the different churches are influential for a large segment of the population.”*



“GAY RIGHTS ARE HUMAN RIGHTS”. Picket organized by Nash Mir in support of a student who was dismissed from University because of his homosexuality. Kyiv, 2005.

The Ukrainian government does not view LGBT people as representing a social group with its own problems and needs. Only in the field of HIV/AIDS prevention and treatment are men who have sex with men (MSM) distinguished by classification

into a separate “risk group”.

Given the lack of any official stance on LGBT persons and the virtually complete neglect of relevant issues in the national legislation, policy-making is wholly dependent on personal views of decision-makers. As the state has completely distanced itself from the problems of LGBT people and continues to ignore their very existence, increased visibility of LGBT people in the Ukrainian society has led to the increase in the level of homophobia. The situation is further aggravated by a number of factors, among which are growth of the influence of the church and other conservative forces and homophobic utterances made by politicians, government officials, and representatives of local governments.

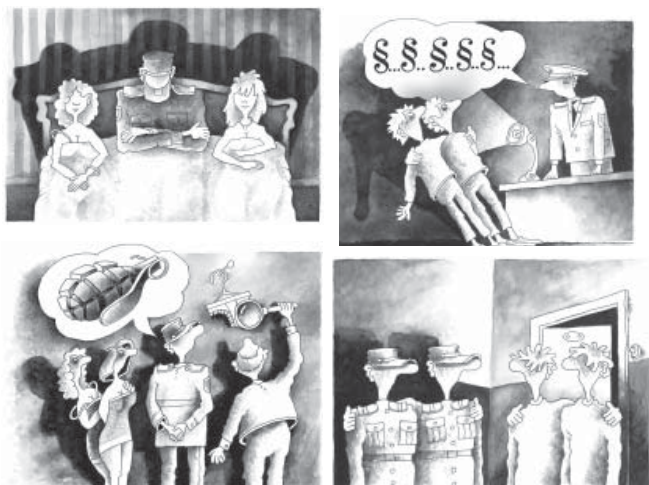


Nash Mir launching balloon against homophobia in the International Day Against Homophobia.

Main square of Kyiv, 2005.

In these social conditions, LGBT people often face physical violence, sexual assaults, hate motivated crimes, and discrimination on the basis of sexual orientation. LGBT people in Ukraine are discriminated against not only in the law, but also in their daily lives. Results from the 2011 poll conducted online by the Nash Mir (Our World) Centre show that 61% of the respondents claim to have been

discriminated against or to have had their rights violated at least once in the past three years; among those whose “non-traditional” sexual orientation was known or assumed, the figure reaches 89%. This study also demonstrates that discrimination against LGBT people occurs most frequently in the spheres of interpersonal relations, encounters with law enforcement authorities and employment. Meanwhile, Ukrainian law virtually lacks codified legal liability for (and practice of punishment for) discrimination on the grounds of sexual orientation.



The most frequent cases of violations of the rights of LGBT persons, as well as incidents of discrimination against them occur during encounters with the police. According to a study on the situation of LGBT persons in Ukraine, 77% of the respondents who have had close encounters with the police in the past three years and whose sexual orientation was known reported that they were discriminated against or that their rights were violated by the police officers. Most frequently the respondents complained about degrading treatment and unjustified physical violence on the part of police officers, as well as unlawful detainments and personal searches conducted with violations of procedural norms.

Ukraine lacks a mechanism of independent control over the work of law enforcement agencies: complaints about their actions can be submitted only to other law enforcement agencies, which in practice can be not only ineffective but also dangerous for the victims of abuse. Complaints from many victims were dismissed and those whose complaints were accepted received calls with threats of physical violence unless they withdraw their claims. Thus, it comes as no surprise that in recent years there have been very few LGBT persons who openly defended their rights.



March «For moral cleanness of the Ukrainian society» with the demand to introduce criminal prosecution for «promoting homosexuality».

Kyiv, 2007.



«Homophobia is cured» is written on T-shirts of lesbian and gay activists, handing out leaflets about tolerance.

Kyiv, 2007.

For example, in April 2010, a gay man was severely beaten by police officers in the hall of the city police department in the presence of a dozen witnesses for simply requesting that the policemen observe the proper procedures for placing him in detention. He was subsequently forced to abandon his attempt to defend his rights because he and his mother were subjected to threats by police officers. He was also forced to sign a document attesting that he had no complaints against the police. In October 2009, militants from a national-

ist organization physically assaulted and insulted participants at a gay poetry presentation. Seven months after a Ukrainian LGBT organization filed a complaint with the police, the police claimed no crime was committed and refused to bring a criminal case against the assailants.

Police also frequently and brutally violates the right of LGBT persons to privacy. The first type of violation typically occurs when police officers, in one way or another, learn about a person's "non-traditional" sexual orientation and start blackmailing him/her. Threats to disclose the information about the person's sexual orientation to his relatives or colleagues, have been reportedly used to extort money, make LGBT people admit guilt for crimes they had not commit, or force them to collaborate with law enforcement forces or to testify against other people.



Another type of violation is collection of confidential personal information and keeping to create and maintain databases about LGBT persons. The police take photos of and fingerprints from them, copy contacts from cell phones in violation of all established procedural norms and without valid legal reasons for such actions. Although Ukraine has the a Law "On Protection of Personal Data", which prohibits collection and storage of personal information without valid reasons and the person's consent, law enforcement agencies often ignore its requirements in their work.

Ukrainian LGBT organizations (e.g. Nash Mir Centre, LiGA, The Gay Forum of Ukraine, etc.) have many indirect evidences of these violations, as well as duly documented testimonies of victims. Such evidence allows us to conclude that the above mentioned unlawful practices are commonplace in all cities of Ukraine.



The well-known Russian sociologist, Academician of Russian Academy of Education, Igor Kon speaks at the international LGBT conference «OUR WORLD: extending the borders». Kyiv, 2005.

On the left Svyatoslav Sheremet of Gay-Forum of Ukraine.

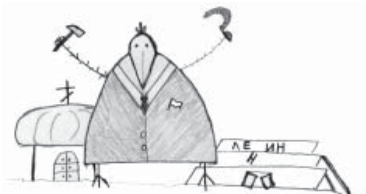
Right to marry and to found a family: The Family Code of Ukraine provides for marriage only between one man and one woman. Same-sex couples are deprived of any form of legal recognition and, thus, deprived of any rights as a family even if they cohabit and *de facto* constitute a family. The Code, while denying same-sex couples family rights, provides unmarried opposite-sex cohabitants with property rights. Also, same-sex couples are not allowed to jointly adopt children.

Ukrainian law does not recognize any parental or custodial rights and obligations for a partner in a same-sex couple in relation to the child of the other partner and prohibits second-parent adoption of the child. This amounts to restriction of the

rights of the child and an unreasonable interference with private and family life by the government.

During recent years, several attempts were made to organize peaceful demonstrations by LGBT groups, but those attempts were either banned by local authorities or attacked by radical groups like nationalists or skin heads. The police usually did not protect LGBT people or investigate such attacks. For example, on November 20, 2010, a non-governmental organization organized events to observe the International Transgender Day of Remembrance. At a movie screening event, about ten men in masks broke into the hall and sprayed tear gas. Several people were injured. The police arrived but did not file a complaint or launch an investigation. The police's attitude about incidents in the gay community is that if no one is dead, they do not do anything. On December 11, 2010, a few groups, including one LGBT organization, organized a demonstration related to Ukraine's social policies on LGBT rights, among other topics. At the end of the event, a group of young men calling themselves "Christian youths", possibly related to the neo-Nazi political party that had threatened to counter-protest, attacked some of the protest participants and screamed homophobic slogans.

Ukrainian politicians prefer to keep silent about LGBT issues in public. When the public does hear something, usually they hear anti-gay messages. For example, the former Chairman of the Committee on Human Rights of the Ukrainian Parliament, Mr. Leonid Grach, stated publicly that *"homosexuality is an anomaly, which is caused by the amorality and the depravity of man"* and *"me and my colleagues in the Parliament have to protect the society from infringement upon morality, to prevent penetration into consciousness and souls of people of any age the idea that the state is on the side of people"*



who sow debauchery, promote dissoluteness, sexual permissiveness, bringing abomination of corruption of morals into society.” In the opinion of Mr. Grach, *“the state must protect the society from evil, from violence, including such evil as homosexuality, lesbianism and such.”* Despite calls from Nash Mir Center to state and political leaders, no actions were taken to reprimand Mr. Grach for these homophobic statements. This is not surprising since gay bashing and discrimination, both by private and governmental persons, is the norm across Ukraine.



Protester in front of Kyiv municipality.

[No comments]



Drag-queens in boudoir after gay-party, organized by Nash Mir. the first ever one in Donetsk, 2005.

In 2011 several members of the Ukrainian Parliament submitted a bill (Draft law No. 8711) which, if adopted, would prohibit of the “propaganda of homosexuality”. In case of adoption this provision will endanger the very basic principles of a democratic state: the freedom of speech, freedom of peaceful assembly, and freedom from discrimination. At least one governmental agency – the State Committee for Television and Radio Broadcasting of Ukraine – expressed its support for the draft law.

The Explanatory Note accompanying the draft law gives the rationale for the proposal as follows:

“The draft law is designed to strengthen protection from homosexual propaganda in Ukraine and establish the legal framework for the prosecution of violations of the laws which protect public order and morality in Ukrainian society.

The spread of homosexuality is a threat to national security, as it leads to an epidemic of HIV / AIDS, destroys the institution of the family and can cause a demographic crisis."

The draft law seeks to achieve this objective through amendments to five laws addressing three distinct areas, protection of public morals, regulation of the media/publishing, and the criminal code. In each case this is done through simply adding either the promotion of homosexuality or the production/distribution of products which promote homosexuality to the list of prohibited activities in the legislation.



**WE ARE HERE, WE ARE QUEER,
AND THIS IS OUR WORLD TOO!**

The criminal code carries penalties ranging from a fine to 5 years' imprisonment for the breaching the relevant provision. The other laws on public morality and regulating the media/publishing make provision for various forms of sanction against the entity concerned, or refer to the possibility of administrative or criminal sanctions under other legislation.

Furthermore, in March 2012 another similar bill (Draft law No. 10290) was submitted to the Parliament.

The only state institution that is charged with hu-

man rights defense, the Verkhovna Rada Commissioner for Human Rights (Ombudsman), follows the same policy line as the rest of the government: it distances itself from LGBT issues.



Thomas Hammarberg, Council of Europe Commissioner for Human Rights, at the meeting with representatives of Nash Mir Center. Kyiv, 2007

Over the past few years, the church, including the official Orthodox church and the Catholic church, has become even more anti-gay and vocal about its prejudices. Church officials in Ukraine make public statements condemning gays, and religious organizations collect signatures from people to petition the introduction of criminal punishment for homosexuality. A common view in the church is that Ukrainians cannot accept European human rights values such as protecting the human rights of gays and lesbians because Ukraine has a traditional lifestyle which does not include embracing gays and lesbians.

All-Ukrainian Council of Churches and Religious Organizations addressed to Parliament with the statement:

"The experience of countries which register same-sex marriages or partnerships shows that the process of liberalizing public morals by the state ends in the abyss. Where prostitution and drug addiction, same-sex marriages and euthanasia are legalized, there is already a question of legalizing pedophilia... Already in the near future, extinction threatens the native populations of these countries. We do not want

Ukraine to go this way."

Given the persecution of homosexuals that has predominated Ukrainian culture for decades, most homosexual men and women in Ukraine distrust authorities and the government. Therefore, as a rule, LGBT people do not speak out about violations of their rights, because they are afraid to be open about their sexual orientation as their self-admission can lead to homophobic reactions and even more violence against them.



Participants of the school for LGBT activists, organized by Nash Mir in 2011.

HIV/AIDS: The latest 2009 bio-behavioral study of MSM in Ukraine showed that prevalence of HIV infection in this group averages 8.6%, and in some regions (i.e. Lviv, Odessa and Donetsk oblasts) it reaches up to 20%.

"The MSM subgroup is not taken care of by any ministry, it exists outside the legal framework. The state's attention to this group is very limited. The fact that some law enforcement and health service officers take the behavior of MSM as deviant causes biased, discriminatory treatment and, in turn, puts a barrier to prevention programs among MSM."

was admitted in the "National Report on the Implementation of the Declaration of Commitment on HIV/AIDS in 2008-2009" – Ministry of Health of Ukraine, 2010.



About NASH MIR Center

OUR HISTORY

"Nash Mir" (Our World) Gay and Lesbian Centre was established in Luhansk in Southeastern Ukraine in 1997 as a grassroots group. By our initiative we took upon ourselves the responsibility for educating Ukrainian society about homosexuality, toppling recurrent stereotypes and prejudices against gays and lesbians, consolidating lesbian and gay community, and for advocating our rights.

This is the situation in Ukraine we discovered: there "wasn't a problem with homosexuality" as long as it went unseen. At first, local judiciary officials simply did not know what to do with our organization! Interviewed by a national newspaper, one official said, *"How can we recognize them [the organization] on an official level, as a juridical person? There is no legal basis, though this sort of orientation isn't forbidden, but neither are precedents... If I register them, excuse me, wankers will come, and someone else... And what about morality?"* Using far-fetched grounds they refused our registration.

Certainly we did not let ourselves be humbled by such obvious discrimination. Nash Mir was indeed registered at the end of 1999. But successful registration was made possible only as the result of a determined battle by the members of the organization for their legal rights, and the steadfast attention to this issue on the part of some international human rights organizations.



Advertisement of Nash Mir Center in Kyiv Metro line: "Are you gay?"

2005.

OUR GOALS

- Protection of human rights and freedoms for lesbians, gays, bisexuals and transgender people in Ukraine. Fighting against discrimination based on sexual orientation.
- Improving Ukrainian society's attitudes towards homosexuality by challenging homophobia in the mass media.
- Supporting LGBT people and their self-consciousness and pride as equal and valuable members of Ukrainian society.

OUR CURRENT ACTIVITIES

Our projects are aimed at Ukrainian gay and lesbian community and society in general. At present we focus our activities on the following:

- Monitoring violations of LGBT rights.
- Initial legal help and counseling for victims of discrimination and hate crimes based on sexual orientation.
- Legal education of LGBT community.
- Joint actions with other organizations to advocate for full LGBT rights on the legislative and political levels.
- Supporting grassroots groups in their work of providing social and psychological services to LGBT, HIV/AIDS prevention among MSM, mobilization of the community on local level.
- Organizing seminars and conferences.
- Public relations.

Nash Mir Center is a founding member of the Council of LGBT Organizations of Ukraine (at present 21 NGOs are members). Andriy Maymulakhin, Coordinator of Nash Mir, is Chairperson of the Committee on Human Rights and Advocacy, Co-chair of the Council.

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P.O. Box 173, Kyiv, 02100,
Ukraine



We'll highly appreciate your financial support which will help us to continue our work aimed at promoting and protecting human rights of LGBT people across Ukraine.

You can send your donations to:

Beneficiary: Our World Gay and Lesbian Center
Account (in **US Dollars**) Nr. 26005197248003

Bank: Lugansk Branch PrivatBank, Ukraine

Bank address: 14 Chelyuskincev St., Lugansk,
91011, Ukraine

SWIFT code: PBANUA2X

Intermediary bank: Chase Manhattan Bank

SWIFT code: CHASUS33

Correspondent account: 001-1-000080

Beneficiary: Our World Gay and Lesbian Center
Account (in **EUR**) Nr. 26003197248005

Bank: Lugansk Branch PrivatBank, Ukraine

Bank address: 14 Chelyuskincev St., Lugansk,
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(because... all charitable donations are tax-free according to
Article 7.11 of the Law of Ukraine «About the taxation of profit
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On cover page: Members of Nash Mir with our rainbow flag