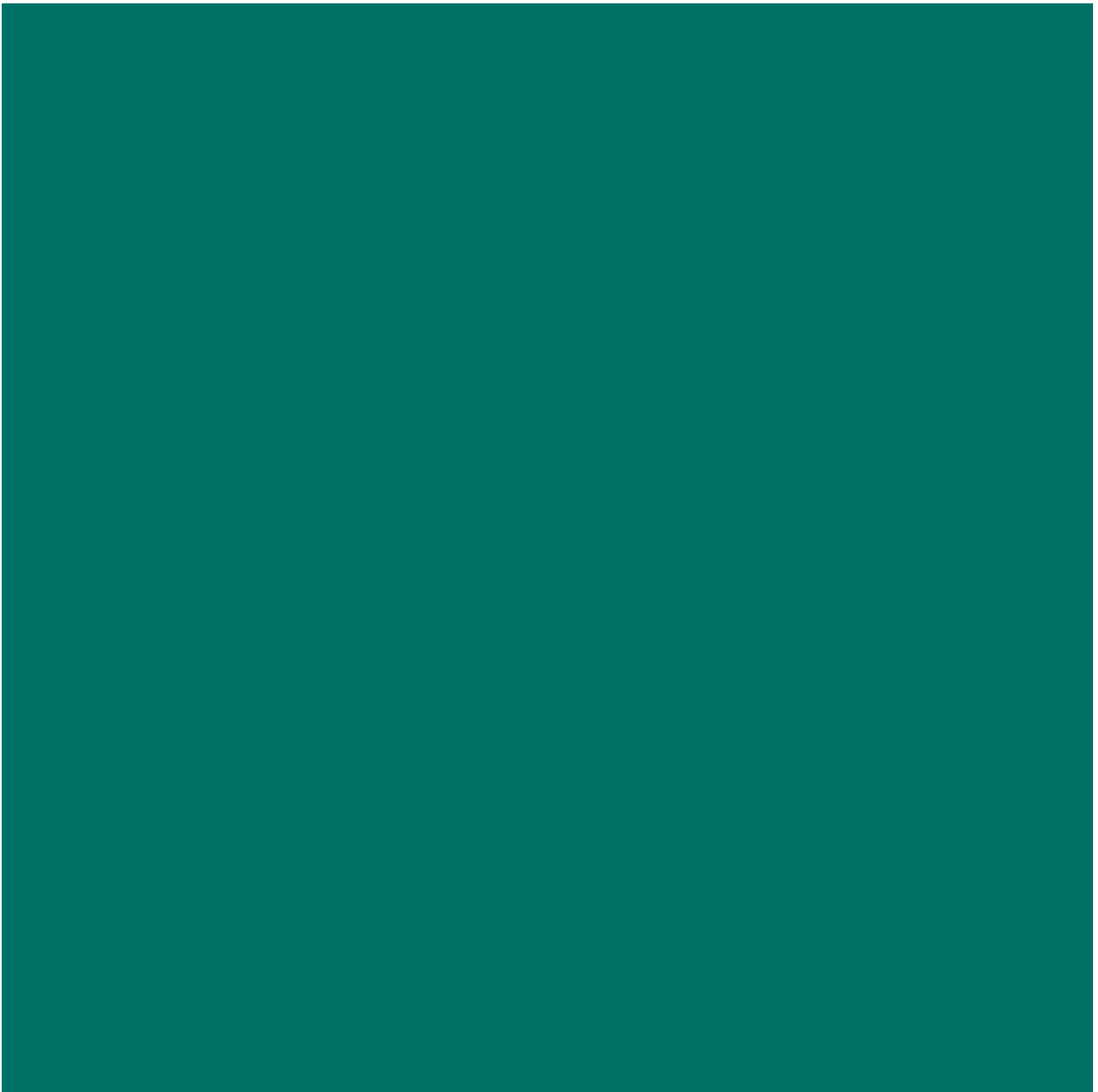




NOVEMBER 2005 • LOTTA SAMELIUS, ERIK WÅGBERG

A Study of Policy and Administration

# Sexual Orientation and Gender Identity Issues in Development





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# List of abbreviations

AFEW	Aids Foundation East West
AIDS	Acquired Immunodeficiency Syndrome
ARV	Antiretroviral treatment
CBO	Community Based Organisation
CEDAW	Convention of the Elimination of all forms of Discrimination Against Women
CCM	Country Coordination Mechanism
DFID	Department for International Development
EU	European Union
FGM	Female Genital Mutilation
FHI	Family Health International (USA)
FHI	Swedish national institute for public health
GF	Global Fund on HIV/AIDS, TB and Malaria
HIV	Human Immunodeficiency Virus
HIVOS	Humanistisch Instituut von Ontwikkelingsamenwerking
IDU	Injecting Drug User
IGLHRC	International Gay and Lesbian Human Rights Committee
IGLYO	International Lesbian And Gay Youth Organisation
ILGA	International Lesbian and Gay Association
INGO	International Non-governmental Organisation
IOM	International Organisation for Migration
LGBT	Lesbian, Gay, Bisexual and Transgender
LGB	Lesbian, Gay and Bisexual
MENA	Middle East – North Africa
MoH	Ministry of Health
MFA	Ministry for Foreign Affairs
MSM	Men who have Sex with Men
NACO	National AIDS Control Organisation (India)
NGO	Non-governmental Organisation
OECD-DAC	Organisation for Economic Co-operation and Development – Development Co-operation Directorate
PASMO	Pan American Social Marketing Organization
PSI	Population Service International
Sida	Swedish International Development Cooperation Agency
TAC	Treatment Action Campaign
TI	Transgender and Intersex
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Programme
UNGASS	United Nations General Assembly Special Session
UNIFEM	United Nations Development Fund for Women
VCT	Voluntary Counselling and Testing

The views and interpretations expressed in this document are the authors', and not necessarily reflect those of the Swedish International Development Cooperation Agency, Sida.

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Authors: Lotta Samelius and Erik Wågberg

Sida Representatives: Gunilla Essner, Christina Larsson and Anders Ragnarsson

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# Executive Summary

This report is the outcome of a study of Swedish policy and administration of Lesbian, Gay, Bisexual and Transgender (LGBT) issues (including intersex issues) in international development cooperation. Findings showed that the level of knowledge and understanding among Sida and Ministry for Foreign Affairs (MFA) staff on LGBT and intersex issues is uneven and in many cases inadequate. The same is true when it comes to awareness of the linkages between gender identity, sexuality on the one hand, and on the other hand core development issues such as poverty reduction, the protection and exercise of human rights and combating gender-based violence.

The study shows that there is a lack of explicit mentioning of LGBT issues in Swedish policy and strategy documents, and that in programmes with Swedish support, LGBT issues are not dealt with in a consistent manner, or at all. On policy level the exception is the Swedish Government Communication on Human Rights in Foreign Policy, where LGBT issues are dealt with as a minority rights issue alongside with indigenous people's rights and rights of persons with disabilities. Intersex issues are not mentioned in any official documents. There are no directives to ensure that Swedish supported interventions do not advocate in favour of, or tolerate, LGBT discrimination.

Present support to LGBT interventions, LGBT inclusive analysis and dialogue on LGBT issues is much to the discretion of the individual programme officer or employee at Sida/MFA/NGO with Sida framework agreement. Support that includes LGBT issues receiving Swedish funds has a pronounced focus on Men who have Sex with Men (MSM) and HIV. Some support is given by Sida to promote LGBT rights, but the initiatives are few and scattered. No initiatives including or targeting intersex persons were identified.

Lesbian, Gay, Bisexual, Transgender and Intersex persons may be exposed to discrimination, violence and marginalization everywhere in the world due to legal, medical, cultural or religious misconceptions. Violence and abuse against LGBT persons may occur in the workplace, in local communities, healthcare and by family through verbal abuse, hate crimes, crime in the name of honour, neglect, forced marriage, forced medication, mutilation, rape etc. In many countries homosexual sex is a crime. Most countries in the world lack permissive laws and legal protection against discrimination on grounds of sexual orientation and/or gender identity.

There is a deficit of global mapping of violations of Transgender and Intersex persons' rights and forms of social, cultural, religious and medical discrimination on grounds of gender identity.

This study further gives an account of the legal and social situation of LGBT persons, and when possible, intersex persons, through case studies in South Africa, India and Moldova. The legal situation for LGBT persons varied in the different countries. In South Africa homosexuality is legal and there is legislation protecting against discrimination on grounds of sexual orientation. In India, sodomy laws are used to punish sex between men, and other legislation such as laws that criminalize 'public nuisance' are used to discriminate LGBT persons. In Moldova homosexuality is not a crime but protection against discrimination on grounds of sexual orientation is weak. Cultural, societal and family discrimination and violence against LGBT persons was reported to be common in all three countries. The conclusion is that the situation of LGBT and intersex persons in these countries is unequal and unfavourable in comparison with the life conditions of heterosexual women and men.

Recommendations to Sida and MFA include that LGBT and intersex issues should be treated as a human rights issue and included in programming on gender equality and social equity and considered whenever revising policy and strategy documents that deal with gender, democracy, human rights, gender-based violence, health and sexuality. Dialogue on LGBT issues should be encouraged when Sida and MFA staff meet with counterparts in development cooperation countries in discussions about target and participating stakeholder groups, as well as discussions about social and gender inequalities and their implications for development. Further investigation and mapping with a national or regional focus on LGBT relevant issues is necessary. It is important that Sweden continues to make a strong commitment in the UN, EU, Council of Europe and other international fora, and to treat LGBT issues as a mainstreaming issue in programmes on human rights, women's and men's rights, sexual and reproductive health and rights, HIV/AIDS, poverty reduction, education, population, freedom of speech and other relevant areas.

In bilateral support, LGBT and intersex issues should be included in analysis, dialogue and support to human rights, health, education, culture, and research. In programmes to fight gender-based violence and hate crimes the special vulnerability of LGBT persons should be further recognised. Support to initiatives and organisations that are committed to create awareness, visibility and social space for LGBT people as well as support to promoting human rights, tolerance and freedom of expression regardless of sexual orientation or gender identity should be increased. To make this possible and to ensure the quality of the support, there is a need of comprehensive staff training at Sida and MFA on LGBT and intersex issues. It is particularly important to include locally recruited staff at Swedish embassies in staff training.



# 1. Introduction

## 1.1 The study

This study examines the Swedish policy and administration of LGBT (Lesbian, Gay, Bisexual and Transgender) issues in international development cooperation. The study was commissioned by Swedish MFA (Ministry for Foreign Affairs) and Sida (Swedish International Development Cooperation Agency) according to agreed terms of references (annex I). Two consultants were contracted to execute the study, Lotta Samelius, psychologist and PhD candidate in gender based violence at the faculty of medicine at Linköping University, specialist in the field of education, medical psychology and gender- based violence and Erik Wågberg, master of European anthropology, and international advocacy adviser at Noah's Ark-Red Cross Foundation, specialist in the field of development cooperation, international LGBT activism and HIV/AIDS.

The study was planned in two connected parts. The first part was a desk study with a focus on reviewing relevant Sida and MFA policy, strategy and position documents and to conduct a mapping of Swedish stakeholders within government and civil society to report from their work with LGBT issues. The Swedish NGOs that were assessed were RFSU (Swedish organisation for sexuality education) RFSL (Swedish organisation for sexual equality), Kvinnoforum (The Foundation for Women's Forum), Noah's Ark-Red Cross Foundation, Amnesty International, Swedish Section and Swedish Helsinki Committee. Government organisations interviewed were Sida, MFA, HomO (the ombudsman against discrimination on grounds of sexual orientation), NAI (Nordic Africa Institute) and FHI (National Institute for Public Health). Researchers on LGBT issues were identified through various universities in Sweden. The assessment was done through personal and telephone interviews, reviews of documents/publications and internet search.

The second part of the study was comprised of case studies in three countries (South Africa, India and Moldova) of Swedish administration of LGBT issues and an assessment the life situations of LGBT and intersex persons in the respective country. This included data collection with a focus on legal rights situation and personal life stories of LGBT persons, as well as a mapping of organisations and their interventions directed to LGBT issues and persons in regards to human rights, health, visibility and provision of social space. Stakeholders interviewed were NGOs, INGOs, government organisations, multilateral donors, researchers and community representatives. Organisations and persons interviewed were identi-

fied; in South Africa through the LGBT organisation “Triangle Project”, in India the Swedish embassy helped with contacts and in Moldova the local Sida office was helpful in providing entry points. The work of the consultants was monitored and supported by an interdisciplinary coordination and reference group at Sida lead by Sida’s Health Division, with additional human resources from MFA and Swedish civil society. The report was validated through the reference group and stakeholders were invited to leave written comments.

The study was carried out January to May 2005. Due to time constraints there was little opportunity to visit cities outside of the main cities/capitals in the assessed countries. Limited time also meant that the study is heavily reliant on insights that were accounted for by informants, rather than on first-hand investigations and primary research. Information was crosschecked when this was possible but this type of report naturally must limit itself to the information provided by informants and their views of the situation. LGBT issues are relatively new for many the assessed organisations, and still an area that is finding its position among other areas in rights, health and equality. LGBT organisations outside Europe are also often young structures and are still searching for their scope of activities and forms of work within the organisations and between organisations. Due to this the information that different informants provided to the consultants may be biased and may also reflect positions that are a result of internal conflicts and other circumstances unknown to the consultants.

The area of LGBT and intersex issues is a vast and culturally complex field and this report can only give a broad and general orientation on what it is like to live as an LGBT or intersex person in certain developing countries. For many people, the sensitive nature of the subject makes them unable or unwilling to speak about issues facing LGBT and intersex persons, nationally or internationally. This limited the selection of people available for interviews. There was also a time limit for the study, which did not allow for a very extensive reading and analysis of policy and legal documents. Furthermore several topics are only briefly mentioned in this report. Many of them deserve an in-depth analysis in future studies and further research. This is particularly true for LGBT issues and the UN as well as LGBT issues and religion. The report utilises some previous resources and writings. All literature references are given in annex VII. together with some other references both to internet resources and literature with an LGBT focus or dimension.

This study does not assess if there is a need to combat homophobia and transphobia in the workplace at Sida, MFA or any of the organisations receiving funding from Sida. There have been complaints to the Swedish ombudsman HomO by individuals who have been in contact with Swedish embassies and claims they have been exposed to homophobia. As far as the consultants are aware, there are no cases of homophobia or transphobia at Sida, MFA or NGO with framework agreement with Sida that has lead to a court ruling. The exploration of this issue is outside the scope of this particular study but nevertheless should be taken in account and measures should be taken to counteract any such tendencies. Silence is the most striking expression of homophobia in present day Sweden. This appears to be equally true to Swedish international development cooperation.

## 1.2 Thematic background

Discrimination, marginalization, and violence against LGBT and intersex persons occur everywhere in the world. Violations of rights are widespread and sometimes even justified by political and religious leaders as an important cornerstone to safeguard morality and social order. LGBT and intersex persons are used as scapegoats for crime, corruption and health problems and made to represent the evil deviating from religious, moral and family norms and values. LGBT and intersex persons are attributed all sorts of negative qualities connected to their sexual orientation and/or gender identity. LGBT and intersex persons are furthermore surrounded by erroneous beliefs, religious condemnation, suspicion, shame and hatred and suffer from negative consequences with effects to health, safety and economy due to state, community, family and self-repression.

The issue of gender and sexualities is of a nature that touches upon some of the most intimate and personal aspects of a human being's social and emotional existence. When meeting a person for the first time it is usually not the person's education, religion or ethnicity that we first notice, but if the person is a man or a woman. Kinship, reproduction and sexuality are concepts that are intimately integrated in the concept of determining the logic of a person's relationship to and function in society. Gender and sexuality might be some of the most primary classifications and grounds for social organisation of humans that we know, and also the topics that cause most debate. Knowledge about the complexity of sexual orientations and gender identities and conclusions we can draw from encounters with LGBT and intersex persons in the world may show that we have a lot to learn from plurality, creativity and dynamics of gender and sexualities. In regards to this, we can lend a thought from French philosopher Michel Foucault; that the body might be imprisoned in the mind, and not the reverse.

When studying judicial legislation prohibiting same-sex encounters and relations, mostly same-sex activities between men is explicitly prohibited. It is common that sex between women is not even considered to be sex, either because women are denied from having sexual desires, or that the factor that determines a sexual act is penile penetration. These attitudes are deeply rooted in patriarchal structures and construction of sexuality and reproduction that ultimately constitute an aspect of power and control. The result of this is that male issues have become more visible and most LGBT organisations are male dominated.

LGBT issues have accessed the international political agenda much due to the HIV epidemic and rapid spread of HIV infection among men who have sex with men (MSM). LGBT interventions have mainly focused on HIV prevention programmes, and thus only on MSM as a target group. This has rendered lesbian and bisexual women even more invisible and marginalised, as they are often not mentioned in policy and legal documents, and as they will neither benefit from the (L)GB(T) development aid money, nor will lesbian needs and rights be promoted by HIV programmes.

The proximity between HIV/AIDS issues and LGBT issues can also lead to an unfortunate confusion of the two important but separate issues of LGBT equal rights on one hand and of HIV prevention directed towards LGBT people on the other. When reporting from what is observed in the field this is noticeable and there is a high representation of information in this report that deals with MSM and HIV/AIDS, simply because that is what most LGBT organisations work with. The consultants want to

underline the importance to recognise this situation and therefore also stress the relevance of dialogue and initiatives targeting lesbian and bisexual women, transgender persons and intersex persons, and to treat LGBT equal rights and HIV prevention as separate, sometimes linked issues and not in the place of each other or only in conjunction with each other.

The Swedish policy for global development adopted by parliament in 2003 states that all people, regardless of their age, sex, ethnic background, beliefs, origins, sexual orientation or disabilities shall be encompassed in protection of human rights and be given the possibility to contribute to the development of the communities and countries they live in. It is recognised that all people are needed, and that they constitute important resources, actors and subjects for sustainable development. In the policy for global development it is also determined that discrimination acts as a brake on development, partly since it results in failure to take advantage of human resources, and partly since it means inequality and injustice and contributes to tensions, and even to open conflicts, in society.

The issue of counteracting discrimination and violations of human rights arising as a result of sexual orientation and gender identity has lately been given an increasing amount of attention in international fora, in bilateral international development cooperation and nationally in Swedish politics. In the Letter of Appropriations of 2003, Sweden enforced reporting on LGBT issues in the annual human rights reports from all Swedish embassies in the world. In 2004 there was for the first time in the Letter of Appropriations a demand for Sida to report to MFA what they have accomplished in the field of support to LGBT issues during the year.

### **1.3 Acknowledgements**

This report on LGBT issues and development cooperation appears to be the first of its kind conducted by a governmental donor organisation. Individual researchers and NGOs are reported to have compiled reports on LGBT issues and development in restricted geographical areas or with a more narrow scope, but no report on LGBT issues and international development cooperation as comprehensive as this study has been executed previously.

This text is a condensation of many discussions, interviews, field visits, documents and articles read and important input from many persons and organisations. At both Sida and MFA programme officers and staff involved in policy issues have dedicated much time and contributed to the report with their valuable input. From several Swedish NGOs there has been great support for this study. Comments and reflections from all parties have been to the furthest extent possible included in the text. There are several individuals that deserve a special thanks for their assistance, but the warmest thanks the consultants would like to direct to the self identified lesbian, gay, bisexual, transgender and intersex persons in South Africa, India and Moldova who shared their personal stories and showed glimpses from their daily life that gave valuable insights to how it is to live, work and socialise in their respective country and local context.

## 2. Definitions of sexual orientation and gender identity

### 2.1 Sexual orientation

Homosexual women and men (in the western world often referred to as gay men and lesbian women) have a sexual orientation towards persons of the same sex. Heterosexual women and men (in the western world often referred to as straight persons) have a sexual orientation towards persons of the opposite sex. Bisexual women and men have a sexual orientation towards persons of the same as well as of the opposite sex. Heterosexuality, homosexuality and bisexuality are all regarded as “sexual orientations”. The term homosexual came into use by the second half of the nineteenth century. The term was used as a clinical description of men who displayed sexual desires to other men. In modern language the term homosexuality is equally ascribed to male as to female same sex sexual behaviour. The homosexual identity developed in the late 19-th and 20-th centuries and diversified into a plurality of gay, lesbian, queer etc. sexual orientation identities. All these identities are part of a modernity process. The identity creation process is an intricate and complex dynamics of the relationship between the “one” who has power to name a category and determine its qualities and the “one” who is placed in a category’s counteraction to re-negotiate the qualities and nature that is ascribed to the category.

Among lesbian, gay and bisexual persons there is an ongoing debate of how homo- and bisexual persons best should be named. No definition is universally recognised, and the discussions are dynamic. Lesbians, gays and bisexuals have in some cases consciously appropriated words that have been derogatory at one time and reevaluated them and changed negative words that often have been used to condemn, into positive self-definition words. An example of this can be found in South Africa and the use of the word “Moffie”, a derogatory word to define a homosexual man. This word used to be only negative, but has recently started to be used among homosexual men as a positive word for them selves. In Sweden the same process is seen with the words “Bög” and “Flata” that used to be derogatory words for a homosexual man and woman. Self identified homosexual women and men now use these words in a positive sense. The word homosexual is another word that may have a positive, neutral or derogatory denomination when used to describe a person who has desires to have sexual contacts with a person of the same sex. In this report the terminology Homosexual, Bisexual, Heterosexual, Lesbian and Gay are used to describe sexual orientation.

## 2.2 Gender identity

Gender should not be understood merely as a synonym for women and/or men. Contemporary gender research does not primarily focus on women and men, but how femininities and masculinities are constructed as unequal dichotomies, especially where distribution of (material) resources and power is of central importance. The construction of gender is linked to societal processes that involve *inter alia* class, sexuality, age and ethnicity. Predominant gender constructs affect the lives of LGBT and intersex persons as they do everyone else. LGBT and intersex people are often forgotten (or deliberately left out of) in gender analyses and gender policy discussions. This is unfortunate, as it reflects a heteronormative attitude, by rendering lesbian, gay and bisexual persons and relations invisible, incomprehensible, and marginal. It also limits the expansion of gender analysis and settles for a narrow outlook on gender and equality issues.

Some researchers question the use of gender categories, claiming that they often are used in a mechanical way, and instead prefer the notion of gender practices (e.g. Dowsett, 1996). Other researchers use the concept gender patterns (e.g. Connell, 2002), the focus being on gender relations instead of on gender differences, as well as on how these relations are constructed and understood in different cultures and societies, and how they change over time. An important note is that there are two aspects of gender identity, the self-defined gender identity and the ascribed or imposed gender identity that is usually based on the appearance of internal or external reproductive tracts and organs.

Transgender is a term that includes transsexual persons and transvestites. Transsexual persons are individuals whose sexual and/or gender identity differs from the norm of the biological sex that was ascribed to them by birth. A transsexual person can be male-to-female or female-to-male. Transsexual persons can have a homosexual, heterosexual or bisexual orientation when it comes to preference of sexual partners. Transvestites are persons who, to different extent and with different regularity, dress in clothes traditionally ascribed to persons of the opposite sex to what they were ascribed to. A transvestite can be male to female or female to male. Transvestites may have a homosexual, heterosexual or bisexual orientation. Transvestites are sometimes called cross dressers. Transgender is an issue of gender identity, not of sexual orientation. In this report the terminology used for gender is Woman, Man and Transgender.

## 2.3 Intersex persons

Intersex is a general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that doesn't fit the conventional definitions of being only male or only female. A person might be born appearing to be female on the outside, but having mostly male-typical anatomy on the inside, or a person may be born with mosaic genetics, so that some of the person's cells have XX chromosomes and some of them have XY. A person may also be born with atypical genitals that appear to the onlooker to be in-between the usual male and female types. The standard protocol of treatment for these children is "gender corrective surgery" to alter the genitals of the person and thus ascribe them to one of the two recognised biological sex belongings; male *or* female.

A small but growing intersex movement is fighting this practice, as it is discriminatory, disrespectful and often brings about physical as well as psychological harm. They strive to end gender corrective surgery on babies and children and make the practice regarded as a harmful traditional practice equal to FGM (Female Genital Mutilation) and thereby a denial

or violation of intersex persons' human rights. Intersex persons are extremely marginalized; their existence being virtually unknown by the society at large, and are often regarded as abnormal. Intersex persons are sometimes referred to as hermaphrodites. In this report the term Intersex is used for persons born with a physically or genetically indeterminate gender belonging (see annex II).

## **2.4 Occurrence**

Giving exact or estimated numbers of the occurrence of lesbian, gay and bisexual persons in the world is not viable or even possible. The most common figure generally mentioned is that 10% of a population display to more or a lesser degree a form of homosexuality. Other findings conclude an occurrence in Sweden of homo- and bisexuality in a national survey from 1996 shows figures of 0.5% of the respondents answering they have only sex with persons of the same sex and 2% have sex with both persons of the same and the opposite sex (Lewin 1997). However, a questionnaire study in India that was referred to the consultants was stated to give evidence that 37–50% of the male population had experiences of same-sex encounters. A majority of these men would not define themselves as homosexuals or bisexuals, again pointing out that modern Swedish definitions are not really universally applicable or appropriate when studying these issues. In single sex environments such as boarding schools and prisons it is sometimes claimed that homosexuality increases. There is no confirmed evidence of this. Records of occurrence of transgender persons have not been found. World-wide, approximately 1.7% of all babies born are intersex (see annex II).

# 3. Connections between LGBT and intersex issues and development

## 3.1 LGBT issues and human rights

The issue of LGBT and intersex persons' rights is often discussed in the framework of The Universal Declaration of Human Rights, Adopted by UN General Assembly Resolution 217A (III) of 10 December 1948. UDHR which proclaims the "inherent dignity and... the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world. "Human rights are the inalienable rights that a person has simply because he or she is a human being". This means that you cannot lose these rights any more than you can cease being human. Human rights are indivisible which means that you cannot be denied a right because it is "less important" than another right. Human rights are also interdependent. This means that all human rights complement each other and are mutually reinforcing to one another. Human rights are also defined as those basic standards that people need to live in dignity. To violate someone's human rights is to treat that person as less than a human being.

While the UDHR and subsequent international human rights documents do not explicitly mention sexual orientation or gender identity, evolving conceptions of international human rights law include a broad interpretation to include the rights and protection of the rights of LGBT people around the world. These include successful legal arguments based on the rights to privacy (UDHR, Article 12; ICCPR #17), equality (UDHR, Article 7; ICCPR #26), and freedom from discrimination (UDHR 7, ICCPR #2). And given the nature and range of human rights violations against LGBT people documented worldwide, other UDHR articles such as Freedom from Arbitrary Arrest (Article 9), Right to Asylum (Article 14), Right to Life, Liberty and the Security of Person (Article 3), Right to Freedom from Torture and Degrading Treatment (Article 5), and Right of Peaceful Assembly and Association (Article 20) have also been successfully referenced in human rights caseworks involving LGBT people (Ref. Amnesty International USA).

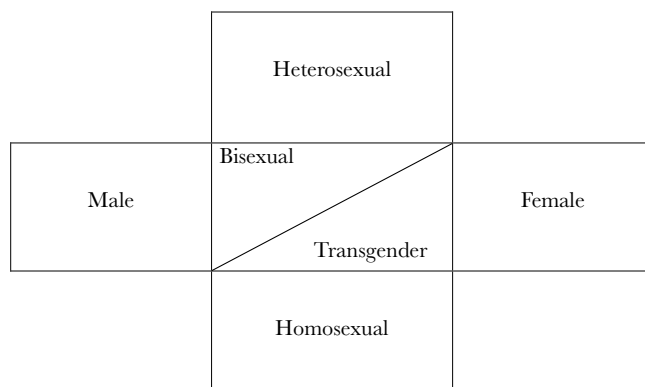
The basis of human rights and LGBT issues is recognition of the existence of LGBT and intersex persons. Without a positive recognition that such persons exist, it is virtually impossible to claim and fight for the protection and exercise of their human rights in a given country. For LGBT and intersex persons to be recognised as individuals with full human rights in a non-discriminatory way, they must have the possibility to participate



and be visible at all public levels. To be able to have full accountability, the subject herself must be given the opportunity to speak in public and in decision-making instances.

### 3.2 Gender, sexuality and culture

Swedish definitions of gender and sexuality reflect patriarchal westernised ways of defining gender identity and sexual orientation. It starts from the assumption that a basis for our identity is formed by what sex we are and how we express our sexuality, and that these identities are more or less fixed. The basis for this is an assumption that a person must be either male or female and that that person is (or becomes) either homosexual or heterosexual. The only commonly recognised possibilities between the two are in the form of the transgender person and the bisexual person, which are often just seen as transition states from one definition to another. A starting point to understand plurality in gender and sexuality for a western reader is to become aware of how the ideal type of the western categorising system is constructed. In a simple model the western gender and sexuality thinking can be shown in categories as the definitions in the chart below:



The options for an individual in the western world to manifest gender identity and sexual orientation are by this cultural construct very limited, and people who appear to fall outside norms of the categories are at risk of becoming misunderstood or marginalised. This is mostly due to a western assumption that is that there is a virtually complete connection between externally defined categories and internalised group identities.

Outside the western world different expressions of sexuality are more often seen as sexual practices and do not automatically define a certain identity or group belonging to a person. Identities are based more on family, class, ethnicity, gender constructions and behaviour expectations than on sexual orientation. Evidence of same sex sexual behaviour, intersex persons and transgender persons can be found in all areas in the world, in present day culture as well as in historical records, but with a wide span of expressions exceeding the static gender identity and sexual orientation model of the modern western society.

Whenever something or someone is given the status of being “natural” in terms of appearance and/or behaviour, that one is also given power to decide what right and wrong, correct and incorrect behaviour is. Heteronormativity in a patriarchal world is the all-prevailing norm for what constitutes sexual orientation and gender identity, and for how gender relations can, and should, be expressed. In the patriarchal heteronormative world, human beings fall into two distinct and complementary categories,

male and female. Any given person should be either male or female, and heterosexuality is the only “natural” sexual orientation, and homosexuality possibly an acceptable but unnatural deviance. There is an extreme imbalance in power relations between LGBT persons and heterosexual women and men, which, among other things, means that LGBT people are appointed a subordinate status to heterosexual women and men in the society where they live.

When discussing LGBT and intersex issues with persons in other parts of the world than the Western, it is important to keep in mind that definitions of LGBT identities, as we perceive them, may feel irrelevant or non-existent for the person we talk to due to other ways of defining sexual practices than as an identity forming factor. The challenge when discussing human rights and LGBT issues is therefore not only to connect the discourse to definitions of identities that may exist in the non-western cultures, but to find ways to protect human rights, fight discrimination as well as to promote tolerance to the concept of sexualities and gender, and to define social spaces that gives room for volatile and shifting identities and allows people to exist more freely without being stigmatised and marginalised due to self identified or non self identified sexual orientation or gender identity. A general starting point in order to progress at all in defending rights and promote tolerance is a clearer understanding of how people create and manifest their sexual practices, and if and how this is part or not part of forming identities (annex III).

### **3.3 Poverty perspectives of LGBT issues**

The basic assumption that this study departs from is that discrimination is a cause of, and accentuates poverty. Poverty is a multidimensional phenomenon (e.g. OECD-DAC’s 2001 poverty policy), and a situation-specific condition, not an inherent characteristic or quality. The expressions of poverty are summed up in “Voices of the Poor” (World Bank Development Report 2000/01) as being hunger, disease, lack of income, lack of land and other property, violence, insecurity, isolation (physical and mental as well as social) and exclusion from decision-making functions. As recognised in Sweden’s Policy for Global Development adopted by parliament in 2003, poverty is expressed in different ways for different groups. Sida’s steering document, “Perspectives on Poverty”, 2002, underlines that material poverty and lack of human rights is closely linked, that all people should be included in the development of a society for it to be sustainable, and that lack of power, choice, security and material resources, in combination, constitutes the essence of poverty.

In the UNDP Human Development Report from 1991, countries were rated according to a “Human Freedom Index”, reflecting the idea that freedom and democracy strengthen economic growth. One of the forty criteria used in assessing states was whether homosexual acts were legal. However, a group of 77 low- and middle income countries objected to this index and, thus, the “Human Freedom Index” was replaced with a new “Political Freedom Index” (and the ratings of individual states no longer published). Still, freedom to express sexual orientation and gender identity is closely connected to economic freedom as well as to political freedom. Norms concerned with gender and sexuality not only determine the sexual and intimate aspects of people’s lives, but also affect access to economic resources and employment, access to decision-making functions in society, and the possibility to partake in political decisions.

LGBT people are to a large extent subjected to violence, insecurity, isolation and exclusion from decision-making functions. This holds true

for high-income countries as well as for low- and middle-income countries. In a complex manner LGBT people are repressed both on an ideological and a structural as well as a material level. Mainstream beliefs about LGBT people, the norms for expression of differing sexual behaviours and family constellations, and the value and status of LGBT people, as well as the access to social institutions, and positions within these institutions together make up a picture of the situation of LGBT people in any given society. When making a general analysis of injustices, LGBT people primarily suffer from repression in forms of cultural injustice (being rendered invisible, being maligned, harassed, violated and disparaged in everyday life) and legal injustice (being denied legal rights and equal protection under the law). As a consequence of cultural and legal injustice, LGBT people also suffer economic injustice (being denied employment or summarily dismissed from work, being denied family-based social welfare benefits, etc). Cultural, legal and economic disadvantages reinforce each other and, thus, the discrimination of LGBT people forms an escalating negative circle of injustice and poverty.

The violations of human rights, informal discrimination and lack of power that LGBT people are subjected to often cause a high level of fear and psychological stress among the victims. Living in fear or uncertainty is very harmful to a person; it diminishes self-esteem and often renders a person feeling helpless, without power, and unable to take any action to improve one's situation. Fear and uncertainty are important factors in what constitutes the basis for poverty among LGBT people. Access to health services is another area where LGBT persons are discriminated and, thus impoverished relative to others in the population. The discrimination is due to lack of knowledge of LGBT issues among health service providers, prejudice and harassment from health workers, fear among LGBT people to be harassed, and lack of knowledge among LGBT people of their rights to health service access, especially among poor people lacking education and lacking power to make their voices heard. The global HIV/AIDS epidemic has rendered the connection between reduced access to health care and health information and MSM vulnerability to HIV infection more visible as MSM in many countries have a higher HIV prevalence than the rest of the population.

For lesbians, the situation is governed by the LGBT belonging as well as by being a woman in a world where men and women usually are assigned unequal positions in society, which puts lesbian women in an especially vulnerable situation, from a poverty, as well as from a discrimination perspective. The feminist movement has, so far, not been in the forefront at pursuing lesbian issues. On the contrary, historically there has been some antagonism between the (heterosexual) feminist movement and lesbian political movements. LGBT persons are not excluded from the complex power relations that come with belonging to a certain class, race, ethnicity, caste, etc. One does not easily distinguish poverty due to sexual orientation or gender identity from poverty due to class, gender, other minority belongings, unstable national political situations, etc, as poverty is multidimensional in its causes as well as in its manifestations, but one can conclude that an LGBT person most certainly will be a further contributory cause for poverty.

A counter reaction can also be noted on the employment market in some countries. Some trades and businesses have become very gay/lesbian dominated and it might even be an advantage to be an LGBT person when choosing this trade or profession. Despite this being useful for the LGBT person who wishes to engage in this particular trade, it is a limita-

tion to the person in terms of the choices and opportunities one has in deciding how one may earn a livelihood, and does not constitute a positive situation to create security, trust and stability in the long run. Other survival strategies of LGBT people are self chosen invisibility and to live a life of double standards where a façade of male or female heteronormativity is created to cover for a gay, lesbian, bisexual or transgender lifestyle that is lived out in certain circumstances and with certain people, but is hidden for most of the persons surroundings.

# 4. Global overview of the situation for LGBT persons

## 4.1 Discrimination on grounds of sexual orientation or gender identity

Most LGBT persons around the world today are living in a culture of silence, non-recognition and disrespect. Discrimination of LGBT and intersex people takes many forms and exists on different societal levels. It occurs as direct and indirect state repression and in informal social settings.

Discrimination of LGBT people can be in the form of criminalization of homosexuality, institutionalised homophobia, abuse in state institutions, pathologizing, forced medication and cruel treatments, neglect of the existence and needs of LGBT people with disabilities, young LGBT persons and elderly LGBT persons, diminished access to health care, work place discrimination and violence and harassment from official state representatives including execution. Social repression with or without state tolerance can be manifested in the form of verbal abuse, silence, ridicule, hate crimes, corrective rape of lesbians, honour related violence and forced marriage. Overt homophobia has been heard in political discourse in some countries.

The president of Namibia, Sam Nujoma, has stated that homosexuals should be arrested, imprisoned and deported from the country. The Namibian Home Affairs Minister, Jerry Ekandjo, has urged newly graduated police officers to “eliminate” gay men and lesbians “from the face of Namibia”. President Museveni of Uganda reflected a similar attitude in a speech to regional legislators in September 1999 when he urged the police to chase down and convict homosexuals. This statement found resonance with leaders in other African countries including Mr. Moi in Kenya and Mr. Mugabe in Zimbabwe. Already in 1995, Mr. Mugabe had branded gays as “less than human” in his “pigs and dogs” speech. These leaders claim without any scientific or historical reference that homosexuality is un-African and that homosexuality can be blamed on cultural imperialism.

## 4.2 State repression and legislation

The legal situation for LGBT persons is a complex issue. A country may permit sexual acts between two persons of the same sex, but not permit marriage. All but a handful of countries lack constitutional legal protection in regards to discrimination on grounds of sexual orientation. Altogether there are about 70 countries in the world where homosexuality is a

crime. Direct state repression of LGB persons is characterised by legislation that criminalizes consenting homosexual acts between adults. Countries that have the legal possibility to issue death sentences for consenting homosexual acts are Sudan, Saudi Arabia, Afghanistan, Pakistan, Iran and Mauritania. Countries where this has been used in the last 10 years are Iran, Afghanistan and Saudi Arabia. Countries that can issue severe punishments to individuals engaging in consenting homosexual acts are among others Egypt, Kenya, Uganda, Namibia, Zimbabwe, Bangladesh and Tanzania. Sentences in these countries may include lifetime imprisonment forced labour, public whippings and other corporal punishment.

Some of these countries are major objectors to mentioning LGBT persons in UN resolutions and conventions and recognition of the existence of LGBT persons, and thus not granting inclusion and protection through the Universal Declaration on Human Rights. One of the factors hampering LGBT human rights initiatives in these countries towards an improvement in the legal situation is that advocating for LGBT rights, and attempted homosexual acts, are both treated as criminal offences. An organisation working openly with advocacy for LGBT rights will be at great risk of not only persecution, but also conviction as its members risk imprisonment for promoting illegal activities. In some cases condoms and information on HIV prevention directed to MSM have been used as evidence in court trials as promoting homosexuality.

Other countries that represses LGBT people are those issuing relatively milder punishments for consenting homosexual acts between adults, for example Nicaragua, India, Mozambique, Angola, Botswana, and Ethiopia. Conviction may entail imprisonment up to 10 years, forced hard labour, heavy fines or corporal punishment. Criminal offences against LGBT persons will most usually pass unnoticed because the victim fears to report violent crime due to the risk of personal disclosure, thereby risking being prosecuted for homosexuality, instead of being protected from crime.

Of the countries in the world that do not criminalize homosexuality, protection of human rights in regards to sexual orientation and gender identity are not automatically respected. In Guatemala, Honduras, Cuba and China the state represses LGBT people in an informal way through denying organisations working with LGBT issues the right to register as a juridical person like businesses or other non-governmental organizations. In some countries homosexuality is defined as a disease or a mental disorder. Another aspect of indirect repression is tolerance of violence towards LGBT persons. In Brazil and Colombia, violators of LGBT persons' rights are in some cases tolerated and perpetrators do not have to fear prosecution for their harassment acts. State institutions for up keeping law and order such as the military, police and prison services may turn a blind eye to employees and inmates who abuse LGBT persons, making it virtually impossible for the victim to take the issue to justice. (Ref. ILGA and Amnesty International). The legal situation for transgender persons is not mapped, but examples show that in some countries where homosexuality is a crime, it is possible to officially change gender identity. State violations of intersex person's rights are primarily carried out in high-income countries where a medicalized treatment protocol is enforced.

### **4.3 Social and other forms of discrimination**

Discrimination of LGBT and intersex persons from the community may occur in any country, even in countries with a permissive legislation and constitutional rights to protection. Groups of people may cite politics, tra-

dition or religion as reasons to be extremely intolerant to LGBT and intersex persons, and internally punish a group member who deviates from heteronormativity and/or gender stereotypes. The problem may be to bring the matter to justice and find witnesses prepared to testify in a court of law. Extremist groups such as neo-Nazi and religious groups sometimes target LGBT persons committing so-called hate-crimes. In countries with restrictive legislation or a lack of antidiscrimination legislation it will be even more difficult to combat hate crime since the law justifies the repressive attitudes. Prejudices sanctioned in that way could be seen as legalised prejudices, and, thus, result in legalised violations.

Much of this unofficial discrimination against LGBT and intersex persons is attitude based and transmitted through verbal and non-verbal normative communication. Religious writings are an important source of repressive attitudes, since most religions condemn same-sex sexual relations. Family intolerance to LGBT persons may be the most difficult level of discrimination to combat and the one that will have the most thoroughgoing consequences. Family is in most parts of the world the cornerstone of social life. Exclusion from the circle of the family will thus result in economic and social hardship and possibly even difficulties for the LGBT or intersex person's survival. On this level there is also the risk of deep psychological damage through exclusion/risk of exclusion and LGBT persons may compromise their sexual orientation or gender identity to the point where they will comply with family ideals of marriage and procreation. Family repression is clearly emotionally biased and although society as a whole may accept LGBT people as equal, the family circle may be guided by fears or irrational emotions, erroneous beliefs and as a result be intolerant. The most extreme expression of family repression is violence in the name of honour including abuse, rejection and murder. Discrimination of LGBT persons should not either be seen exclusively as a dichotomy between heterosexual women and men and LGBT persons. Discrimination between LGBT persons frequently occurs due to other additional factors such as class, identity, creed, age, appearance or ethnicity, factors that may constitute the most apparent and most painful direct discrimination for an LGBT person.

# 5. Other factors of vulnerability of LGBT people

## 5.1 LGBT people and HIV/AIDS

In Europe and US the HIV/AIDS epidemic started among MSM and IDUs (Injecting Drug Users). This is widely recognised and mentioned in the Swedish strategy for HIV/AIDS in development “Investing for Future Generations” from 1999. There has been a great deal of debate in LGBT organisations on how to best deal with the issue of HIV/AIDS. It is evident that HIV/AIDS was the primary entry point for LGBT issues in the UN for most LGBT non-governmental organisations in the world, especially in Europe, to the national political arena. Programming to prevent the spread of HIV among MSM constitutes the bulk of many LGBT organisations’ funding. Arguments presented for the association between LGBT issues and HIV/AIDS is high HIV prevalence and spread among MSM. In many parts of the world MSM is the most affected group. In Latin America MSM mode of transmission account for a majority of the cumulative number of persons infected. In Asia, there is an extremely high prevalence of HIV among MSM, only scarce statistical data is available but indications show prevalence rates of up to 16% among gay men in Thailand compared to approximately 1% prevalence in the general adult population (ref. UNESCO regional HIV/AIDS programme). In Africa, there is no data available but an estimate of HIV prevalence among gay men in Western Cape, South Africa by health professionals is that it is probably over 30% compared to approx 7% in the general adult population (informal ref. – no official data available on MSM-HIV prevalence in national HIV prevalence statistics).

Arguments in favour of disassociation between LGBT issues and HIV/AIDS are the low prevalence and spread of HIV among lesbian women, and that a focus on HIV inevitably gives a very large attention to MSM. The focus on HIV/AIDS has led to the fact that many LGBT organisations are to a large extent funded by money directed at preventing the spread of HIV among gay men. This has in turn led to a lesser attention being paid to issues relating to discrimination and human rights, and again, this has been especially unfortunate for the rights of lesbian and bisexual women. Another important point is that pathologising LGBT issues through HIV/AIDS can trigger negative attitudes instead of positive ones in politics and general population. An example of this is noted from South Africa where there has been a disassociation between HIV/AIDS and LGBT issues. This has resulted in a non-mentioning of MSM in sero-



logical data on HIV prevalence and incidence, as well as a non-mentioning of targeted interventions to MSM in the national AIDS programme. In India the inclusion and connection between HIV/AIDS and MSM has produced the paradox situation where a prohibiting legislation on anal intercourse is counteracted by state supported information directed to MSM to increase condom use. On the down side of this is that lesbian issues in India have become marginalised even in the LGBT discourse.

## **5.2 LGBT people and mobility**

In the construction of LGBT identities and behaviour there is a dynamic that gives an incitement to mobility. LGBT persons that grow up in a rural or small town setting often describe a feeling of isolation and disassociation from their local communities. A way for the LGBT person to deal with this is to leave a lonely and even hostile rural environment where the person is confined to social exclusion and move to an urban area where it may be possible to have access to an LGBT community. In extreme cases of repression of and violence against LGBT persons, the incitement to leave may be strong enough to make the person want to leave the country of origin and seek asylum in another country. Few countries guarantee refugee status other than on humanitarian grounds to LGBT persons, even if they originate from countries where same-sex sexual relationships may lead to the death penalty.

Another aspect of migration of LGBT persons is prostitution and trafficking. Men from eastern European countries are reported working as prostitutes in Western Europe most commonly originating from Romania and Bulgaria. Male-to-male prostitution might be a result of trafficking or voluntary migration, as it may be perceived by some as an easy way to earn an income. Since prostitution operates in a shady part of the economy, work permits are usually not an issue, since prostitution usually is not seen as legitimate work. Young men, predominantly from Eastern Europe and Asia may also try to find a male partner in a Western European country to marry or register partnership with in order to get a residence permit and possibly a European Union passport. These men may or may not be self identified as having a gay sexual orientation and are seldom visible in any statistics and their rights are not always recognised or protected. Mobility among LGBT persons in general constitutes a factor of vulnerability to health and rights hazards. The LGBT person who is trafficked for sexual purposes may be even more exposed to discrimination and abuse than trafficked women who are presumed to be heterosexual, since there is yet another dimension of stigma added to the situation. Young persons moving from countryside to city are vulnerable to being exposed to environments where drugs, tobacco and alcohol are readily available and used. The man from a low-income country who marries or register a partnership with a man in Europe may face difficulties and endure abuse with fear of reporting it, not to risk being sent back to his home country.

## **5.3 Children's rights, youth and LGBT rights**

According to the interpretation of the convention of children's rights all persons regardless of age have the right to live without discrimination due to sexual orientation. The UN Committee of the Rights of the Child has affirmed that children have the right not only not to be discriminated against due to sexual orientation, but also has the right to support and information so that they may live according to their sexual orientation.

Young people are in particular need of getting correct information and support when growing up in order both to be affirmed in their sexual ori-

entation and to promote tolerance and combat discrimination due to sexual orientation and gender identity. Children of course also have a right to protection against sexual abuse regardless of sexual orientation.

Children and youth are most often the target of interventions and control of adults. They are dependent on the adults in their close vicinity, and lack many of the experiences and skills needed to find one's way in a world that excludes and suppresses. Young LGBT persons have, compared with adults, very different conditions for living and working with their identity. Many of the social environments and social venues directed towards LGBT persons are, for different reasons, intended for adults, which further enhances the vulnerable and lonely position for young LGBT persons. The concept of the child in the Convention on the Rights of the Child (CRC) is based on the definition that one is a child until the age of 18. By this definition a majority of the world's population are children. One of the problems defining childhood to the age of 18 is that children are thought and assumed not to have sex and therefore do not need sexuality education. Studies show that many young people on average start to become sexually active much younger than at the age of 18 years. By depriving young people information about sexuality, sexual orientation and gender identity they are at risk of health hazards, identity problems and discrimination. LGBT youth organisations have particular challenges in their operations, funding their activities and making their voices heard. In this study no LGBT youth organisations were identified in the countries where field visits were made. Further investigation in this matter should be a priority.

# 6. Challenges in regards to LGBT issues

## 6.1 LGBT people and SRHR

The dogma of heteronormativity and the absolute division between male and female are some of the key factors that produce and reproduce discrimination, marginalization and negative attitudes to LGBT persons. If homosexuality is at all dealt with in Sexual and Reproductive Health and Rights (SRHR) programmes it is often treated as a pathology or deviance. LGBT persons are in the event that they are included, but not pathologized, often treated as a separate entity outside of the general sexuality information (this is the case in the Sida issue papers “Sexuality – a super force” and “Men, sexuality and reproductive health”). Silence about LGBT aspects of SRHR has also resulted in some odd erroneous beliefs such as the idea that HIV is transmitted to men from women only, and that for a man, sex with another man is therefore used as a strategy for safer sex (reported to consultants to occur in India, Botswana, South Africa).

The connection between women’s health and reproductive health makes policy frameworks hetero-biased and may disassociate lesbian women from the equal rights agenda on gender and sexual health. A pathologising attitude towards lesbian women has resulted in severe medical abuse and lesbian women who are treated with heavy psychopharmacological drugs (India) to treat what is perceived as a psychological disorder that is assumed to cause their sexual orientation. In the same way, transgender persons are pathologised and denied inclusion in both sexual and reproductive health programmes. Due to the heavy focus on women’s reproductive needs in SRHR interventions, little provision is made for men’s needs. This has the most severe consequences for gay, bisexual and transgender males.

## 6.2 Misconceptions of connections between paedophile issues and LGBT issues

There has sometimes been a confusion of homosexuality and paedophilia in perceptions of what constitutes homosexuality. Some people have seen the two separate sexual behaviours as aspects of the same behaviour. This confusion is also sometimes the grounds for negative attitudes against LGBT people. In Europe this erroneous misconception is becoming more and more unusual, but it is still a common misunderstanding in other parts of the world. This misunderstanding may thereby affects the under-

standing among some people that LGBT issues and human rights, if confused with paedophile issues, may be a violation of the rights of the child.

There is some historical relevance to the misunderstanding. At the initial stage when gay and lesbian liberation organisations started to be formed the prevailing attitude among activists was to promote an internal politics of non-discrimination and inclusion of all discriminated groups on grounds of sexuality. In ILGA (International Lesbian and Gay Association) paedophile groups were accepted as full members and the attitude among gay men in general was that LGBT persons should not reproduce the intolerance to others that they themselves were exposed to. With an increased activism of lesbian women in the LGBT movement as well as a generation shift in the more established structures, the exclusion of paedophile groups from the LGBT movement was demanded. At the global conference of ILGA in New York in 1994 there was a voting with a consensus decision (over 90% of the votes) that all paedophile organisations were to be excluded from ILGA and not allowed to apply for membership in the future. This decision has been brought down to national level in most countries.

In some instances there have been collisions between the interests of children's rights organisations and LGBT rights organisations. This has been due to the fact that in several countries the only laws that protect children from sexual abuse are the sodomy laws. Sodomy laws function as a framework legislation regulating what is legal sexual intercourse and prohibits all sexual activity apart from penile/vaginal intercourse between married partners. This legislation is then used to criminalize sexual acts between homosexual men, as well as sexual abuse and rape of children. That is the case in for example India. Children's rights activists sometimes defend sodomy laws because if the sodomy law is abolished it is argued that children stand without legal protection against sexual exploitation. This is unfortunate, since sodomy laws are not written primarily with children's rights in mind.

### **6.3 Religion and LGBT issues**

Religious beliefs pose one of the major challenges that hamper positive recognition to LGBT rights and acceptance. None of the major world religions express an openly tolerant attitude to homosexuality. Religious leaders including Muslim, Catholic and other Christian churches, in particular evangelic protestant churches, have expressed some of the most violent hatred and repressive attitudes against LGBT persons. Moslem countries are often pointed out as particularly homophobic both in the UN system, in national legislation and in family and social violence to LGBT persons. Churches that cooperate with Swedish faith-based organisations including the Swedish church have been reported to be homophobic. This study does not explore further into this theme but this is definitely an area where further investigation should be done.

Religious organisations have also been stated to have intolerant attitudes to transgender and intersex persons. Non-conforming gender identities and unidentifiable gender at birth is a challenge to the religious scriptures that states that humans are created as man and woman. Religious beliefs about gender may have an affect even on modern medicine and non-religious persons. A very direct way of seeing the effect of religious intolerance against LGBT persons is by how the Holy See executes its intolerance in the UN. The fact that renders this issue even more complicated is that the Holy See's influence in the UN is virtually equal entity to a full member state, despite its formal observer status.

By the observation that religious organisations, structures and persons often are intolerant to LGBT and intersex persons, it should not be concluded that LGBT persons are less religious than other individuals. Conflicts between faith, gender identity and sexual orientation are common themes in counselling. Faith is therefore a major aspect to take in consideration when addressing LGBT issues specially when planning for activities to combat stigma and discrimination.

# 7. International structures and LGBT issues

## 7.1 LGBT issues in the UN

On the global arena LGBT issues have been dealt with in various UN fora. In 1992, a complaint against a discriminatory law prohibiting homosexuality in the Australian state of Tasmania was brought before the UN Human Rights Committee in Geneva. In 1994, the Committee found that the law violated the right to privacy jointly with the right to freedom from discrimination. The Committee noted that reference to “sex” in non-discrimination clauses should be interpreted as including “sexual orientation”, thereby affirming that the rights set out cannot be denied to any individual because of their sexual orientation. Other UN human rights monitoring bodies have also emphasised that discrimination on the basis of sexual orientation is prohibited under international legal standards.

These rulings affirm the interpretation of the UN International Covenant on Civil and Political Rights (ICCPR) in such a way that it encompasses an unequivocal right not to be discriminated against on the basis of sexual orientation. This goal is far away, but small steps are leading to more and more mentioning of LGBT rights in the UN system, although mainly in the Commission for Human Rights, some of the committees for the international human rights covenants, funds and programmes.

When LGBT issues are dealt with at UN general assembly meetings and when discussing resolutions, the situation is that some countries refuse to sign any document that has a direct reference to LGBT persons, as it is regarded as culturally and religiously sensitive. As a result, reference to LGBT issues is usually dealt with by combining different sensitive groups in one category labelled “vulnerable groups” or “certain societal group”. This is the case in UNGASS on HIV/AIDS and in the UN refugee convention. At the moment there is only one specific politically binding UN resolution that explicitly includes LGBT rights, the one on arbitrary executions. This resolution has been passed in the Human Rights Commission and the general assembly. Apart from this resolution there are only recommendations from the Human Rights Commission and some of the Special Rapporteurs, that LGBT issues should be interpreted as a human rights issue.

There have been attempts to forward a UN resolution explicitly on LGBT issues (the Brazil resolution, 2003), but for the third year in a row the UNCHR did not vote to adopt the resolution. However, between 2003 and 2005, 48 countries altogether have publicly supported sexual orientation as an issue to be addressed by the Commission.

LGBT issues have not yet appeared in the final conference statements of any of the large UN sponsored meetings where the topic has been raised (e.g. the Beijing Conference on Women, the Durban Conference on Racism and Xenophobia). In both Beijing and Beijing +5 there was much debate over whether to include and make references to the term sexual orientation, but use of the term was blocked in the final draft document by the strong opposition from some Catholic and Islamic countries.

## **7.2 LGBT activism and global NGO structures for LGBT rights**

To defend rights and to provide information, social space, meeting places and organise cultural activities LGBT people have created formal and informal networks and organisations. Initially LGBT organisations were often a formalisation of a cluster of individuals with a shared sense of identity where homosexuality was a part. Activities of the organisations were often organised around the needs and interests of the members in regards to advocacy to defend rights, need of psychosocial support, access to information and literature, and creation of a social venue often as a bar, café or library. After the riots in New York on Christopher Street in 1969, where some transvestites started hitting back at police that regularly harassed patrons of the bar called “Stonewall”, these riots are commemorated by street manifestations and parades have become an important cultural expression of LGBT communities in Europe, Australia and the US. From being political rallies they have increasingly turned into festivals often labelled as “Pride” manifestations. The rainbow flag has come to symbolise LGBT emancipation and struggle for tolerance, rights and recognition and has taken over the importance of the pink triangle as a symbol for gay solidarity. The pink triangle was borrowed from Nazi German concentration camps where homosexual interns were given pink triangles to wear on their clothes in the same manner Jews were made to wear the Star of David.

As LGBT organisations have become more professionalised and internationalised, many larger national organisations have joined international LGBT platforms. The international organisations that defend and promote LGBT rights are ILGA (International Lesbian and Gay Association), IGLHRC (International Gay and Lesbian Human Rights Committee) and IGLYO (International Lesbian and Gay Youth Organisation). ILGA is a global membership organisation for LGBT organisations. ILGA is divided into regional sub groups consisting of ILGA Europe, ILGA Asia, ILGA Africa and ILGA Latin America. Global and regional conferences are held annually. IGLYO is mostly a European based membership organisation of LGBT youth organisations. The organisation cooperates closely with the Council of Europe and the European Youth Centres in Strasbourg and Budapest. IGLHRC is a Human Rights focused international foundation based in USA that has been granted observatory status at UN meetings. In addition to the global office IGLHRC has liaisons officers for Latin America, Africa and Asia.

At the regional level, there are LGBT organisations and networks such as AP Rainbow (Asia-Pacific), and in Africa there is a newly formed network for lesbian women based in Namibia (The Coalition of African Lesbians). A national South African network of LGBT organisations have discussed opening up to organisations on the rest of the continent. In Latin America there is a regional LGBT network connected to ILGA called ILGA-LAC with members from 12 Latin American countries. On national level there are organisations that don't openly advertise that they

are LGBT organisations but work under a pretext of health, gender or human rights in general. Many times this is due to organisation legislation whereby LGBT organisations are not permitted to register. This is important to keep in mind for any donor who is assessing the LGBT field, as all stakeholders don't openly advertise themselves as LGBT organisations.

### **7.3 Donors and supporters of LGBT organisations**

Support to LGBT issues is a rather negligible part of international donor budgets. The most common form of funding to support LGBT organisations is through donor foundations that in their turn get funding from bilateral donors. In some instances, support is purely in the form of cash funding. This is the case with support given by ASTREA foundation that primarily gives core funding to lesbian and some general LGBT organisations in low- and middle income countries. Atlantic Philanthropies support organisations mainly in southern Africa with operational costs for service delivery and capacity development. Soros Foundation has included MSM in their HIV/AIDS harm reduction work and support organisations in Eastern Europe as well as AFEW (Aids Foundation East West) in their HIV/AIDS prevention programmes in Russia and former Soviet republics. The Netherlands based organisations HIVOS and Mama Cash also give financial support to LGBT organisations, but in the case of HIVOS mostly in the field of HIV prevention and MSM. On women's health, IWHC (International Women's Health Coalition) works on LGBT issues through an integrated approach across IWHC's main program themes, with a focus on human rights, addressed by five programs (Africa, Asia, Latin America, International Policy, and Communications). The sexuality education work supported in Asia, Africa and Latin America deals with sexual orientation by supporting local partners to add these issues to their training, curricula, and program activities.

Other organisations that have given technical support as well as funding to organisations working with HIV prevention among MSM are Oxfam and FHI (Family Health International). The World Bank has a recently started initiative for support to LGBT issues in South Africa. The Global Fund financing also has a component of prevention of HIV transmission among MSM in several countries. PSI includes MSM in some of their regional social marketing of condoms programmes e.g. in South East Asia. In Central America PSI/PASMO has an extensive HIV prevention programme directed to MSM and reaches annually over 100 000 MSM with HIV prevention activities. The programmes range from distribution of condoms to events and workshops to disseminate information about HIV and STIs. An estimate, that can only be an indicator, is that the largest bilateral donors to LGBT organisations and issues globally are DFID, the Netherlands and USAID.



# 8. Swedish legal and policy frameworks

## 8.1 Swedish legislation on LGBT rights

Sweden grants constitutional rights to protection from discrimination on grounds of sexual orientation. Sweden allows same sex couples to register their partnership, but not marry. Same sex couples who have registered their partnership may be assessed for adoption and assisted procreation. Transgender persons have the right to be assessed for sex change and may alter birth documents and passport gender. Intersex persons are treated in accordance with a medicalized treatment protocol that in short often results in “gender corrective surgery” at birth. MSM may not donate blood or internal organs. The way to achieve legal recognition and rights has been through a long struggle. Activists, researchers, politicians, medical doctors and many others have, through lobbyism, advocacy, arts, research, manifestations and debate, all in small steps contributed to a societal and legal change of the understanding of LGBT issues. Homosexuality was decriminalised in 1944, but the clinical description that homosexuality defined as an illness was abolished first in 1979. The right to register partnership between single sex partners was given in 1995. Sweden included sexual orientation in the constitutional rights to protection against discrimination in 2003 (annex V).

## 8.2 Swedish policy and documents

Swedish government communication 2003/04:20 on human rights on Swedish foreign policy has a clear definition of the Swedish standpoint on defending LGBT issues as a human rights issue. In other policy documents regulating international standpoints on gender equality, social equity, sexual and reproductive health and rights (SRHR) there is a lack of mentioning and reference as well as provision for general inclusion of LGBT issues. The Sida strategy for SRHR (Health division document 1997:6 Strategy for Development Cooperation- Sexual and Reproductive Health and Rights- June 1997) has no mentioning of LGBT issues and even more remarkably in the evaluation of the strategy there is no note from the evaluators that this aspect is missing. In policy documents on gender equality, there is a strong heteronormative bias and no mentioning of LGBT persons as part of the gender equality agenda. The same absence of LGBT issues is found in the national HIV/AIDS policy (Investing for future generations 1999) as well as policies directing health in general and support to civil society. One country strategy deals with LGBT issues (Moldova) but

no other country strategy has any mentioning of LGBT issues in regards to equality, equity, rights, health, education, participation, culture or economy.

In two position papers reference to MSM were found (Sex – a super force 2002 and Health Division Document 1998:9 and Men, Sexuality and Reproductive Health, Health Division Document 1998:9). Both treat male homosexuality as an isolated and separated theme in a generally heteronormative approach to HIV/AIDS and SRHR. No particular attention to lesbian women, transgender or intersex persons were found in any Swedish policy documents. In Sida's guidelines; Guide for Country Analysis from a Democratic Governance and Human Rights Perspective, the questionnaire includes one item regarding an assessment of whether or not discrimination against homosexuals exist in law, policy, and practise.

There are no direct restrictive directives or conditions at policy level stating, for example, that promoting discrimination or violence towards LGBT people in development cooperation with countries that receive Swedish support should be grounds for refusing support or for determining the amount or nature of support. Since the inclusion of LGBT issues in the human rights reporting of Swedish Embassies, directed by the Letter of Appropriations, a demand for a more comprehensive approach to LGBT issues has been requested, both from civil society and from parliament and government representatives.

### **8.3 Support from MFA, Sida and NGOs with a framework agreement with Sida**

Due to the present lack of explicit directives or guidelines, support to and inclusion of LGBT issues in programmes and consultancy reports is often up to the integrity and choice of the individual desk officer, staff member or consultant. In some consultancy reports LGBT issues have been included. This is the case with a process evaluation of WHO/PAHO support on HIV/AIDS in Honduras and Guatemala, regional support to South East Asia on HIV prevention and stakeholder mapping on HIV/AIDS in Ukraine and Belarus. Triangle Project in Cape Town cooperates with Swedish organisation NordGay that is supported by Sida/Forum Syd. In the grant approval process Forum Syd has treated the application with professionalism and in accordance with current routines.

Direct support has been given by Sida to interventions in India in the form of funding to MSM conferences on HIV/AIDS, support to LGBT an integrated youth sexuality intervention implemented by MAMTA in cooperation with RFSU. Lawyers Collective, also in India, is LGBT inclusive in their HIV/AIDS programme and is currently assisting in a process challenging the Indian sodomy law. In Moldova the NGO "GenderDoc-M" has had cooperation with Swedish RFSL supported by Forum Syd. In a renewed application the proposal was rejected. The ground for this was reported to be an assessment by Forum Syd that publications of GenderDoc-M were pornographic to their nature. The consultants have revised publications of GenderDoc-M and found images depicting partial nudity of both women and men but no indications of pornographic images or even images showing male or female genitals. GenderDoc-M is now getting funding from Swedish Helsinki Committee for the publication.

Swedish MFA have supported ILGA and other small LGBT interventions, mostly in the form of sponsoring meetings or seminars on sexual orientation. Outside of development cooperation, the Swedish Government together with some other like-minded countries such as the Nether-

lands, Canada, other Nordic countries, Mexico and New Zealand, continues to raise LGBT issues in the UN and the EU. Support has been given through Swedish embassies for LGBT events such as conferences and public manifestations in various parts of the world, e.g. in the Philippines. In Uganda, the embassy has been in contact with the Sexual Minorities Uganda (SMUG) network.

Institutional cooperation between the Swedish Institute for Public Health and China includes an MSM component targeting support to NGOs working with MSM as a method for HIV prevention. This cooperation component is carried out in cooperation with RFSU. Support to LGBT initiatives directly from Swedish embassies has also been reported from a lesbian organisation in Namibia. The Eastern Europe committee of the Swedish Health Care has supported an HIV/AIDS cooperation intervention between Noah's Ark-Barents and the local branch of RFSL, RFSU and a HIV organisation in Murmansk (Russia) that works inclusive with MSM.

This study does not go into such depth that it includes all NGOs with framework agreement with Sida. As they together handle in the vicinity of 1.1 bn. SEK per year it is motivated to conduct a separate mapping of these as well as possibly discuss imposing a demand for reporting all support given to LGBT partner organisations/initiatives in cooperation countries to Sida.

#### **8.4 Swedish stakeholders and cooperation administrative capacity**

Sweden has a respected position in the world on protecting human rights, and has become an important advocate for improving the situation for LGBT persons globally. Furthermore Sweden has a strong field of research in sexualities as well as government institutions with a high degree of competence and a strong civil society. To map the Swedish field of resources to support LGBT initiatives internationally the organisations that have been assessed in this assignment are:

##### *RFSU – Swedish National Organisation for Sexuality Education*

RFSU has adopted an inclusive perspective of gender and sexualities in their policy and strategy framework on gender and sexuality. The organisation has a very high competence on LGBT and intersex issues and a long-standing development cooperation experience. In Sweden the organisation is well connected and cooperates with organisations specialised in HIV/AIDS as well as LGBT organisations.

##### *RFSL – Swedish National Organisation for Sexual Equality*

RFSL is Sweden's largest LGBT organisation, and has a long tradition of working with LGBT sexual politics and sexual rights in Sweden. International cooperation has been conducted through participation in ILGA and through targeted cooperation with LGBT organisations in South Africa and Moldova. The organisations serve as a good example for foreign visitors to Sweden how LGBT organisations may operate and also a resource of knowledgeable persons that may be contracted in various programmes and to participate in Swedish delegations.

##### *Swedish Helsinki Committee*

Swedish Helsinki Committee includes LGBT issues in the framework of their non-discrimination programme, from a rights based perspective. Support is given to LGBT organisations in the Western Balkans and in

Moldova both on a regional and bilateral level. The organisation has a high level of capacity both to act as a small-scale donor and to assist with technical support to NGOs.

*Noah's Ark-Red Cross Foundation*

Noah's Ark is Sweden's largest AIDS service organisation and has included MSM issues in their HIV prevention and care programmes since the start in 1987. Internationally the organisation is active in LGBT issues through an intervention in Ukraine targeting MSM and HIV prevention. The programme is currently being developed with Sida support in cooperation with AFEW in Kiev. Noah's Ark also give support to NordGay in a cooperation initiative with Triangle Project in South Africa with Sida/Forum Syd funding.

*Forum Syd – Swedish NGO Centre for Development Cooperation*

Forum Syd is a funding organisation for Sida support to NGO cooperation outside framework agreement organisations. Forum Syd has no direct policy or directives on LGBT issues. Support has been granted to cooperation initiatives in South Africa and Moldova.

*Kvinnoforum – The Foundation for Women's Forum*

Kvinnoforum is a non-profit organisation working with strategies and direct operational work to increase women's influence on all levels of society. Kvinnoforum has no programmes or initiatives specifically directed towards lesbian women, but lesbian issues are touched upon and included in their practical work.

*Amnesty International – Swedish Section*

Amnesty has a working group on LGBT issues. The competence and interest on LGBT issues as a rights issue is very high. The interventions are mostly directed to advocacy and activism to protest against authorities in countries where individual right are being infringed. Refugee issues and LGBT persons are also an interest area for Amnesty.

*HomO – The ombudsman against discrimination for sexual orientation*

HomO is predominantly working with national Swedish interests, but has been consulted and participated in international issues representing Sweden at the UN Human Rights Commission in Geneva. Complaints regarding perceived homophobia at embassies have been dealt with by HomO. The authority serves as an excellent example of the political commitment needed to combat homophobia even in a country with legal protection against discrimination.

*FHI – National Organisation for Public Health*

FHI supports LGBT interventions to HIV prevention to MSM and organisations for HIV positive MSM. FHI has a person recruited specifically for high knowledge of LGBT issues. Currently FHI is cooperating in China where MSM are included in the HIV/AIDS programme.

# 9. Research

## 9.1 Research on LGBT issues relevant in development co-operation

Research in Sweden on LGBT issues is mainly done in the humanities and social sciences, especially within departments of history, literature, ethnology, sociology and social anthropology. The LGBT research field in Sweden is growing but still rather small, characterised by depth and a few well renowned and committed researchers rather than by width. LGBT issues have so far not largely influenced the more mainstream gender research in Sweden. There are at the moment no large ongoing research projects on LGBT issues and development co-operation, but some postgraduate researchers have announced interest and plans for future projects. However small in scope, the LGBT research in Sweden today is of high international standard and, although not with a development cooperation focus, could be an important resource for collaborative research projects with low and middle-income countries.

As for research on HIV/AIDS, Sweden has done extensive work and plays an important role on the international arena in the field of research and support to research. Sweden has a long and well-reputed tradition of statistical research on population data, much due to extensive national statistical registries, which is of great value for LGBT research issues in low- and middle-income countries. A government organisation for research was interviewed for this study:

*NAI – Nordic Africa Institute*

NAI is a research and reference organisation for social and humanistic research cooperation with universities in Africa. They include sexual orientation and gender identities in an African context on their research agenda through *inter alia* a research programme entitled ‘Sexuality, Gender and Society in Africa’.

# 10. Situation analysis of LGBT issues in South Africa, India and Moldova

## 10.1 Legal situation

### 10.1.1 Laws in South Africa

Sexual acts between persons of the same sex are legal in South Africa. Constitutional protection against discrimination on grounds of sexual orientation is granted. This legislation has been in place since 1994 and makes South Africa the first country in the world to legally recognise LGBT rights as equal to protection against gender, religious, ethnicities and race discrimination. Transgender rights are protected, and it is now possible to legally change gender in birth certificates and identity documents. Rape by a person of the same sex is recognised and considered equal as a crime as male to female rape. There is legal work place protection against discrimination on grounds of sexual orientation. The situation for intersex persons is similar to Europe. There is a treatment protocol that is under heavy criticism from activists that gives the health sector the right to mutilate a child through what is referred to as “gender corrective surgery”. The right to be tried for adoption is in place and the right to marriage between same sex partners is being processed. By this legal framework South Africa is one of the most progressive countries in the world in regards to the state promoting legal, social and economical equity regardless of sexual orientation and protecting LGBT persons against any form of state discrimination.

### 10.1.2 Laws in India

India has kept the British imperial sodomy laws that in principal prohibit all sexual acts that do not entail penile/vaginal intercourse between married opposite sex spouses. In practice sodomy laws are only used to criminalize sex between men. In addition to the laws on sodomy, other legislation that is used to discriminate and repress against LGBT persons are laws prohibiting public nuisance, loitering or promoting criminal acts.

The organisation Naz Foundation International have had their office in Lucknow raided and employees and volunteers have been arrested and tried in court on if it could be interpreted that HIV information and condom distribution directed to MSM was equal to promoting criminal acts. Men who are seeking contact and sex with other men in public places such as public toilets, railway stations and parks are harassed by police and threatened to be charged according to laws that they are causing public nuisance or loitering in a public place. These laws usually only lead to ar-

rest, and often the police blackmail the arrested person for some bribe to drop charges. Very few cases of arrest have led to conviction according to sodomy laws. From what is known there are probably less than 10 cases of conviction in the last few years. The main concern is that the law makes any step to defend rights of LGBT persons or to promote health as well as preventing spread of HIV/AIDS among MSM difficult. For transgender persons there are legal possibilities to get exchange operations done in India and also the legal right to change gender in legal documents.

### **10.1.3 Laws in Moldova**

Male and female homosexuality is legal in Moldova. However, there are no clear laws on protection against discrimination. Authorities claim that LGBT people are included in the protection of minorities act, but as recently as May 20, 2005 a demand from a local LGBT organisation to arrange a manifestation was denied by the city vice major because it was claimed that there is no need for a manifestation. A long debate between civil society and government with help from Council of Europe has slowly made change in laws possible. There is still a long way to go to grant protection against discrimination on grounds of sexual orientation, but there are indications that discussions of LGBT issues are possible even in family law on adoption. In March 2005 there was a vote in the parliament that opposite sex couples and single persons are permitted to apply for adoption whilst the suggestion that same sex couples should have the same rights was voted down. Transgender persons have the right to get sex change operations and are permitted to change their sex in legal documents.

## **10.2 Expression of LGBT identities**

### **10.2.1 LGBT identities in South Africa**

LGBT identities in South Africa show clear differences among the designated 'racial' categories of white, black, coloured and Asian. Among white South Africans, sexual orientation is considered a basis for identity similar to the identity construction of LGBT persons in Europe, whereas in black and coloured communities in townships in South Africa sexual practises do not to the same extent constitute an identity forming practice for all people. Sexual identities are more often based on sexual activities along a male-female constellation, without fixed boundaries. The black and coloured lesbians the consultants met and talked to define themselves as lesbians but their girlfriends as straight (heterosexual), and their gender identity boundaries appeared more fluid. The same goes for the black men that were met. They defined themselves as gay and had straight boyfriends and they also clearly stated that they would not have sex with another gay man, and that their idea of gay men having sex with each other "was something white gay people do".

Among black and coloured men the co-factors that are needed to construct a homosexual identity are to identify as a man, having sex with a man and being receptive in the sexual act of anal intercourse. The self-identified homosexual black and coloured men that were met had a very explicit way of manifesting their gender and sexual orientation both verbally and in other ways through jargon and clothes. When asked how large percentage of men that had a sexual pattern of having sex with persons of their perceived own gender would be easily recognised as LGBT persons, the answer from the interviewed group was that by the most 5% of MSM were explicit, the other 95% would not express their sexual orientation in any other way than the sexual act itself.

White LGBT persons and their relationship to the white heterosexual community appeared to look very much like the situation we know from Europe, north America and Australia with a defined gay and lesbian community where partners were found among other self identified gays and lesbians and a “coming out” process when a person identifies themselves as gay or lesbian and no longer a total part of the heteronormative mainstream society. Other minorities in South Africa were not investigated, but a future topic to be explored is gender and sexual orientation among Indian and Muslim communities. Interracial/intercultural social mixing among LGBT people has been slow. Allegations from black and coloured LGBT persons has been heard that gay and lesbian venues discriminate due to colour and only allow white people enter to the premises. This have inspired intellectuals and coloured LGBT persons to organise protest manifestations and also to create an organisations that is very critical of both heterosexual mainstream society and the established LGBT society.

### **10.2.2 LGBT identities in India**

In India, same-sex practices among men do not to a large extent constitute a foundation for identity based on sexual orientation. Cultural categories for men in India allow for certain fluidity. Both the “feminine” and the “virile” male have a cosmological as well as a socio-cultural context. There are group-identities, often defined by other groups; the hijra tradition with men who have given up their “masculinity” and thereby assumed a “feminine gender”, kothis are effeminated men (or receptive in the sexual act) defined originally by hijras as potential future hijras. Panthis is the definition of any man but is expected to be the insertive partner in the sexual act. However, the definitions are not based on the occurrence of same-sex activity per se, but from being the active or the passive party in the sexual act. Being the active party in a male same-sex encounter does not render one being defined as homosexual or deviant, on the contrary it is something that young men may brag about in front of their friends along with other sexual experiences. In urban areas, some young homosexual men have started to define themselves according to a western construction of gay identity.

The strong historical link between traditional MSM behaviour (kothi/panthi) and transgender identity (hijra) has made India a relatively open but dangerous place for gay and transgender persons. It seems as if there is a silent agreement that as long as marriage and reproduction is not interfered with, homosexual behaviour is not an issue. In the upper class western gay male culture, traditional kothi/panthi/hijra behaviour is frowned upon, and in venues that operate as gay venues under the official name “singles nights”, effeminate men and transgender persons are not welcomed. LGBT social groups in Mumbai that meet in mainstream restaurants or bars advertise that persons that are too explicit may not join since this jeopardises the chance for the groups to be able to pass undetected. Lesbian identities in India seem to be based to a certain extent on male-female definitions. This could in part be due to the next to total invisibility of lesbians in day-to-day life in India combined with the enormously pathologizing view of those who dare reveal lesbian desires, leaving the individual lesbian woman very lonely and isolated in her quest to understand herself and her sexuality. For but a few, the only way open for a lesbian woman in India is to try to assimilate into society through marriage, and have her intimate and sexual desires expressed in silence and shame. This, of course, brings about a closeted and quite confused state of being. Lesbianism has little if any room in India today and is considered a personal problem. A major challenge that presently confronts lesbians in



India is the absence of not only a social identity, but also that of a historical-cultural context. The movie “Fire” that treated lesbian issues started a discussion in India on lesbianism, but public outcry and moralistic views forced a censorship on the movie.

### **10.2.3 LGBT identities in Moldova**

In Moldova, sexual orientation is considered a basis for identity in a modernised westernised way. LGBT men and women the consultants met described themselves as identifying as being lesbian women or gay men. Several of the persons interviewed had visited Sweden and met with Swedish LGBT persons. Discussions on identity differences between Sweden and Moldova became irrelevant, since the challenges Moldavian LGBT persons faced in their society were so similar to the challenges that LGBT persons face in Swedish society. However, older LGBT persons were not seen, and the persons interviewed said that older people rarely take part in their social activities, indicating a difficult situation for elder LGBT people to live and identify as gay, lesbian or transgender. The LGBT press information that was published by the organisation GenderDoc-M strongly resembled printed materials that could have been published by an European LGBT organisation almost anywhere. One major difference between Moldova and Sweden is the access to social arenas where identities may be manifested. There are very few meeting places for LGBT persons, few role models and severe difficulties to communicate with LGBT persons living outside of the capital. Some small social groups have formed outside of Chisinau, but with little capacity to communicate and invite new people that would like to get in touch with them. In that way the situation in Moldova reminded the consultants of how it used to be in Sweden in the 1980s for gays and lesbians.

## **10.3 Discrimination and socio-economic situation of LGBT persons**

### **10.3.1 Discrimination and its effects in South Africa**

In South Africa, open harassment and violence towards LGBT people is common. Rape of black and coloured homosexual men occurs frequently. There are reports of “curative rape” of black and coloured lesbians in townships, meaning that young lesbians are raped by a man with consent from their family to “cure” them from lesbianism. Because of the high prevalence of rape, prevalence of HIV/AIDS among black South African lesbians is reported to be as high as in the general population. Homophobia is common among all social groups in South Africa but negative attitudes and homophobic statements are rarely reported to the police. The church still have leaders who openly condemn homosexuality as well as other religious leaders that express negative attitudes. There have been bombs placed in gay/lesbian venues in Cape Town, and local Muslim groups that have claimed responsibility. There is a misconception and confusion among the general population regarding homosexuality and paedophilia, and an apparent lack of knowledge in the general public that homosexuality is something separate from paedophilia.

Social discrimination of LGBT persons jeopardise the chances for an LGBT person to get and keep an employment and to make career advances in a company. Even if the risk of being fired from work is little, social discrimination may be a cause for the LGBT person to voluntarily leave the workplace. At a job interview, a person who doesn’t follow the traditional norm of spouse and children, or not dressed according to traditional gender views, may be sorted out in favour of candidates who dis-

play a traditional lifestyle in terms of sexuality. Transgender persons and young gay and lesbian persons are particularly vulnerable to economic marginalization and may find that prostitution or other sex work is the only way they can earn incomes.

Official LGBT representation in South Africa is both strong and weak at one and the same time. There are some high level people who are openly gay, such as Judge Edwin Cameron who is a judge in the Constitutional Court and openly gay as well as openly HIV positive. The leader of TAC (Treatment Action Campaign) Zakie Achmad was prior to his engagement in advocacy for access to antiretroviral treatment for HIV positive persons, one of the persons who started the national Gay and Lesbian movement in South Africa. In official government structures there is a weak LGBT representation and there are no official modalities on referrals or consultations on LGBT issues in decision-making processes. Within South African local UN offices, LGBT and intersex issues are not seen as an urgent matter.

### **10.3.2 Discrimination and its effects in India**

In India abuse, harassment and violence against LGBT persons are common. Discrimination is sanctioned by the state through prohibitive legislation. Rape of homosexual men occurs frequently. Violence to LGBT persons is done both by state representatives (police) as well as by community members and strangers, and often done to degrade and humiliate or as a punishment for a “deviant lifestyle”. The imperative necessity to marry is more or less inescapable, and forces LGBT people into unwanted marriages. Lesbian women in communities with access to health care are clinically pathologized and often forced to psychopharmacological medication by their doctors or through pressure on the doctor from the lesbian woman’s family. In society homophobia is commonly accepted, but the greatest repression is by no doubt the status of non-recognition of LGBT persons and their rights to choose a partner of their own desire. Since heterosexual marriages are not primarily constructed on mutual desire, but on family pressure, the actual difference between LGBT person and the heterosexual person in forced kinship is not that great.

Discrimination in the workplace is common in all sectors. However, the unions for state employees are very strong so that in general it is virtually impossible to be sacked from work as a public servant once one has a job, not even on grounds of sexual orientation. Women in general have a difficult economic situation, and this is especially pronounced for lesbians, since they face a double burden of discrimination. It is hard for a woman to be a full-worthy citizen and have an independent identity in her own right. Adulthood, and with that social status and responsibility, is conferred to marriage. For a woman who does not fit the prevalent norms for femininity, it is hard to find employment, other than setting up one’s own business. Discrimination at school is also common. In Delhi, a lesbian girl was recently expelled from school on the grounds that she, by wearing a “male watch”, did not concede to what is considered decent clothing for young women. The general attitude in society towards LGBT people is characterised by homophobia, ignorance and disrespect.

A paradox is that English language media frequently reports on LGBT relevant issues. During the time the consultants spent in India there were reports on two occasions with direct reference to LGBT matters, one reporting on the change in British marital laws so that it now is gender neutral, and the other a report in the social column about the break-up in a relationship between two well known male Italian fashion designers. The articles were both neutral and informative without any comments

that could be interpreted as negative or judgemental. Another article in the press talked about the suicide of a sexually molested Indian boy. It was written in a manner so that the reader could interpret it as it should be understandable that the molested boy who was mercilessly teased and bullied by his classmates and therefore committed suicide. A case of a double murder in autumn 2004 had a gay connection, and there was a media coverage that was both vast and negative, causing a situation in which a UN employee had to discontinue his mission. Considering the societal uproar due to this case and also the reaction to the Indian lesbian movie “Fire” it seems as if there is a difference in media reporting attitude to LGBT issues in an Indian context and LGBT issues in other countries.

There is no official representation of LGBT persons in public advocacy institutions in India. No one in parliament, other governing bodies or private sector is open about being homo- bisexual or transgender. Unofficially it is known that some well-known people in the fashion industry identify as being gay, but this is not publicly talked about. At meetings with local UN representatives, bringing up LGBT issues on the agenda was very welcomed. At UNIFEM it was suggested that the CEDAW shadow reports be a good place to report on the situation for lesbians. In India there is a general misconception and confusion regarding homosexuality and paedophilia among the general public. Sodomy laws prohibiting homosexuality is also used to protect children from sexual abuse.

### **10.3.3 Discrimination and its effects in Moldova**

In Moldova there is an almost complete silence on LGBT issues in society at large. A culture of silence is very pressuring to live in since there is repression but very little to act on. UNICEF recently carried out a survey among young people (aged 10–24) on attitudes towards various phenomena in society. Attitudes to LGBT relationships were asked about and the result shows that 3% of the respondents accepted homosexual relations between men and 6% accepted homosexual relations between women. Girls were slightly more tolerant. Also in Moldova there is a general misconception and confusion regarding homosexuality and paedophilia. Transsexual persons have right to sex change operations, but are very pathologized and tend to be seen by medical staff as being victims of extremely traumatising experiences in early childhood.

Young lesbians report on how their families, when finding out about their sexual orientation, try to talk them into “treatment”. This mirrors the general attitude in society towards LGBT people that is characterised by non-recognition, ignorance and disrespect. The prevalence of alcohol and drug use among lesbians in Moldova is high, and research conducted by GenderDoc-M showed a very high prevalence of depression among lesbian women in Moldova. Violence against lesbians occurs regularly, but this is experienced as very shameful and thus not talked about.

No cases of LGBT sex work have been reported to the consultants, and in trafficking programmes that were assessed with IOM there is no real vigilance to the possibility that males may be trafficked for sexual purposes. Media is in large silent about LGBT issues. Media coverage that has been seen as positive among LGBT persons has been in conjunction with the yearly pride festival where cooperation of Swedish RFSL as well as of Swedish officials and politicians has created a positive explosion of LGBT issues in media. LGBT persons are represented as reference in decision-making processes. In the national committee on human rights there is a representation of an LGBT organisation and also in the CCM (Country Coordination Mechanism) of the GF (Global Fund for HIV/AIDS, TB and Malaria) there is an indirect representation of an LGBT organisa-

tion. In parliament there is no openly lesbian, gay or transgender person and there is no other public person in other sectors that is an open LGBT person. GenderDoc-M is a well known and well reputed NGO at the local UN offices, and LGBT issues were seen as important among the UN representatives met, except at the UNIFEM office.

## **10.4 HIV/AIDS and LGBT persons**

### **10.4.1 HIV/AIDS and LGBT persons in South Africa**

In South Africa, the liberal constitution is not reflected at the ministry of health, where LGBT issues are virtually non-existent. In the national AIDS programme there is no mentioning of the situation or needs among LGBT people in regards to HIV prevention and care. The national epidemiological reporting does not differentiate between male-to-female mode of HIV transmission and male-to-male mode of HIV transmission.

HIV prevalence among LGBT people is thought to be as high or higher than in the general population due i.a. to widespread rape. Medical experts in Western Cape estimate that the HIV prevalence among self identified gay men to be as high as 30% (compared to approx 7% in the general adult population). Among transgender persons HIV prevalence is estimated to be even higher. HIV prevalence among lesbian women is as high as among the general population. This is due to sexual violence by men directly targeting lesbian women to “cure” them from their sexual orientation. Service provision in regards to VCT (Voluntary Counselling and Testing) of HIV and treatment of other STIs are catered for by NGOs and private practitioners.

### **10.4.2 HIV/AIDS and LGBT persons in India**

LGBT persons in India are highly vulnerable to HIV infection due to lack of information and sexual violence. The persons that are mostly at risk are MSM who are externalising an identity and behaviour that is perceived as effeminate by the society. They are expected to be receptive in the sexual act and in many cases not on a level where they are in a position to negotiate condoms. If arrested and accused of sodomy, loitering or causing public nuisance, rape by the police is common. Condom negotiation in a situation of rape is of course out of the question. Reliable data on HIV prevalence among MSM is not available. It is also not very fruitful to categorise MSM as a group in a country where as many as 50% of men asked about their sexual practices report having sex with other men.

In the national AIDS programme there is mentioning of the special needs and plans for HIV prevention interventions directed to MSM. Despite the fact that anal intercourse is illegal the MoH (Ministry of Health) have no objections to adopt a harm reduction strategy to HIV prevention among MSM. Special STI services to cater for the needs of MSM are in place, both in government clinics and with NGOs. The coverage of these services is not any were near the capacity to cover the needs of MSM in India. In the rollout of the ARV programme supported by GF there is no special mentioning of MSM. Representatives from organisations for HIV positive MSM fear that MSM will not be prioritised among the patients that are chosen to be enrolled for treatment.

### **10.4.3 HIV/AIDS and LGBT persons in Moldova**

In Moldova as in the rest of Eastern Europe, LGBT persons have not been the core group for HIV infections. Since there has been an almost complete focus on IDUs (Injecting Drug Users) a slow increase among MSM has passed virtually undetected. In the national AIDS programme there

is recognition of MSM and vulnerability to HIV infection, but serological data is very uncertain since the likelihood that a gay man who is tested HIV positive will report to medical officials being homosexual due to fear of discrimination. Specialised HIV and STI services are not in place and NGOs don't have clinical capacity to provide testing and treatment. One fear in Moldova is that gay men may get infected with HIV when travelling to Ukraine for recreation in the black sea region. HIV prevalence in Ukraine is higher than in Moldova.

## **10.5 Organisations and civil society**

### **10.5.1 LGBT organisations in South Africa**

South Africa has a strong civil society in LGBT issues with many professional and active NGOs in the large urban areas. Issues that LGBT organisations focus on are rights, HIV/AIDS, outreach, research and documentation as well as targeted interventions to reach people with disabilities. Few non-LGBT specialised organisations include LGBT issues in their programmes. In the country there are about 10 major LGBT organisations with their own geographic belonging and specialisation. The main ones are:

#### *Triangle Project, Cape Town*

Triangle project is an LGBT organisation specialised in advocacy, capacity building, outreach to townships and HIV prevention, VCT and STIs. Novib, Atlantic Philanthropies, Forum Syd/Sida, Astrea and others provide funding the organisation.

#### *Behind the Mask, Johannesburg*

Behind the mask is a cultural and visibility promoting organisation with a regional African approach. The organisation has a comprehensive and informative homepage with references to articles and organisations in the southern African region.

#### *GALA Gay and Lesbian Archives of South Africa,*

The archive is a library collection and archives for pictures, film and interviews with LGBT interest. Gala also has directed project work to LGBT people with disabilities, specially hearing disabilities.

#### *FEW (Forum for the Empowerment of Women), Johannesburg*

The organisation is an organisation for black lesbian women. Working with counselling, victim support, training and education.

#### *Out, Pretoria*

Out is an organisation that works with training, information and provision of social space. It is open to women, men and transgender persons specialised in outreach to townships, legal rights and HIV/STI prevention.

#### *Durban Centre, Durban*

Durban Centre is open to women, men and transgender persons and works with advocacy, outreach and HIV/STI prevention.

In addition to these organisations there are some smaller or very focused organisations e.g. for gay and lesbian Muslims, gender equality and intersex rights, LGBT film festivals and pride festivals. NGOs are to a large

extent depending on funding from foreign donors. The largest donors are Netherlands Government through Novib (NL Oxfam) and Atlantic Philanthropies. Funding situation for most organisations is stable for the next few years due to broad commitment from Atlantic Philanthropies. According to information provided by NGOs in South Africa there is also an interest from the World Bank to increase spending on support to LGBT organisations. With support from Dutch Government/Novib cooperation between COC and major national LGBT organisations has resulted in a coordinating body that functions as a national network of LGBT organisations. There is no legal or recognised entity that is the national organisation of LGBT people similar to the Swedish RFSL. The discussions in the national network have so far concluded that there is no interest to create such an organisation, but rather to strengthen the national network of independent LGBT organisations.

### **10.5.2 LGBT organisations in India**

In India, LGBT organisations are weak and there are only a few organisations that are legally registered. Due to the legal situation LGBT organisations have a hard time to operate. One organisation has been registered as a men's health organisation and is supported by the ministry of health, another organisation has seen severe problems and has been harassed by police and members jailed on allegations of promoting sodomy. Several non-LGBT organisations have included LGBT issues in their agendas and programming. The LGBT organisations met were:

#### *Humsafar trust, Mumbai*

A men's health organisation that works with HIV prevention among MSM and to provide social space for predominantly economically disfavoured MSM. The organisation has funding from FHI and is part of the MAM-TA network.

#### *Aanchal, Mumbai*

Aanchal is a lesbian organisation that is focused on advocacy, counselling, creating lesbian visibility and providing social space.

#### *Naz Foundation International, London/Lucknow*

Naz Foundation International has its head office in London and a regional office in India. Funding to the organisation's current business plan comes from DFID.

#### *Sangini, Delhi*

Sangini is a lesbian organisation focused on counselling, providing social space and assist lesbian women in professional training.

#### *Naz Foundation India, Delhi*

Naz Foundation India is not connected to Naz Foundation International. Naz India is an AIDS service organisation that has directed HIV prevention services to MSM and also organise social groups for MSM.

#### *Lawyers Collective, Mumbai*

The organisation provides legal assistance to individuals and organisations in the area of HIV/AIDS. They have included LGBT issues in their programme and is currently supporting Naz India in a case to challenge the Indian sodomy laws.

### *MAMTA, Delhi*

MAMTA is a network of sexual health organisation that includes LGBT issues in their youth and sexuality programme. Sida supports the youth programme that is a cooperation project with RFSU.

LGBT organisations are heavily dependent on donor funding, only Hum-safar Trust has some support from government through NACO (National AIDS Control Organisation) and the municipality of Mumbai who let's office space to the organisation. Internal conflicts between LGBT organisations were evident and a lot of effort appeared to be invested by the organisation's leaders to position their organisation in relation to the other. The obstacles to operate as an LGBT organisation in India makes the organisations that are not specific to LGBT issues an efficient way to overcome government repression and progress in issues of legal change and promoting a more tolerant attitude among the general public to LGBT persons.

### **10.5.3 LGBT organisations in Moldova**

Moldova is characterised by a very strong LGBT organisation, GenderDoc-M, with a high degree of professionalism, represented both in government structures and in regional European LGBT organisations. GenderDoc-M works with LGBT counselling, advocacy, cultural expressions, organising events and rallies and creating safe social space for LGBT people. In other areas of Moldova there is more or less a total lack of public venues for LGBT people to meet. Some private initiatives of social groups that meet in private apartments are in contact with GenderDoc-M. As an organisation GenderDoc-M has excellent position to act as a regional Eastern European resource centre for NGO capacity building in the area of LGBT mobilisation, advocacy and service delivery and as a centre of excellence to other sexual health organisations to learn to be LGBT inclusive. Other organisations met in Moldova don't seem to include LGBT issues in their work programmes. This makes LGBT issues very much concentrated to one civil society actor, which may become a constraint in the future for other groups to start organisations, or for other organisations that are not LGBT specific to take in LGBT issues as a thematic field in their work.

# 11. Conclusions

## 11.1 The position of LGBT issues

The conclusion of this study is that LGBT and intersex issues should continue to be treated as a human rights issue. Policy and administration of LGBT issues should be situated within a gender equality and social equity discourse and dealt with through a rights based approach where every person regardless of sexual orientation and gender identity has the right to:

- recognition
- legal protection against discrimination
- social rights including marriage and adoption
- partake in decision making processes
- enjoy social and cultural rights including visibility and freedom of speech
- access to education, healthcare and sexual health services
- inclusion in statistics and research
- start and register organisations and organise meetings and events

These are the key elements to assure the principles of equality and non-discrimination of all people regardless of sexual orientation and gender identity. Attention should be called to the fact that prejudices against LGBT people are mostly not created in the households of lesbians, gays, bisexuals or transgender people. Mainly non-LGBT people create prejudice. Defending LGBT rights and promoting tolerance should therefore also be of concern to the whole society. Governments and civil society should be urged to take action to combat prejudice. When making LGBT issues part of the human rights, equality, gender and development agenda it is possible to open up for more flexibility in thoughts about gender identities, masculinities and femininities, homosexualities, and heterosexualities and to more readily include LGBT topics in discussions and agreements.

With the present position of LGBT issues in UN conventions and declarations, negative standpoints by a country on LGBT issues may not necessarily constitute a grounds or conditionality for determining development and other cooperation with a partner with a reference to violations of conventions. Nevertheless, recommendations on issues of sexual orien-



tation from the UN Human Rights Committee should be fully incorporated in the Swedish international agenda and act as the guiding principal in all Sweden's relations with EU, UN Council of Europe and Governments of other countries. Transgender and Intersex issues should be regarded as part of the goal of eradicating all discrimination due to gender and sex.

## **11.2 Sweden's voice on LGBT issues in the international arena**

The present Swedish position on LGBT issues in international policy and administration is recognised by an increased attention to LGBT issues in the area of human rights, but with a lack of staff awareness, adequate knowledge of the issues involved, competence, staff capacity, policy statements and disparity of directives and direction in regards to how to manage interventions within gender equality and social equity. LGBT issues have been dealt with in development cooperation over many years, but mostly in the form of ad hoc support to interventions such as short-term NGO programmes, conferences, meetings and so forth. Sweden has been supportive to UN resolutions in favour of including LGBT rights not only in terms including other groups (groups with special needs, minorities, and vulnerable persons) but explicitly, despite of heavy pressure from other countries. Sweden has a significant role to play in defending human rights in the world and including LGBT and intersex persons in the recognition of everybody's right to be encompassed by human rights. Sweden has an important task to act as a dialogue partner supporting the UN in the direction of including LGBT issues in UN functional committees, funds and programmes and as well as supporting processes of adopting binding conventions on LGBT rights.

Sweden should position its rights-based discourse on LGBT issues not on rights in relation to pre-defined LGBT identities, but on definitions of freedom to legal, social and cultural space where sexual and gender expressions are possible to manifest regardless of choice. This strategic positioning is important in order not to create division between heterosexual and homosexual people and between LGBT groups representing various constellations of gender identities and sexualities. It is important to recognise that identities are flexible and constantly changing, and that the identity-concept, when used from the "outside", can be imposed in a very oppressive way.

Since prohibition against homosexual acts is the most common form of legislative repression against LGB persons, not the LGB identity itself, freedom to express sexuality regardless of gender of the partner is central. Promoting the creation of (western) identities may misrepresent or ascribe a restrictive or inaccurate identity on a person and thereby contribute to further marginalization. Another incitement to not enter into an identity based discourse is to not risk the perception of government representatives of other countries suspecting promotion of LGBT rights as a part of a cultural imperialist agenda. The focus should stay on the unconditional presumption that regardless of gender identity and sexual orientation, a person will be guaranteed equal rights and legal, economic, social and cultural freedom.

Because of the violent repression of people differing from the normative heterosexual male and female role that exists in many countries, it is important that sexual orientation constitute grounds for asylum and treatment as a convention refugee. LGBT people leaving countries of origin or

residence with legislation that violate LGBT rights should be granted asylum according to the same principals as other refugee seekers who leave their countries due to violations of political or religious freedoms.

### **11.3 Swedish Policy documents**

The findings of this study show that there is not an adequate mentioning of or directives for dealing with LGBT issues in Swedish policy, strategy and position papers apart from the policy on human rights and the policy for global development.

There are no directives to guide programme officers when formulating terms of references for consultants conducting Sida assignments on how to include LGBT issues in consultancy assignments with LGBT relevance. Furthermore there are no comprehensive directives of how to include LGBT issues in the country analysis process. Many of the policy documents that were scrutinised may be interpreted as if they included LGBT issues and persons, through general statements but lack in specific mentioning of LGBT matters.

Sida and MFA staff policy on gender equality are not inclusive of LGBT issues and there is no workplace policy on diversity that affirms the desirability of recruiting LGBT people to become members of staff. Since there is no explicit mentioning of LGBT issues in several key documents it is as easy to bypass, as to include LGBT issues, and the result is in large determined by individual standpoints of members of staff. To improve this situation it is crucial to, whenever reformulating policy documents in the future, take in account that a special directive should be given to particularly investigate if there is a motivation to spell out LGBT issues in any way or in any part of the policy or strategy document. This is particularly important in the areas of gender equality, social equity, human rights, HIV/AIDS, SRHR, gender-based violence, sexual violence, honour crimes, trafficking, freedom of speech, education and culture.

To progress in this area it is crucial to rethink issues around social, economic and cultural equity, gender equality, masculinities, femininities and SRHR as a totality, in order to avoid the risk that LGBT issues become an isolated pocket of acceptance and tolerance in an otherwise heteronormative discourse. Any rights, gender and sexuality policy that does not mainstream homosexuality and transgender issues has severe deficiencies in its construct and theoretical framework. There should be no reasonable argument to reduce gender to men and women *only* and sexuality to heterosexuality *only*.

### **11.4 A rights-based approach to LGBT issues**

One of the challenges in promoting human rights for LGBT persons is that the task may feel overwhelming to the individual desk officer who is not directly involved in the leadership or in policy making. One way of exploring the practical implementation of a rights-based approach, where LGBT issues may be implemented in a more practical way, is to look at the four principles of a right-based approach; participation, non discrimination, accountability and transparency. With these four principles as guiding points, it may be easier to see where LGBT issues may find their place in a programme or supported intervention. When planning a programme or an intervention the desk officer may for example ask the cooperation partner if LGBT issues have been included in the assessment of the project and if representatives for LGBT persons have taken part in the planning and developing of the intervention e.g. in a school sexuality education programme. If a programme on gender-based violence also include attention

to violence towards LGBT persons. An issue worth investigating is if the police in a cooperation country aware of LGBT issues, and if they take action to prevent and prosecute against hate-crimes. The programme officer may also ask if decision-making processes in a project or organisation open to all persons regardless of sexual orientation and gender identity.

By these simple means of a practical rights based approach supported by policy and position papers, the inclusion of an LGBT and intersex agenda may be something that is within relatively easy reach for most desk officers at Sida and MFA. Strategic partnering with organisations with a high level of knowledge about LGBT and Intersex issues may be another way to support dialogue and increase knowledge and interest in issues regarding sexual orientation and gender identity. Thematic working groups may be another way to combine knowledge, advocacy and support. One constellation that could be considered is a LGBT thematic working group whereby Sida, MFA and the ombudsmen against discrimination could jointly form a platform for the protection and promotion of human rights in regards to sexual orientation and gender identity.

### **11.5 The role of Sida and MFA in partner countries**

Sida and MFA have an important role to play in cooperation countries to support processes of change and improvement of the situation of LGBT and intersex persons, and a higher degree of active collaboration and dialogue on these issues would be beneficial. The role of Swedish embassy representation may be to act as an analytical entity to monitor the in-country legal and social situation through the human rights reports and emphasize the necessity of an LGBT inclusive perspective in the country analysis. In order to facilitate a sustainable collaboration on LGBT rights and issues in development co-operation among Swedish stakeholders, it is crucial to have a firm and officially approved LGBT policy. A well known concordant official policy will facilitate the work co-operation between Sida, MFA and civil society, as well as between members of staff. Work relevant to promote and support equity for LGBT persons can be carried out on several levels; through direct support to civil society, in country analyses, in bilateral discussions, as well as on a dialogue basis on international policy level.

In dialogue and negotiations in the UN and EU and other international and regional organisations, it is important for Sweden to continue being a strong voice on promoting equality and rights for LGBT people by continue raising and supporting UN and EU initiatives and treaties stating that discrimination and violence against LGBT people is a human rights violation, and that it is irreconcilable with basic democracy for a state to tolerate violence against individuals. Guaranteeing representation of LGBT organisations in relevant fora can also give support to LGBT rights within the UN system. To ensure this, possible key areas of support are international LGBT organisations such as ILGA, IGLYO and IGL-HRC, which are the organisations that may enjoy observatory status in the UN. Another possible area of support is to channel funding through one of the global LGBT funding organisations that support capacity building in civil society organisations such as ASTREA and Mama Cash. Support to these funding organisations allows support to NGOs who are active in countries where there are no Swedish representation and contacts. ASTREA and Mama Cash are well known among LGBT persons and organisations around the world and have an administrative routine that is well recognised. Dialogue on LGBT issues in bilateral communications has been seen as a positive form of support and gives legitimacy to LGBT

causes. An inclusion of LGBT issues in all country analyses should be a requisite. Representation of high-level officials on special LGBT assemblies is of great political and symbolic value.

Pressure must be put on Swedish NGOs that receives funding from Sida to guarantee that no Swedish development cooperation money goes to support organisations or activities that actively discriminates or promotes discrimination due to sexual orientation. Swedish support should target inclusion and mainstreaming of LGBT issues in existing programmes, as well as direct support to advocacy, service delivery, cultural expression, providing safe meeting spaces, and research on LGBT issues with various stakeholders. Support to networking between both North-South and South-South LGBT organisations should be seen as a priority area for Sida when considering funding to LGBT organisations. If technical assistance is needed by the recipient to access funding for this kind of contact, this should be offered or facilitated by Sida.

### **11.6 The role of civil society**

Support through and to civil society is an important part of international development co-operation. Organisations in low and middle-income countries that include LGBT issues in their programmes often have severe difficulties to fund their activities. Many times the levels of funding that are required by the organisations are very small scale. NGOs are often the most important, along with commercially operated social venues, to provide social space and safe meeting places. Contacts between LGBT organisations are often difficult to establish due to the lack of capacity and resources to travel. In several countries the main problem for civil society organisations is to register as an LGBT organisation or an organisation that is working with the topic. This is crucial in order to be able to handle and account for grants. To avoid culturally conditioned views and constructions of sexual orientation that could be perceived as culturally imperialistic there is a need for regional capacity in cooperation countries, in particular in Africa where one of the main arguments among political leaders against LGBT recognition and rights is that homosexuality is “un-African”.

To understand the ways that civil society has to operate in certain parts of the world, it is necessary to understand that some organisations need to disguise their LGBT agenda under a gender, culture, health and human rights pretext for fiscal reasons and to avoid government harassment. To keep an ongoing discussion with local LGBT organisations in co-operation countries, as well as with Swedish organisations is of course of utmost importance for an understanding of the special needs of the LGBT communities in the countries in question. It is important to remember that, as it is easier to communicate with people who have a similar frame of reference, discussions are often held with NGO representatives that have lived, studied, worked or otherwise are familiar with Western European lifestyles. This entails a risk that issues of importance for those living under the poorest and most vulnerable conditions are neglected, as well as a risk of imposing western values not asked for.

# 12. Recommendations

## 12.1 General Recommendations

- To regard LGBT issues as an integral part of a gender equality and social equity agenda.
- To adopt a perspective on masculinities and femininities, heterosexualities, homosexualities where the idea of plurality in gender identities and sexual orientations are incorporated.
- To integrate intersex persons in the LGBT agenda.
- To continue to be supportive in the UN, UN functional committees and programmes, EU and Council of Europe to writings and resolutions that promote LGBT issues.

## 12.2 Recommendations on ways to how work can be improved

- To increase spending on LGBT projects, in particular directed to the most socially marginalized LGBT persons such as belonging to an ethnic minority, youth and young adults, disabled persons, old persons, and women and men in prostitution.
- To advocate for inclusion of LGBT issues in UN functional committees, funds and programmes.
- To include LGBT issues in the country analysis and country strategy process in regards to gender equality, health, education, human rights and culture, already at the appraisal and assessment stages of the programming process.
- To also consider LGBT-persons' vulnerability when assessing programmes on gender-based violence
- To specially give attention to vulnerability to HIV infection among MSM, lesbian and transgender persons in HIV/AIDS programming.
- Standardise LGBT human rights reporting at Swedish embassies according to minimal criteria and quality.
- Develop an action plan at department level at Sida and MFA for policy development and support to LGBT issues.
- Assure that Sida and MFA have a work place LGBT inclusive gender policy and a staff diversity policy in Sweden and field offices including LGBT persons.

- Appoint LGBT focal points at relevant Sida and MFA divisions and departments.
- Develop criteria for support to Swedish NGOs at Sida/SEKA to combat discrimination of LGBT people with project partners in cooperation countries.
- Whenever relevant, in consultancies on gender equality, health, education, human rights and culture, include in LGBT issues in consultants terms of references.
- To continue mapping LGBT issues among NGOs with a framework agreement with Sida and impose annual reporting on policy and administration of LGBT issues to Sida/SEKA.

### **12.3 Recommendations on how to strengthen capacity and competence**

- To develop a training manual on LGBT issues and form a multidisciplinary training team to teach LGBT issues for Sida/MFA staff and project partners in Sweden and in cooperation countries.
- Prioritise support to SRHR initiatives with integrated LGBT approach to sexualities.
- Support regional LGBT administrated civil society networks for capacity building.
- Consider and assess the need of core funding to global LGBT organisations.
- Conduct regional and sub-regional situation analysis and stakeholder mappings in Africa, Asia, Latin America and Eastern Europe.

### **12.4 Recommendations on how to build awareness and bridge knowledge gaps**

- Support to LGBT research in the field of sexology, sociology, anthropology, ethnology, history, religion and other areas within the humanities and social sciences.
- Support to documentation of LGBT texts, films, music and other cultural expressions.
- Support development of statistical data with a special reference to LGBT persons (such as honour related violence, trafficking, migration and refugees, HIV/AIDS, rape, hate crimes, discrimination, suicide, mental health, alcohol and drug abuse).
- Promote cooperation and exchange between researchers on LGBT issues in different parts of the world with an emphasis on south-to-south research cooperation.
- Support to conferences on LGBT issues.
- Support initiatives on shadow reporting to official reports including LGBT rights
- To bridge conflicts between children's rights and LGBT rights by promoting specific provisions to protect children as well as LGBT persons against discrimination.
- Support interregional NGO cooperation on LGBT issues.
- Keep a constant dialogue with faith based organisations on discrimination, gender identity and sexual orientation.
- Create an interdepartmental working group for LGBT issues at Sida and MFA.

### **12.5 Specific recommendations for South Africa**

- Support national and regional network cooperation initiatives of LGBT organisations.
- Support to implement the progressive LGBT legislation in healthcare, gender violence, education and HIV/AIDS programmes.
- Support research and documentation on same-sex behaviour and gender expressions in traditional cultures.
- Support initiatives that are directed to LGBT persons with disabilities.

### **12.6 Specific recommendations for India**

- Increase general support to Lawyers collective and MAMTA.
- Support initiatives that promote economic independence for LGBT persons.
- Support NGOs Sangini and Aanchal in creating social space for lesbians.
- Assure that all SRHR-programmes LGBT-inclusive.
- Support research and documentation on same-sex behaviour and gender expressions in traditional cultures, especially the Hijra culture and expressions of lesbian sexuality in traditional art and texts.
- Stimulate UN funds and programmes to include LGBT issues in their programmes.

### **12.7 Specific recommendations for Moldova**

- Support capacity of GenderDoc-M to develop to a resource base for civil society organisations in the Eastern European region.
- Support initiatives to promote healthy lifestyles for lesbians.
- Support research on violence against women, and make violence against lesbians explicit in such research.
- Act so that all SRHR-programmes with Swedish support should be LGBT inclusive

### **12.8 Recommendations for other geographic areas**

- For Latin America consider the vulnerability of MSM and HIV infection and look into supporting rights and outreach programmes such as PSI/PASMO regional initiatives.
- In the MENA region, further investigate the situation of LGBT persons, particularly in regards to Islam.

# Annex I

## Terms of References

Study of Sweden's work on issues relating to LGBT issues in the Swedish development policy and development cooperation

### 1. Background

In a formal decision of the Swedish Government, Sida was given the assignment of making a special study and in-depth analysis of ways in which issues concerning lesbian, gay, bisexual and transgender (LGBT) issues are treated in the Swedish development policy and Swedish development cooperation. The aim of the study is to obtain an overview of the ways in which Swedish policy and practice treat LGBT issues in relation to the ambitions expressed in the Government bill of 2002 *Shared responsibility – Sweden's Policy for Global Development* and in the report produced by the Parliamentary Standing Committee on Foreign Affairs in 2003. Fields given high priority in Sweden's work are sexual and reproductive health and rights (SRHR), combating HIV/Aids, and respect for human rights. Sweden is, and will continue to be in the future, a conspicuous voice in the dialogue on LGBT issues.

The study will result in proposals for actions that should be taken in respect of policy development and in operational work in Sweden and the partner countries, above all in the fields of human rights, SRHR and HIV/Aids. The recommendations shall also include concrete proposals for measures to improve the awareness and professional skills of the personnel concerned in the Government Offices (including the Ministry for Foreign Affairs), at Sida, and at other government agencies and organisations where development cooperation in issues relating to LGBT persons and sexual orientation is concerned.

The Government bill of 2002 *Shared responsibility – Sweden's Policy for Global Development* expresses solidarity with poor and vulnerable people in all parts of the world. The policy is permeated by a rights perspective that includes democracy and the principle of the equal value of all people. The rights perspective entails an increase in the focus on individuals and groups that are discriminated against, excluded and marginalized. The poverty perspective, the gender/power perspective and the rights perspective shall permeate the study in a concrete manner. The policy also emphasises the importance of knowledge, competence and capacity for working effectively and appropriately with LGBT issues in development cooperation.

In the report produced in 2003 by the Parliamentary Standing Committee on Foreign Affairs on Sweden's Policy for Global Development, it is



emphasised that all people should be able to enjoy human rights regardless of their sexual orientation. The strong resistance that exists to this principle shall not be permitted to prevent Sweden from pursuing these issues in an appropriate way, bilaterally and multilaterally, for example in the UN Commission for Human Rights, in the Council of Europe and as part of the dialogue on human rights with Sweden's partner countries. The Committee also emphasise the importance of contributions to develop capacity. Sida's responsibility for specifically implementing an LGBT perspective in policy documents and other instruments is also emphasised.

The issue of counteracting discrimination and violations of human rights arising as a result of sexual orientation and sexual relations between people of the same sex has been given an increasing amount of attention in international work (for example in the EU and UN), in bilateral development cooperation and nationally. All people, regardless of their sex, age, disabilities, ethnic affiliation or sexual orientation, shall be able to enjoy human rights and contribute to the development of the communities they live in. All people are needed and constitute important resources, actors and subjects for development ambitions. Discrimination acts as a brake on development, partly since it results in failure to take advantage of human resources, and partly since it means inequality and injustice and contributes to tensions, and even to open conflicts, in society. It is also increasingly clear that we only possess extremely little information on whether the general health and sexual and reproductive health of LGBT persons is being provided for, including HIV/Aids. Both these areas are priority areas for special initiatives in 2004 and 2005. Sweden is at the forefront where working to protect the rights of LGBT persons is concerned. However, we lack an overall picture of the work that has been done hitherto in the human rights field and within the framework of the work on, and support to, SRHR contributions, including HIV/Aids. There is an urgent need of a survey of the work that is being done and of the challenges and difficulties faced in this work.

## **2. The study**

Sida has been commissioned to make a study which shall examine the Swedish policy and administration of LGBT issues in development cooperation and shall include a review/survey of the situation of homosexual, bisexual and transsexual persons in three countries. The study shall result in a report that can be used as a tool in the work done by the Government Offices, Sida and the organisations on human rights, SRHR issues and HIV/Aids.

The results, conclusions and recommendations shall therefore be presented in an appropriate manner for this purpose. Ways in which the work can be improved and our capacity and expertise in the LGBT field can be reinforced, and the areas in which more knowledge is needed shall be evident from the report. The unique nature of the study makes it necessary for the consultants engaged to be well acquainted with the LGBT problem, and to possess documented research experience or other experience of working in other countries, including countries outside Europe, and good knowledge of Swedish development cooperation.

The overall aim of the study is to obtain an overview of the ways in which Swedish development policies and practices relate to sexual orientation, LGBT issues and LGBT persons in the light of the needs identified in the study and within the framework of the ambitions expressed in, for example, the Swedish Policy for Global Development and in policies on human rights and SRHR issues, including HIV/Aids. The study constitutes

an important step in the formulation of a coordinated strategy for effective contributions, including the work on a new SRHR policy. It shall also contribute to enhancing the development of our knowledge, skills and capacity in the LGBT field.

## **2.1 Implementation of the study**

The study will include the following stages:

*1) A desk study* which entails a review of the material available and interviews in Sweden based on policy documents and earlier studies such as Sida's evaluation of SRHR support. The desk study shall include an examination of policy documents, existing strategies (including country strategies/cooperation strategies for countries), action plans, guidelines and documents from a sample of Swedish actors' contributions in respect of human rights, SRHR and HIV/Aids. The examination of these documents will be made in order to ascertain the ways in which development cooperation has treated issues concerning sexual orientation and sexual identity. In addition to the work done by the Government Offices and Sida, the work done by organisations such as the Swedish Association for Sexual Equality, Swedish Organisation for Sexual Education, Kvinnoforum (Women's Forum), Swedish NGO Centre for Development Cooperation, Swedish NGO Foundation for Human Rights and the Swedish Helsinki Committee for Human Rights shall also be examined. The examination should also include the research done by different universities that is relevant to the assignment. A description shall be made of the above-mentioned organisations' capacity for working with LGBT issues in programmes of development cooperation. The desk study shall also include an examination of three countries' policies and legislation on sexual orientation, and existing available research or other relevant studies on LGBT issues and on the situation of LGBT persons in the countries (including the embassies' human rights reports).

Proposals for relevant, specific questions for the desk study part of the assignment, to which the consultant shall seek answers are:

- a) In what ways are different sexual practices and sexual affiliations expressed in the form of identities and group affiliations? Make an estimate of the extent of the LGBT field?
- b) To what extent are sexual orientation and LGBT issues explicitly taken up in the countries' legislation, and in national or other development policy documents and strategic documents?
- c) To what extent have Swedish development contributions in the human rights and the SRHR fields, including HIV/Aids, concretely taken up issues that include or affect the situation of LGBT persons?
- d) In what ways have the Swedish contributions tackled the issues of mobilisation, support for LGBT organisations, raising awareness, lobbying/legislation, prevention of HIV/Aids, focus on men/women?

*2) An in-depth analysis of the development cooperation programmes that are being implemented in South Africa, India and Moldova* through visits for contacts and interviews with actors involved in practical Swedish development cooperation work in the field, and with groups and networks in the countries that represent LGBT persons or work with issues that include the situation of LGBT persons.

South Africa was the first country in the world with a constitution (May 1996) that explicitly includes sexual orientation and the rights of homosexual persons. The ANC had previously recognised the rights of lesbians and homosexual men at a policy conference in May 1992. At the same time LGBT persons are discriminated against and the country is struggling with LGBT issues within the framework of HIV/Aids and with the application of laws that are intended to protect LGBT persons from discrimination. A certain amount of support has been given to projects and networks that include working with the rights of LGBT persons, for example the “Triangle Project”.

In India actions that are perceived as homosexual are an offence under the law. However, the country has a number of strong grass-roots organisations that struggle for the recognition of sexual orientation and the rights of LGBT persons. However, at the same time the Government has adopted an extremely conservative and aggressive position against LGBT persons and has even refused them access to condoms. Sida is providing support for the Lawyers’ Collective, an NGO that works with defending the rights of LGBT persons, partly by speaking on behalf of these persons in at trials in court, and partly by working actively for an amendment to the existing constitution. Sida is also providing support, via the Swedish Organisation for Sexual Education, for an SRHR project for young people, together with an Indian organisation, MAMTA, in which issues concerning “men who have sex with men” (MSM) are beginning to receive attention.

The country strategy for cooperation with Moldova, one of the poorest countries in Europe, is one of the few in which LGBT issues are given attention.

It is possible for local organisations to apply for funds and cooperation from the support allocated to human rights. One project in this field was a “Pride Festival” in which the Swedish Association for Sexual Equality/Swedish NGO Centre for Development Cooperation were the Swedish partners. Aspects of gender, power and equality, as well as a poverty perspective, in issues relating to sexual orientation, LGBT and sexual identity shall be consistently given attention in the fields of human rights, SRHR and HIV/Aids.

*Proposals for relevant, specific questions for the in-depth analysis/visit part of the study, which the consultant shall attempt to answer, are:*

- a) Describe the consequences of discrimination against LGBT persons, due to their sexual identity and sexual orientation, for men, women and transsexual persons (access to information on health, services etc), particularly in respect of poor people and otherwise vulnerable and marginalized people in each country. In the analysis of discrimination against LGBT persons, the consultant shall take into consideration aspects of power relations/structures in respect of gender, class, “race”, ethnicity and age.
- b) Describe the work being done in the countries by the state and civil society to promote the rights of LGBT persons.
- c) Describe the way in which LGBT persons are defined in each country, for example, according to the organisation, NFI, the definition in MSM (“kothi”, “hijra”, “gay”) is different from that in other countries. Describe also how the different designations are linked to social affiliations (caste) and existing social norms and traditions in order to shed light on ways in which a poverty perspective can be applied.

- d) What has the state promised in the form of international agreements (ratified documents such as CEDAW, CAIRO, BEIJING, CRC etc)? Annual national follow-ups of these agreements should also be included in the study.
- e) What has the state promised in the form of national legislation and other agreements? How do NGOs and other organisations in the country follow-up that the state keeps its promises? What obstacles exist?
- f) How are LGBT persons involved in and permitted to participate in decision-making processes, both official and unofficial? What lobbying and other forms of advocacy take place vis-à-vis decision-makers and the general public?
- g) Identify the criteria for different types of contributions that should be given priority in order to reduce discrimination against and promote health and rights for women and men in accordance to their LGBT identity/behaviour.
- h) Identify suitable forms (mainstreaming in all contributions, direct support etc) and channels (UN, NGOs/CBOs, international/national networks etc) for the above-mentioned contributions.
- i) How can Sida/Sweden work optimally in order to give prominence to LGBT issues and to ensure that attention is drawn to LGBT issues in each country, both bilaterally and regionally?
- j) How can Sida/Sweden work appropriately and effectively with LGBT issues in various policy and operational areas and arenas?

A poverty perspective, a human rights perspective, a child rights' perspective, a gender/power perspective and an equality perspective in respect of issues relating to sexual orientation, LGBT and sexual identity shall permeate the study.

## **2.2 Preparations and follow of the study**

Sida shall provide the consultants with up-to-date policies, strategies and other documents relevant to the study. The consultants are expected to make use of earlier (their own and that of others) research and contacts where obtaining relevant documentation and information that can provide guidance for the analysis of links between gender, sexuality, sexual orientation and other factors in relation to human rights, SRHR and HIV/Aids. A working group shall be linked to the implementation of the study and shall monitor the study closely. The working group shall contain representatives of Sida (Health Division, DESA, SAREC, AIDS secretariat, Europe etc) and an independent LGBT expert. Specific issues shall be identified by the consultants in consultations with the working group during the implementation of the study.

The working group will appoint a reference group of persons with specialist knowledge of the field, for example from the Ministry of Health and Social Affairs, Swedish Association for Sexual Equality, Swedish Organisation for Sexual Education, Swedish Red Cross, Kvinnoforum (Women's Forum), Nordic Africa Institute, National Institute of Public Health, Swedish Helsinki Committee for Human Rights and any ombudsman functions involved and other government agencies and research institutions. The reference group will be convened on one occasion (see time schedule below). Possibly networks in the South can be included when the report is circulated for comments. The reference group will be convened when a draft report of the desk study and analysis is complete. Sida will inform the

embassies of the study and introduce the consultants. Prior to their return, the consultants shall present the preliminary results of the study at the embassies in each country visited.

### **2.3 Results of the study**

The study shall result in a draft report that will be discussed with the Working Group and the Reference Group at a seminar at Sida. The points of departure of the final report will be the two parts of the study and the outcome of the discussions at the seminar. It shall be possible for the report to function as a useful tool in Sweden's/Sida's further international work on human rights issues, SRHR issues and HIV/Aids. The results and conclusions shall therefore be presented in an appropriate manner for this purpose.

The study shall result in recommendations for development cooperation programmes in the fields of human rights and SRHR, including HIV/Aids, in multilateral work, in bilateral cooperation and for the programmes of main actors, for example the government agencies and organisations in civil society. The recommendations shall consist of concrete proposals in respect of: ways in which international work and development cooperation work can be improved in respect of LGBT issues, including sexual orientation and gender and sexual identity, at both policy and operational levels in both the short and long term; ways in which Sweden's/Sida's capacity and expertise in the fields can be strengthened; and issues and thematic areas where more knowledge is needed. The report shall be written in English and shall thereafter be translated in its entirety into Swedish. The report shall not exceed 30 pages, excluding appendices.

# Annex II

## Intersex persons

Intersex persons are persons born with a sexual or reproductive anatomy that doesn't fit the typical definitions of male or female.

Intersexuality is used for a variety of conditions, such as unusual sex chromosome compositions, a different genital development, and ambiguous sex organs. In a global scope, it is estimated that an average of 1,7% of the babies born (live births) are intersex babies, but the number is not uniform throughout the world<sup>1</sup>. The frequency estimate goes up if all children born with what some physicians consider cosmetically “unacceptable” genitalia are included. Some technically non-intersexed girls are born with “too large” clitorises, and some technically non-intersexed boys are born with hypospadiac penises in which the urethral opening is found somewhere other than at the very tip of the penis.

The standard protocol of treatment (since the 50's when John Hopkins psychologist John Money took up the study of intersexuals) for children born with ambiguous genitalia is that they are to be operated to ascribe them to one of the two recognised biological sex categories. This is still the dominant protocol of treatment and there is a general medical consensus that intersexual children should be “corrected” immediately, however, medical practice apparently varies, the decision falling on the individual surgeon<sup>2</sup>.

Parents of intersex children are often told that the condition is extremely rare. Information on both the condition per se and on where to find support groups, etc is scarce, to say the least. The intersex persons themselves are also not generally given full information about the treatments performed on them as children. Gender corrective surgery is mainly aimed at cosmetically normalising genitalia. Follow-up studies have been few, and if criteria for success are stated, they emphasize cosmetic and social criteria. Very rarely is sexual functioning or psychological health followed up.

The treatment protocol keeps intersex persons within the bounds of our two-sex gender system. The general tendency is to think of them as nature slightly gone wrong; to ask if the child was supposed to be a boy or a girl, and then to “fix” them according to “nature's intention”. Intersex persons challenge our cultural denial (and stigmatization) of the diversity

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<sup>1</sup> Anne Fausto-Sterling (2000). *Sexing the Body. Gender Politics and the Construction of Sexuality*. New York: Basic Books.

<sup>2</sup> *ibid.*

of human bodies. However, the medical terminology used (“sex chromosome anomalies”, “gonadal anomalies” and “external organ anomalies”) tend to reinforce the idea that somewhere deep inside the intersex child there is a real male or female body<sup>3</sup>, instead of making us question our two-sex gender system. A small but growing intersex movement is starting to break the silence around intersex issues, and working towards changing the discriminatory and disrespectful medical practice. They strive to end gender corrective surgery on babies and children, to raise attention for intersex issues, and to change discriminatory legislation<sup>4</sup>.

It is important to notice that the intersex movement does not disapprove of all sex surgery, only of gender corrective surgery performed on infants and children. They argue that such surgery should be a voluntary choice when reaching adult age. They state that gender corrective surgery on infants and children is a violation of autonomy of decision as well as of bodily integrity.

Intersex persons are extremely marginalized; their existence being virtually unknown by the society at large, they are often regarded as abnormal and thus very stigmatized and discriminated against, and their voices are hardly ever heard. Intersex people are surrounded by a tradition of secrecy, and of shame. There is an urgent need for recognition of intersex issues within the frame of gender equality and human rights<sup>5</sup>.

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<sup>3</sup> *ibid*

<sup>4</sup> For more information on intersex persons and intersex activism, see the website of Intersex Society of North America (ISNA), [www.isna.org](http://www.isna.org).

<sup>5</sup> Intersex issues have, on a very small scale, recently been mentioned in international fora, for example as NGO statements in the last two UNCHR sessions.

# Annex III

## Sexual practices and sexual identities

Same-sex sexual acts have probably always existed, but self identified homosexual individuals are a quite recent (western) phenomena. The emergence of the modern homosexual identity has been described by Michel Foucault<sup>6</sup>. He said that although same-sex sexual acts always have been practised, sexual identities haven't always been attributed to these practises. Around 1870 a specific homosexual category began to emerge in medical literature. Homosexual acts have, of course, for a long time in history been condemned as sinful and bad, but before the late nineteenth century these acts were seen as sinful temptations that everyone could fall for. However, through the scientific and medical interest at the time, and through the developing interest in human sexology, the homosexual category emerged, and through that the homosexual person. The homosexual individual was seen as different from the norm, a deviant subject, an anomaly to be explained. Homosexuality became the object of scientific scrutiny, homosexual individuals were objects to be measured and categorised, and the focus was on differences from the norm(al). An identity was ascribed to this homosexual category, an identity altogether different from the norm.

The clinical study of homosexuality was linked with a medicalization of the body and sexuality in the West, and also with a larger scientific interest in classifying human cultural diversity in biological terms. This was of course done out of scientific interest and from the perspective of good science at the times. It was coupled with a belief that moral character, physical features and biology were fundamentally tied together, and that deviants (prostitutes, criminals, homosexuals etc) were a threat to social hygiene.

In short, same-sex sexual behaviour went from (sinful) acts to identity, from criminal behaviour to pathological behaviour (as it was designated a pathology it became morally indefensible to continue regarding it a criminal act).

However, the construction of a homosexual identity also gave rise to the possibility of social organisation and political movements. The concept of sexual identity is somewhat problematic. A homosexual identity organisation or positioning has been of utmost importance for the political change accomplished so far. "[T]he very idea of sexual identity is an ambiguous one. For many in the modern world, especially the sexually mar-

<sup>6</sup> Foucault, M., 1990. *The History of Sexuality I, II, and III*. Harmondsworth: Penguin.



ginal, it is an absolutely fundamental concept, offering a sense of personal unity, social location, and even at times a political commitment.”<sup>7</sup> Yet, the concept can be (and certainly is so) imposed in a very oppressing way. It also implies that there exists a single homosexual identity.

This western distinction between heterosexual men and gay men, between heterosexual women and lesbian women does not apply everywhere around the world. Outside the western world, same-sex practices do not necessarily constitute identities. Same-sex acts exist more as practices than as a basis for identity. In Africa there is a lot of historical anthropological documentation that same-sex behaviour occurs either at particular times during a lifetime, or concurrently with heterosexual behaviour. This point towards a social code that “does not require that an individual suppresses same-sex desires or behaviour, but that she or he never allows such desires to overshadow or supplant procreation”.<sup>8</sup> There are reports of male as well as female same-sex behaviour in different social settings in African countries. Gloria Wekker introduces the term multiplicitous sexualities, conceptualizing self and sexuality as multiplicitous, dynamic and adaptable.<sup>9</sup> She says that a Western understanding of the individual as a unitary, authentic, static and trans-situational unit is not futile when trying to understand some of the sexual behaviours in an African context. However, in most African countries, homosexuality as an alternative expression of sexuality is suppressed through isolation and a conspiracy of silence.<sup>10</sup>

In India, where homosexuality is condemned, same-sex acts between men are reported to be frequently occurring. These acts do not constitute identity, at least not for the person being the active part in the sexual act. Cultural categories for men allow for a certain fluidity, both the feminine and the very masculine, virile man have a socio-cultural as well as a cosmological context on the Indian sub-continent, which helps to explain how condemned acts can be so prevalent (i. e. homosexuality is not culturally conceivable, and rendered invisible through fluid images of masculinity).

Throughout the world, different cultures often vary in their perceptions of gender and its expression. Individuals themselves express their gender identity in many different ways. The hijra tradition of the Indian sub-continent questions the idea of gender as a dichotomy. A hijra is an intersex person, or a person born with a male body but with a non-male gender identity (transgender person). Given the status of homosexuality in India, some homosexual men have also found their way into hijra communities, where they at least are given sanction to exist within society.<sup>11</sup> There have also been occasional reports of males forced to become hijras by being castrated without their consent. Hijras describe themselves as neither man nor woman. Hindu hijras belong to a special caste and are devotees of Bahuchara Mata. Muslim hijras believe that Allah created them as hijra, or the third sex. The hijra society is organised in small groups living together in a kinship hierarchy. Each group consists of a guru and her disciples. The status of hijras is ambiguous. They are de-

<sup>7</sup> Weeks, J., 1992. “Questions of Identity”, in Caplan, P. (ed), *The Cultural Construction of Sexuality*. London: Tavistock Publications.

<sup>8</sup> Murray, S. O., Roscoe, W. (eds), 1998. *Boy-Wives and Female Husbands: Studies of African Homosexualities*. New York: St Martin's Press. Cited from Arnfred, S. (ed), 2004. *Re-thinking Sexualities in Africa*. Uppsala: Almqvist & Wiksell.

<sup>9</sup> Wekker, G. 1997. “One Finger Does Not Drink Okra Soup: Afro-Surinamese Women and Critical Agency”, in Alexander, J. M., Hohanty, T. C. (eds), *Feminist Genealogies, colonial Legacies, Democratic Futures*. London: Routledge. Reference through Arnfred, S. (ed), 2004.

<sup>10</sup> Machera, M. 2004. “Opening a Can of Worms: A Debate on Female Sexuality in the Lecture Theatre”, in Arnfred, S. (ed), 2004.

<sup>11</sup> Nanda, S. 1998. *Neither Man Nor Woman: The Hijras of India*. Wadsworth Publishing.

spised, stigmatised and feared, and yet also respected. They are believed to have a special power, derived from their familiarity with both sexes. Hijras perform traditional ceremonies at weddings and the birth of babies, and are paid a fee for their efforts. Many hijras also earn a living through prostitution, making them an even more vulnerable group in society.

This raises the question of how to best approach the varying expressions of LGBT people and the different conceptualisations of LGBT-identities in the frame of development co-operation. There is of course not a simple and straightforward answer for a question of such magnitude and complexity. Sexual orientation means different thing to different persons, from sexual desires, feelings, and practises to identifications. For some people it is a basis for identity and for others it is a practise. For many it is a way to shape and express one's innermost and intimate emotional life. Our gender dichotomy, man – woman, is too narrow to describe the varying experiences and expressions of gender identity in the (real) world. Gender identity does not have to correlate with a certain bodily appearance. Different people will also feel familiar and comfortable with different concepts. Thus, trying to grasp and understand all the different ways to express oneself as an individual, a member of a family or a group, and all the different vocabulary used is not the easiest and perhaps not the most viable way to start. A better way to begin the work is to raise the awareness of our own cultural norms and values. In most (probably all) cultural formations it is common and reasonable to regard one's own conception of the world as normal, and one's own norms and values as natural. A more reflective understanding of cultural norms being precisely just that, i. e. cultural, is of importance. In order to make freedom of sexual choice and freedom of gender expression a possible accomplishment in our world, it is necessary to work on awareness of how our (taken-for-granted) assumptions about what is natural and normal might be insulting and discriminating towards other ways of living and creating oneself as an individual being with integrity and dignity.

# Annex IV

## Resource list of organisations with relevance for funding, research and advocacy on LGBTI issues

### **Charity organisations supporting LGBT health and rights**

FHI (Family Health International)

*Web: <http://www.fhi.org>*

Formed in 1971, Family Health International is among the largest and most established not for profit organisations active in international public health. FHI manage research and field activities in more than 70 countries to meet the public health needs of some of the world's most vulnerable people.

PSI (Population Service International)

*Web: <http://www.psi.org>*

Founded in 1970 PSI is a not for profit organization based in Washington, D.C. that harnesses the vitality of the private sector to address the health problems of low-income and vulnerable populations in 70 developing countries.

Oxfam

*Web: <http://www.oxfam.org.uk>*

Oxfam GB is a development, relief, and campaigning organisation that works with others to find lasting solutions to poverty and suffering around the world.

Hivos (Humanistisch Instituut von Ontwikkelingsamenwerking)

*Web: <http://www.hivos.nl>*

Hivos is a Dutch non-governmental organisation guided by humanist values, that wants to contribute to a free, fair and sustainable world where citizens, women and men, have equal access to resources, opportunities and markets and can participate actively and equally in decision-making processes that determine their lives, their society and their future.

ASTREA Lesbian Foundation for Justice

*Web: <http://www.astraea.org>*

US based ASTREA Foundation is a philanthropic organisation that provides funding for Lesbian led, LGBTI and progressive organisations worldwide. ASTREA began in 1977 from a private donation to address the lack of funding for lesbian organisations. Today it is the largest lesbian organisation in the world.

## Mama Cash

*Web: <http://www.mamacash.nl>*

Mama Cash financially supports women's groups that blaze the trails with self-initiated projects. The activities of the women's groups supported by Mama Cash are centred around physical integrity, art, culture, media, empowerment, participation and economic justice.

## AFEW (AIDS Foundation East-West)

*Web: <http://www.afew.org>*

AFEW is an international, non-governmental, humanitarian, public health organisation, whose mission is to make a major contribution to the reduction of the impact of HIV/AIDS in the Newly Independent States (NIS) of the former Soviet Union.

## International HIV/AIDS Alliance

*Web: <http://www.aidsalliance.org>*

The International HIV/AIDS Alliance (the Alliance) is the European Union's largest HIV/AIDS-focused development organisation. Established in 1993, our work focuses on mobilising and strengthening communities so that they can respond to HIV/AIDS themselves.

## Soros Foundation

*Web: <http://www.soros.org>*

The Soros Foundation/ Open Society Institute (OSI) is a private operating and grant making foundation, aims to shape public policy to promote democratic governance, human rights, and economic, legal, and social reform.

## Atlantic Philanthropies

*Web: <http://www.atlanticphilanthropies.org>*

Bahamas based private charity. The mission of Atlantic Philanthropies is to bring about lasting changes in the lives of disadvantaged and vulnerable people.

*Web: <http://www.ejaf.org>*

The aim of Elton John AIDS Foundation is to provide funding for educational programs targeted at HIV/AIDS prevention and/or the elimination of prejudice and discrimination against HIV/AIDS-affected individuals, and for programs that provide services to people living with or at risk for HIV/AIDS.

## **Surveillance and Human Rights**

### Human Rights Watch

*Web: <http://www.hrw.org>*

Human Rights Watch is dedicated to protecting the human rights of people around the world. It is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.

### IGLHRC (International Gay and Lesbian Human Rights Commission)

*Web: <http://www.iglhrc.org>*

The mission of the International Gay and Lesbian Human Rights Commission (IGLHRC) is to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status.

Amnesty International

*Web: <http://www.amnesty.org>*

Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights.

### **Research organisations**

Kaiser Family Foundation

*Web: <http://www.kff.org>*

The Henry J. Kaiser Family Foundation is a non-profit, private operating foundation focusing on the major health care issues facing the nation. The Foundation is an independent voice and source of facts and analysis for policymakers, the media, the health care community, and the general public.

Panos Institute London

*Web: <http://www.panos.org.uk>*

Panos London stimulates informed and inclusive public debate around key development issues in order to foster sustainable development. Panos is working to promote an enabling media and communications environment worldwide. Priority issues are: media and communications, globalisation, HIV/AIDS, environment and conflict. We see gender as integral to all these.

Population Council

*Web: <http://www.popcouncil.org>*

The Population Council is an international, not for profit, nongovernmental organisation that conducts biomedical, social science, and public health research.

GALA (Gay and Lesbian Archives of South Africa)

*Web: [http://www.gala.wits.ac.za/about\\_contact.htm](http://www.gala.wits.ac.za/about_contact.htm)*

Established in January 1997, the Gay and Lesbian Archives of South Africa (GALA) is an independent project of the South African History Archive (SAHA) which forms part of the Historical Papers collection based at the William Cullen Library in the University of the Witwatersrand.

### **International LGBT platform organisations**

ILGA International Lesbian and Gay Association

*Web: <http://www.ilga.org>*

ILGA was founded in 1978, it now has more than 400 member organisations. Every continent and around 90 countries are represented. ILGA member groups range from small collectives to national groups. ILGA is a world-wide network of national and local groups dedicated to achieving equal rights for lesbian, gay, bisexual and transgender (LGBT) people everywhere.

IGLYO International Lesbian and Gay Youth Organisation

*Web: <http://www.iglyo.net>*

IGLYO was created in 1984 as a reaction to the need for better co-operation among regional, local or national LGBT (lesbian, gay, bisexual or transgender) youth and student organisations in the European region, consisting of the European Union, Central and Eastern Europe (CEE), the Commonwealth of Independent States (CIS) and the Baltic States.

## **National LGBT organisations**

C.O.C: Netherlands

*Web: <http://www.coc.nl>*

C.O.C. meant Cultuur en Ontspannings-Centrum, or Centre for Culture and Leisure, a reminder of the pseudonym the organisation initially adopted after its foundation in 1946. COC is the oldest Lesbian, Gay, Bisexual and Transgender organisation in the world. COC is devoted to a society which does full justice to each individual irrespective of sexual preference.

SETA: Finland

*Web: <http://www.seta.fi>*

SETA was founded in 1974 in Helsinki and has since turned into a central association with member associations all over Finland. SETA or “Seksuaalinen tasavertaisuus” (Sexual Equality) is the national human rights organisation in the field of legal equality and social justice for sexual and gender minorities such as lesbians, gay men, bisexuals and trans-people in Finland.

RFSL: Sweden

*Web: <http://www.rfsl.se>*

RFSL or “Riksförbundet För Sexuellt Likaberättigande” (National organisation for sexual equality) was founded in 1950. The organisation is devoted to LGBT persons’ equal rights. The organisation has approximately 6 000 members.

LBL: Denmark

*Web: <http://www.lbl.dk>*

LBL or “Landsforeningen for bøsser og lesbiske” is a nongovernmental sexuality and gender organisation devoted to equal treatment of gay, lesbian and bisexuals political social, cultural and at workplace.

Arcigay: Italy

*Web: <http://www.archigay.it>*

Arcigay was founded in 1985 and is Italy’s foremost national gay rights organisation. In 2002 its membership exceeded 100,000. It acts as an umbrella organization for 90 (33 political and 57 recreational) local centres.

## **National HIV/AIDS/LGBT service organisations**

Deuchen Aids-Hilfe: Germany

*Web: <http://www.aids.de>*

Aids-Hilfe Schweiz: Switzwerland

*Web: <http://www.aids.ch>*

Aids-Hilfe Wien: Austria

*Web: <http://www.aids.at>*

Stop Aids: Denmark

*Web: <http://www.stopaids.dk>*

Terrence Higgins Trust: United Kingdom

*Web: <http://www.tht.org.uk>*

Aides: France

*Web: <http://www.aides.org>*

# Annex V

## Swedish legislation

*The Swedish Constitution* prescribes that public power shall be exercised with respect for the equal value of all and the liberty and dignity of each individual<sup>12</sup>. Since 1 January 2003 the constitution also states that the public sector shall counteract discrimination on grounds of gender, ethnicity, religion and belief, disability and sexual orientation. This provision is a reflection of Sweden's obligations under international human rights law to respect the principle of non-discrimination. However, these provisions are not legally binding and thus cannot be directly relied upon in litigation before the courts in individual cases.<sup>13</sup>

Since 1 July 1987 *the Swedish Penal Code*<sup>14</sup> contains some provisions aimed at targeting sexual orientation discrimination in a broad sense. There is a specific provision on unlawful discrimination<sup>15</sup> making it a criminal offence for anyone running a private business to treat customers unfavourably because of their homosexuality (not their sexual orientation in general). The provision covers also anyone employed in such private enterprise or acting on behalf of it, as well as anyone acting in their capacity of employee within the public administration, when dealing with the public. This means that discriminatory treatment of homosexuals also in areas like health care, education and social security under certain circumstances can be considered a criminal offence. This provision in the Penal Code has been widely criticised for being inefficient, mainly because the burden of proof lies on the public prosecutor – as is the rule of criminal law.

*The Act (1999:133) on a Ban on Discrimination in Working Life because of Sexual orientation* entered into force 1 May 1999. The Act applies to both public and private employment alike. It covers the whole process of recruitment and hiring of employees, employment conditions including salary and other forms of employment benefits, vocational guidance, professional training, practical work experience, promotion and other significant measures taken by an employer in relation to an employee as well as dismissals. Harassment as well as instructions to discriminate are defined as forms of discrimination. The Act also contains specific provisions obliging employers to take action against harassment that an employee may be subjected to by fellow workers and a ban on retaliation (victimisation) be-

<sup>12</sup> 1 kap. 2 § regeringsformen [art. 2 of ch. 1, Instrument of Government].

<sup>13</sup> Jmf. Prop. [Government Bill] 1973:90, page 194.

<sup>14</sup> Brottsbalken (1962:700).

<sup>15</sup> Art. 9(4) of ch. 16, Penal Code.

cause of complaints submitted against an employer. The Act also orders the setting up of the *Office of the Ombudsman against Discrimination on grounds of Sexual Orientation* and conveys legal powers on the Ombudsman, ultimately the right to litigate individual cases of discrimination before the Labour Court on behalf of the injured party.

The Equal Treatment of Students at Universities Act (2001:1286) entered into force 1 march 2002. This Act protects students and applicants in higher education against direct and indirect discrimination, harassment and instructions to discriminate. It obliges the universities to take active measures to promote equal opportunities regardless of e.g. sexual orientation. The Act also contains specific provisions obliging universities to take action against harassment that a student may be subjected to by fellow students or university employees and a ban on retaliation (victimisation) because of complaints submitted against the university. According to the Act the Ombudsman against Discrimination on grounds of Sexual Orientation has legal standing to litigate individual cases before the courts on behalf of the injured party.

The Prohibition against Discrimination Act (2003:307) entered into force 1 July 2003<sup>16</sup>. It prohibits discrimination with respect to the provision of goods and services including labour exchange, measures and requirements relating to the setting up and running of a private business (self-employment), requirements for the exercise of certain occupation and membership in organisations of workers or employers as well as occupational organisations. The law gives the Ombudsman against Discrimination on grounds of Sexual Orientation legal standing to litigate individual cases of discrimination before the courts on behalf of the injured party. As is the case for the situations covered by the 1999 Sexual Orientation Discrimination Act and the 2001 Equal Treatment of Students at Universities Act, the main sanction for violating the discrimination prohibition in the new areas would be a court order to pay damages to the plaintiff.

All three of the above mentioned civil laws have been amended, *inter alia* to more fully implement the two *European directives* on discrimination in relation to employment, goods and services and housing<sup>17</sup>. These amended versions all entered into force 1 July 2003.

(*Source: Ombudsman against Discrimination on grounds of Sexual Orientation, HomO*)

<sup>16</sup> Lag (2003:307) om förbud mot diskriminering .

<sup>17</sup> Council Directive (2000/43/EC) implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (the directive against ethnic discrimination) and Council Directive (2000/78/EC) establishing a general framework for equal treatment in employment and occupation (the employment directive)



# Annex VI

## Persons met and contact details

### **South Africa**

**UNAIDS** Country Office 5th Floor Metropark Building  
Dr. Mbulawa Mugabe, Country Coordinator  
P O Box 6541, Pretoria 0001  
Tel: +27 12 354 8490  
e-mail: mmugabe@un.org.za

**Save the children**, Sweden  
Noluthando Khalie, Programme officer  
273 Church street, Benstra Bldn. 5 floor  
Arcadia 0083  
Tel: +27 12 341 1166  
e-mail: thando@za.rb.se

### **Embassy of Sweden**

Ria Schumann, Programme director, Anne Ljung, First Secretary  
P O Box 13477  
Hatfield, Pretoria, 0028  
Tel: +27 12 426 64 00  
e-mail: anne.ljung@sida.se

### **Diakonia**

Pieter van Gylswyk, Senior programme officer  
P O Box 40313, Arcadia 0007  
Tel: +27 12 342 8058  
e-mail: Pieter@diakonia.co.za

### **Triangle Project**

Dawn Betteridge, Director  
P.O. Box 13935, Mowbray, 7705  
Tel: +27 21 448 3812  
e-mail: director@triangle.org.za

**Siyazenzela**

Estian Smith, Sally Gross  
18 Carp Road  
Zeekoewlei 7941  
Tel. +27 21 705 1242  
e-mail: estian@adept.co.za  
e-mail: sgross@dla.gov.za

**GALA, Gay and Lesbian Archives**

Dr. Ruth Morgan, Director,, Anthony Manion, Archivist  
P O Box 31719, Braamfontien 2017  
Tel: +27 11 717 4239  
e-mail: morganr@gala.wits.ac.za  
anthonym@library.wits.ac.za

**The Equality Project**

Evert Knoesen, Director, Melanie Judge, Programmes manager  
Box 27811  
Yeoville, 2143, Gauteng  
Tel: +27 11 487 3810/1/2  
e-mail: evert@equality.org.za  
Melanie@equality.org.za

**UNISA**

Juan Nel, Director, Centre for Applied Psychology  
PO Box 392 UNISA 0003  
RSA  
Tel: +27 12 429 8544  
e-mail: nelja@unisa.ac.za

**Out**

Gawie Nel, Director  
PO Box 26197  
Arcadia 0007  
RSA  
Tel: +27 12 344 51 08  
e-mail: administrator@out.org.za

**India****UNODC**

Ashita Mittal, Senior National Programme Officer  
Suruchi Pant, Project Associate  
EP 16/17 Chandragupta Marg  
Chanakyapuri, New Delhi 110021  
Tel: +91 11 24104970 73  
e-mail: ashita.mittal@unodc.org  
suruchi.pant@unodc.org

**UNAIDS**

Mettine Due, Programme Officer  
55, Lodi Estate  
New Delhi 110003  
Tel: +91 11 2462 8877 451  
e-mail: mettine.due@undp.org

**UNIFEM**

Suneeta Dhar, Regional Programme Coordinator  
223, Jor Bagh  
New Delhi 110003  
Tel: +91 11 24698297  
e-mail: [suneeta.dhar@undp.org](mailto:suneeta.dhar@undp.org)

**NFPA**

Mridula Seth, Technical Advisor  
53, Jor Bagh  
New Delhi 110003  
Tel: +91 11 24649247 304  
e-mail: [mridula.seth@unfpa.org.in](mailto:mridula.seth@unfpa.org.in)

**Embassy of Sweden**

Carl-G Svensson, Counsellor  
Åsa Andersson-Singh, First secretary, Regional Adviser  
Yasmin Zaveri Roy, Programme Manager  
Development Co-operation Section  
Nyaya Marg, Chanakyapuri  
New Delhi 110021  
Tel: +91 11 2419 71 00  
e-mail: [carl-gustaf.svensson@foreign.ministry.se](mailto:carl-gustaf.svensson@foreign.ministry.se)  
[asa.andersson-singh@foreign.ministry.se](mailto:asa.andersson-singh@foreign.ministry.se)  
[yasmin.zaveri-roy@foreign.ministry.se](mailto:yasmin.zaveri-roy@foreign.ministry.se)

**Oxfam (India) Trust**

Rajiv Dua, Programme Manager  
C 28-29, Qutab Institutional Area  
New Delhi 110016  
Tel: +91 11 52396000  
e-mail: [rdua@oxfam.org.uk](mailto:rdua@oxfam.org.uk)

**FHI India Country Office**

Maju Mathew, Program Officer  
Ashok Hotel, Chanakyapuri  
New Delhi 11021  
Tel: +91 11 6873951  
e-mail: [maju@fhiindia.org](mailto:maju@fhiindia.org)

**The Naz Foundation (India) Trust**

Anjali Gopalan, Manager  
A-86, East of Kailash  
New Delhi 110065  
Tel: +91 11 269 10499  
e-mail: [nazindia@bol.net.in](mailto:nazindia@bol.net.in)

**Sangini (India) Trust**

Ananditta Kushwaha,  
Maya Shanker  
P O Box 7532, Vasant Kunj  
New Delhi 110070  
Tel: +91 98106 71603  
e-mail: [sangini97@hotmail.com](mailto:sangini97@hotmail.com)

**Love Life Society**

Francisco X De Melo  
D-4/226 Rohini Extention Sector 20  
Puthkala Delhi 110041  
Tel: +91 9212089664  
e-mail: francisdmeo@yahoo.com

**Center for AIDS Prevention Studies Dermatopathology Division**

Dr Sumit Kane, Lead Clinician  
LTMM college & LTMG Hospital, Sion  
Mumbai 400022  
Tel: +91 22 2404 3732  
e-mail: capsbom@bom4.vsnl.net.in

**Lawyers Collective**

Anand Grover, Advocate  
63, Janmabhoomi Marg 4th Floor, Jalaram Jyot  
Mumbai 400001  
Tel: +91 22 22830957  
e-mail: anand.grover@lawyerscollective.org

**Aanchal Trust**

Geeta Kumana, Chairperson  
Tardeo A/C Market Building 3rd Floor, Room No. 28, Tardeo  
Mumbai 400034  
Tel: +91 2352 2886  
e-mail: aanchal68@hotmail.com

**The Humsafar Trust**

Ashok Row Kavi, Chairman  
Municipal Building  
Vakola, Santacruz (E)  
Mumbai 400055  
Tel: +91 26187476  
e-mail: humsafar@vsnl.com

**Sexual Health Resource Centre SHRC**

Thomas Philip  
W-13 Greater Kailash Part-1  
New Delhi 110048  
Tel: +91 51632246  
e-mail: tomphilip@shrcindia.org

**MAMTA**

Dr. Sunil Mehra  
B -5 Greater Kailash Enclave-II  
New Delhi 110048  
Tel: +91 29220210  
e-mail mamta@ndf.vsnl.net.in

**Moldova****Embassy of Sweden**

Hans H Lundquist, First Secretary  
St. Petru Movial 17  
MD-2004 Chishinau  
Tel: +373 2 2 232 983  
e-mail: hans.lundquist@asdi.md

**UNAIDS, UNDP**

Gabriela Ionascu, Country Coordinator  
Angela Dumitrasco, Programme Associate  
Un House  
131, 31 August 1989 Str.  
Chisinau, MD 2012  
Tel: +373 22 220 045  
e-mail: angela.dumitrasco@undp.org

**UNICEF**

Kirsten Di Martino, Project Officer, Child Protection,  
Radu Danii  
Project Officer, Child Rights  
131, 31 August 1989 Str.  
Chisinau, MD 2012  
Tel: +373 22 220034  
e-mail: kdimartino@unicef.org  
rdanii@unicef.org

**UNIFEM**

Valentina Bodrug-Lungu, Project Manager  
Office 319, 1, V. Alecsandri Str.  
Chisinau, MD 2012  
Tel: +373 691 8 2020  
e-mail: val\_bodrug@mdl.net

**Sopros Fundatia Moldova**

Silviu Ciobanu, Health Policy Development Program Coordinator  
Str. Bulgara 32  
Chisinau, MD 2001  
Tel: +373 22 274480  
e-mail: silviu@sos.md

**AIDS Foundation East West**

Elena Voskresenskaya, Deputy Regional Director,  
Olga Osadcii, Project Manager, Moldova  
Str. Alecsandri 2  
Chisinau, MD 2009  
Tel: +373 22 73 58 79  
e-mail: elena\_voskresenskaya@afew.org  
olga\_osadcii@afew.org

**GenderDoc-M**

Maxim Anmeghichean, Director  
Boris Balanetkii, Health Program Coordinator,  
Lada Pascariu, Women's Program Coordinator  
C.P. 422  
Chisinau, MD 2004  
Tel: +373 22 544420  
e-mail: director@gay.md  
borysk78@mail.ru  
lesbian\_coordinator@gay.md

## **Sweden**

### **Amnesty Sweden**

Carl Söderbergh, Director  
Ulrika Westerlund  
P O Box 4719 116 92 Stockholm  
Tel: +46 8 729 02 00  
e-mail: carl.soderberg@amnesty.se  
ulrika.westerlund@levandehistoria.se

### **Kvinnoforum – Foundation of Women's Forum**

Carolina Wennerholm, Head of International Department  
Karlbergsvägen 77  
113 35 Stockholm  
Tel: +46 8 56 22 88 27  
e-mail: carolina.wennerholm@kvinnoforum.se

### **Nordiska Afrikainstitutet – The Nordic Africa Institute**

Signe Arnfred, Programme Co-ordinator  
P O  
box 1703  
751 47 Uppsala  
Tel: +46 18 56 22 00  
e-mail: signe.arnfred@nai.uu.se

### **RFSU**

Jonas Tillberg  
Drottningholmsvägen 37  
102 24 Stockholm  
Tel: +46-8-692 07 00  
e-mail: jonas.tillberg@rfsu.se

### **RFSL**

Sveavägen 57–59  
Box 350  
101 26 Stockholm  
Tel: +46-8-457 13 00

### **Noaks Ark-Röda Korset**

Eriksbegsgatan 46  
114 30 Stockholm  
Tel.+46-8-700 46 00  
e-mail: info@noaksark.redcross.se

### **Svenska Helsingforskommittén**

Gyllenstiernsgatan 16  
115 26 Stockholm  
Tel: +46-8-791 84 45  
e-mail: info@shc.se

### **Ministry for Foreign Affairs**

Carina Mårtensson, Prudence Woodford Berger, Alireza Javaheri  
Julia Schalk  
SE-103 39 Stockholm  
Tel. +46-8-405 10 00

**Sida**

Staffan Herrström, Gunilla Essner, Christina Larsson  
Lisa Fredriksson, Kristina Gough, Anders Ragnarsson  
SE-105 25 Stockholm  
Tel. +46-8-698 50 00

# Annex VII

## Internet sources and literature references

### **Internet sources**

ILGA – International Lesbian and Gay Association  
<http://www.ilga.org/>

ILGA at the UNCHR  
[http://www.ilga.org/files\\_target.asp?FileCategoryID=61](http://www.ilga.org/files_target.asp?FileCategoryID=61)

IGLHRC – International Gay and Lesbian Human Rights Commission  
<http://www.iglhrc.org/site/iglhrc/>

IGLYO – International Gay and Lesbian Youth Organisation  
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**Sida**

SWEDISH INTERNATIONAL  
DEVELOPMENT COOPERATION AGENCY

SE-105 25 Stockholm Sweden  
Phone: +46 (0)8 698 50 00  
Fax: +46 (0)8 20 88 64  
sida@sida.se, www.sida.se