

## **Same-Sex Marriages inside the Closet: Deconstruction of Subjects of Gay and Lesbian Discourses in Russia**

ALEXANDER KONDAKOV\*

### **Abstract**

This work aims to analyse LGBT discourse in Russia conducted by human rights non-governmental organisations concerned with the protection of gay and lesbian rights in the country. The main emphasis is given to deconstruction of subjectivities of the discourse with tools of Foucaultian and critical discourse-analyses. One of the most evident examples is provided in the last section of the work. It is concerned with strategies employed by the organisations under research to guarantee marriage opportunities to homosexuals in Russia. It was also important for the purposes of the research to uncover the meanings of discursive practices employed by the officials in their discussion of gay and lesbian issues. In this regard, a brief analysis of relevant legal norms and public policies is included in the work. The attitude of state power towards LGBT problems is described in the terms of environment where the human rights organisations have to perform their activities. The role of state power turns out to be important in organising and correcting the strategies of the organisations so long as the strategies are influenced by governmentality of the discourses. It results into a situation where the non-governmental organisations are to some extent governed through workings of political discourses where the power of the authorities sets the scene.

### **Key words**

LGBT Movement; Russia; Subjects of Discourses; Same-Sex Marriage

---

\* [akondakoff@gmail.com](mailto:akondakoff@gmail.com)

This paper was presented as Master thesis to the International Institute for Sociology of Law in 2010.

## **Thanksgiving**

The discourse of giving thanks is historically constructed within the academic practice of the acknowledgements framework. I'm not going to resist it in any way and I'd like to thank chronologically all the people who made the work possible and, therefore, contributed to my own archive of knowledge which may probably be interesting to social archaeologists of the future. I'm grateful to my parents for supporting my studies. I'd also like to thank my partner Evgeny Shtorn for his support, promising ideas and constant encouraging that he provides. Help of my friends, Iker Barbero and Libardo Ariza, was crucial in initiating the challenge that is supposed to result in this work. Certainly, this papaer could not be possible without provisions of Susana Arrese on every stage of the long way to scientific findings. I'm also grateful to Carlos Lista who believed in me and gave me a chance to enter the socio-legal world. Thanks to Sol Picciotto the knowledge and the focus of the work were shaped in the proper way. I'd like to give special thanks to Rosemary Hunter who has managed to provide me with useful ideas and archives of the past, as well as accurately supervised the work giving me a chance to feel free and at the same time correcting me if I went in wrong directions. Thanks to all the students of IISL in Oñati for sharing your perspectives and contributing to our common storages of ideas with it. I hope to fulfil expectations that some may require from me. In any case, I'm grateful for the opportunity to work for all the mentioned and the left unspoken for reasons of words limit. This file in the general system of knowledge archive belongs to all of you.

## Table of contents

Introduction. Discourse is All Around .....	4
0.1. Walking-Talking .....	5
1. The Powerful Silence .....	6
1.1. The Policies of Silence .....	7
1.2. The Absence of Subjects.....	9
1.3. The Legal Subjectivity of Homosexuals .....	11
2. To Fly Solo .....	12
2.1. The Dangers of Tolerance .....	14
2.2. The Limits of Equality.....	17
3. Gay Marriage in Russia Now .....	20
3.1. Coming-In the Closet .....	20
3.2. Coming-Out from the Unsaid.....	22
Conclusion. The Good, the Bad, the Dangerous.....	24
References: .....	25
Literature .....	25
Legal Documents .....	26
Internet Sources.....	26
Appendix 1. Methodology .....	29
Appendix 2. Research Questionnaire .....	31
Our Strategies Research on Russian Human Rights LGBT Organizations .....	31
Section 1 / 4 General Information .....	32
Section 2 / 4 The Meanings .....	32
Section 2 / 4 The Meanings .....	33
Section 3 / 4 The Relations with the Powerful.....	33
Section 3 / 4 The Relations with the Powerful.....	34
Section 4 / 4 Same-Sex Family .....	34
Section 4 / 4 Same-Sex Family .....	35
Our Strategies Research on Russian Human Rights LGBT Organizations .....	37

## Introduction. Discourse is All Around

In the early summer 2010 the Russian ombudsman introduced his report about situation with human rights in Russia to the public (*The Ombudsman's Report 2009, 2010*). The report carefully covered a wide range of issues concerning claims to respect for human rights from different groups of Russian citizens: Prisoners, military servants, immigrants. Discursively the report contributes to the established practice of political talk in Russia: There are things one can say something about (especially prisons, armed forces and international friendship) and there are things that must be kept in silence or mantled (poverty, social inequality, bad medical treatment, arbitrary government). It goes without saying that the situation around gay and lesbian rights is relevant to the latter group.

Why would I start a work about LGBT rights with a reflection on an official report that doesn't contain even a word about gays and lesbians? Well, precisely because of that! Absence of a relevant topic in the ombudsman's report speaks louder than words. It seems that any contribution to the discussion of homosexuality by the authorities turns out to be a prohibited action in Putin's Russia. Even those politicians who have earlier blamed gays for the destruction of the society and tried to criminalise homosexuality, those who have arbitrarily banned our attempts to fight for rights in the streets or organise cultural events, avoid expressing their homophobic opinions in public. Despite the fact that Russia got a warning from UNO in 2009 about the Moscow pride permanent ban, despite the fact that there are claims in the Supreme Court and in the International Court for Human Rights from Russian citizens concerning discrimination on the ground of sexual orientation, despite all the other facts around the problem, there is neither a positive, nor a negative response from the powerful.

Rephrasing Stalin, one would say, no talk – no problem.<sup>1</sup> In Foucaultian terms, I would say, the absence of discourse contributes to the destruction of subjectivity. This work aims to analyse such a discourse. The following subsection addresses theoretical issues of the work.

The situation in Russia takes such a turn where discussion of LGBT rights and liberties is maintained by two participants only: LGBT ourselves and public organisations that concern gay and lesbian issues. All the other possible contributors, such as authorities and scientists, keep silence. The next section of the work turns to a discussion of the contribution to the discourse of the state authorities. However silent the contribution could be, it is still important from two points. Firstly, according to principles of critical discourse analysis, it's necessary to take a close look at it to discover the role of state power in the gay and lesbian talk. Secondly, silence does not always mean nothing at all. Foucaultian discourse analysis will help to uncover hidden meanings of the silence and the influence of the meanings to the construction of subjectivity.

Another concern that will be addressed in the section is legal understanding of marriage in Russian law. Marriage traditions and emphasising of reproductive function of family are important christian sexual ideas that give rise to homophobic stereotypes about moral wrongs of homosexuality. Hence, the meaning that Russian law gives to the marriage is a significant concern of the work. Besides marriage is regarded as one of the most significant features of the following analysis: It is discussions around marriage that makes the conclusions of the work most evident.

The contribution that Russian LGBT organisations make to the discourse on our rights is the main concern of the work. Their strategies in use are discussed in the next two sections. First, I shall analyse different approaches that the organisations

---

<sup>1</sup> They say, Stalin usually used to encourage secret service agents with the words "No man – no problem".

take to address gay and lesbian problems. These strategies contribute to construction of significantly different subjectivities. The constructed subjectivity in turn may determine successfulness of a strategy.

Then I provide the most evident – however not the only – example of the conclusions of the work. It is the attitude towards same-sex marriage possibilities expressed by two groups of the Russian gay and lesbian organisations. The examples are taken from two documents distributed by the organisations in public access and from other words and actions that they undertake to discuss the issue. Same-sex marriage is not just a matter of taking it as an example, but it is also one of the problems that are getting significance in the gay and lesbian rights discourse around the world today.

### *0.1. Walking-Talking*

The work covers analysis of discursive practices around gay and lesbian issues in Russia. Contribution to the discourse made by the authorities is described in terms of the environment where gay and lesbian organizations work. The emphasis is given to the strategies that the human rights LGBT non-governmental organizations (NGOs) use in their work. Hence, for the purposes of the research I briefly analyse Russian legal norms and policies to establish meanings that the powerful give to gay and lesbian issues. Then I turn to analysis of the texts and other documents available on web-pages of the Russian LGBT NGOs to examine their contribution to the discourse.

For the purposes of this work, I've examined web-sites of all the 15 LGBT organisations concerned with protection of rights in Russia. I was looking for answers to certain questions concerning aims and strategies of the NGOs in their fights for rights. The immense amount of materials (Charters, articles, publications, pictures) was analysed through looking for statements that contain specific words relevant to the purposes of the analysis: 'tolerance' and 'equality'. Then I turned to analysis of concrete social practices (discussions and public manifestations) and applicability of the ascertained strategies to a concrete issue (same-sex marriage).

During the analysis of the texts I identified a number of problems that needed to be clarified in a survey. I asked representatives of these 15 NGOs to express their attitude towards human rights to check if they tend to prioritise other principles. I also asked them about their relationship with the state power to check my hypothesis whether all the NGOs may be divided into two groups based on the attitude towards authorities. Finally, I asked them to clarify their position on same-sex marriage possibilities. In the end of the day, 14 out of 15 organisations responded (detailed information about the survey see in Appendix 1).

This research is limited – or it is better to say unlimited – by the principles of discourse analysis. Claiming to conduct a discourse research turns out to be an unclear statement because the method "is incredibly diverse as are new researchers interested in discourse" (Wetherell 2001, p. 380). However, it is always easier to choose the tools relevant for one's own purposes amongst a variety of possible research instruments.

The notion 'discourse' was used a lot by Michel Foucault. He shifted his attention from language to discourse as a system of representation (Hall 2001, p. 72). "By 'discourse', Foucault meant 'a group of statements which provide a language for talking about – a way of representing the knowledge about – a particular topic at a particular historical moment... [S]ince all social practices entail meaning, and meanings shape and influence what we do – our conduct – all practices have a discursive aspect'" (Hall, 1992, p. 291 cited Hall 2001, p. 72). Hence, for example, silence of the powerful constitutes a part of the discourse around gay and lesbian rights so long as the silence carries a meaning. In the work I do not limit analysis

with examining statements only. The boundaries are broader and include meanings of different social practices.

Foucault gave special attention to the relations of powers in discourses. By 'power' Foucault meant "a relation between forces, or rather every relation between forces is a 'power relation'. In the first place we must understand that power is not a form, such as the State-form... In the second place, force is never singular but essentially exists in relation with other forces, such that any force is already a relation, that is to say power: force has no other object or subject than force" (Deleuze 2006, p. 70). Foucaultian conception of power goes along with his other idea which draws on attention to state power: Governmentality that is defined in terms of functions of power (ibid, p. 72). However, Foucault believed that governmentality does not depend on the state and is dispersed in different sites of social life. Wendy Brown offers a corrective to Foucault's account of governmentality which strongly binds it with the state. She argues that a "full account of governmentality, then, would attend not only to the production, organization, and mobilization of subjects by a variety of powers but also to the problem of legitimizing these operations by the singularly accountable object in the field of political power: the state" (Brown 2006, p. 83).

In any case, in the Russian context, contribution of authorities to the discourse under research cannot be underestimated. The questions of power and governmentality will be examined through the lenses of critical discourse analysis. "In general, the answers to such questions presuppose a study of the relations between discourse, power, dominance, social inequality... [T]he way [one may] approach these questions and dimensions is by focusing on *the role of discourse in the (re)production and challenge of dominance*" (Dijk 2001, p. 300). My critical discourse analysis remains critical as to the contribution of the powerful to the discourse as well as to the contribution of the forces of resistance.

The conditions LGBT are now put to seem to be neither promising, nor very obscure. On the one hand, homosexual relations have been decriminalised for seventeen years. On the other hand, we still have not become full members of the Russian society as we are deprived from our human and civil rights on the ground of sexual orientation. As will be shown ahead, this situation is supported by hegemony of heteronormative and homophobic character of Russian laws and policies. However, there is no point in blaming only authorities for it. Russian gay and lesbian associations may also contribute to the situation, employing different strategies of their fights for our rights. The question is how successful these fights can be. From my point of view, the discourse set by the NGOs produces subjectivity that may become a barrier on the way to success of these strategies. With the help of the tools of Foucaultian discourse analysis I shall try to show what the subject of the discourse is.

Foucaultian discourse analysis tries "to show how institutions, practices and even individual human subject itself can be understood as produced through the workings of a set of discourses" (Potter & Wetherell 1994, p. 47). The task of the work is significantly different from the aims of critical discourse analysis. The "task that consists of not — of no longer — treating discourses as groups of signs (signifying elements referring to contents or representations) but as practices that systematically form the objects of which they speak" (Foucault 1972 [1969], p. 54). In the work there is an attempt to combine both approaches in analysing discursive practices.

## 1. The Powerful Silence

This section opens the following discussion with a reflection on the attitude of Russian authorities towards questions relevant to gay and lesbian studies. State power in Russia occupies a significant position in the life of the society. I do not say that the state power poses itself higher than anything else (the law and individual

rights including), because this statement needs proper analysis and proof. However, I would argue that whichever problem should be addressed through at least a brief examination of a position of the authorities to it. Besides, the rules of the game are usually set by the state. In critical discourse analysis power is a capacity to create these rules or 'control the context': Time, place, participants of the talk (Dijk 2001, p. 303). Therefore, in this particular study I analyse the powerful contribution to the discourse as an environment that embraces the discursive practices under research with its regulatory provisions that are made significantly visible through the meanings that legal norms and policies entail.

The main concern of the analysis is given to domestic law. In spite of the fact that Russia has ratified a number of relevant international documents that regard human rights, Russian law stands clearly aside of them. The international norms failed to earn recognition in the local settings. They exist and their superiority over domestic law is recognised in the Constitution, but in fact they still remain secondary.

Another reason why I want to focus on domestic law and policy is my search for domestic meanings. It is not an easy task to find critical analysis of Russian laws made by Russian scholars. Without pretension to conduct a deep research of the Russian legal system, I shall cover the questions of my concern and try to find the answers in the most appropriate place for them – at home norms and policies.

However, the first obstacle one finds trying to analyse Russian authorities' attitude towards homosexuality is the understanding that there is almost nothing to analyse. Gays and lesbians are simply absent from the policies and from the law constituted by an imaginary without inappropriate elements. The authorities' narrative places LGBT into a domain of unspeakable. However, one can say that anything can be found there. If a subject is not said then what makes one think it should be there?

According to Foucault, the 'unsaid' constitutes a part of the said. It is possible to find *meaning* of a statement between the lines, somewhere in the domain of unsaid. Moreover, unspoken assumptions form the spoken matters. Foucault calls it 'a lack', "which, instead of being inside seems to be correlative with [enunciative] field and to play a role in the determination of its very existence" (Foucault 1972 [1969], p. 124). The role of the 'lack' is to be "a characteristic of an enunciative regularity" (ibid), hence, it determines existence of an idea by its alienation from the others and governs speakability of these others. The third element of the silence, from my point of view, is *unspeakable* ideas: they are the matters that are relevant to the statement but left unsaid due to hegemonic conception of what is right and what is wrong. Therefore, this permits a topic to be said or dooms it to be kept in silence.

My concern in this section draws attention on these different elements of the discourse. The interpretation of silence and description of the imaginary world constructed by Russian legal norms and policies occupies my attention in the following two subsections. The subjects constructed by the 'enunciative field' of Russian law are addressed in the last subsection.

### 1.1. *The Policies of Silence*

Silence is the most commonly used 'rhetoric' in Russian state public policies. In the section, I consider two types of documents relevant to gay and lesbian problems where LGBT are absent. They are the ombudsman's reports and programme *The Tolerance* introduced by the Saint-Petersburg government. All of these documents have the lack of something relevant, but left aside. The first document considers human rights and, therefore, discursively names those who are subjects to them. The second document identifies groups subjected to tolerance.

The Russian ombudsman's silence has been discussed in the introduction of the work. For the purposes of further implications, I would argue that his silence deprives LGBT from human rights completely. According to the official position read in the silence of the ombudsman, gays and lesbians are not subjects to human rights protection laws. Our claims are completely ignored, our problems are not regarded by the ombudsman as questions of his jurisdiction. In official human rights protector's texts there are no evidences of existence of LGBT and our issues.

It is curious that the ombudsman and his representatives in regions of the country have met with gay-activists and supported their claims. However, it has never found any reflection in their reports or any other official publications. One may find this information on the web-sites of gay NGOs, but not on the ombudsman's web-page. It could be called 'policy of silence': A situation when officials filter their public expressions and avoid topics that are supposed to be kept unspoken. This is the regulatory action of the realm of unspeakable ideas.

In ombudsman's official response<sup>2</sup> to my own inquiry it is said that "there are very few complaints per year from sexual minorities" that reach his office. Therefore, "it seems unreasonable to cover this topic in every annual report". According to the letter, the complaints usually regard bans of 'gay-parades' (the Prides) and refusal to provide premises to the LGBT-organisations. From the point of view of the domestic and international laws, these pleas fall into the domain of human rights; hence, they also fall under jurisdiction of the ombudsman. As little as there was, this can hardly be regarded as an excuse to exclude the issues from the ombudsman's official papers. It can say more about trust towards ombudsman's work than about real situation around gay and lesbian problems in Russia.

Another programme relevant to the LGBT questions was introduced by the government of Saint-Petersburg in 2006. They proudly named it *The Tolerance* and aimed to "consolidation of tolerant environment on the ground of Russian multiethnic society's values, principles of human rights and liberties" in 2006-2010. It was elaborated in accordance with UNESCO's Declaration of Principles of Tolerance and other international and local norms. The term of the programme is to be extended for another five years.

The programme regards a wide range of issues concerning national, religious, political groups and their rights. The programme consists of a plan of events and tips for legal initiatives that fight against xenophobia and promote tolerance. Gay activists pointed to the lack of discussion of LGBT problems in the programme.<sup>3</sup> In the end of 2009 a LGBT-organisation sent a letter to the authors of the programme with a request to include a number of events directed against homophobia and to promotion of friendly attitude towards LGBT. In the reply that was made public by the activists authorities refused to satisfy the request, especially by the money from the city budget. The government recognised the existence of 'everyday homophobia', but considered it to be less important today than issues regarded by *The Tolerance*. Moreover, in the reply it is warned that any events that concern gays and lesbians may be perceived by the society as 'propaganda of homosexuality'.

We did not become the subjects of *The Tolerance*, but we clearly were tolerated! On one significant condition, though: LGBT can be 'awarded' with tolerance so long as silence surrounds homosexual issues. Homosexuals are not mentioned in the programme, but the authorities do not deny that homophobia exists. They just are not keen on doing something against it. This tolerance is the very reason of the silence of official documents. On the one hand, they recognise that not everything

---

<sup>2</sup> The response is published on the research official web-page:

<https://sites.google.com/site/russianlgbtresearch/hot-news-1/perepiskasupolnomocennym>

<sup>3</sup> The exchange of letters between the authorities and the activists is described in 'Culture Committee of Saint-Petersburg Recognised Existence of Homophobia in the City' (2010). URLs to the Internet sources are provided in the list of references.



is fine. On the other, they leave LGBT to deal with this on our own. "Tolerance of this sort can easily coexist with ignorance and can certainly coexist with contempt" (Phillips 1999a, p. 28).

Both types of documents explore such a sort of toleration that "suggests an act of generosity from those who have the power to interfere but refrain from doing so" (Phillips 1999b, p. 128) by being officially silent. The authorities 'made an effort' and decriminalised homosexuality, but they refuse to make us subjects to the programmes financed from the taxpayers' pockets. They are ready to tolerate homosexuality so long as it stays invisible and unspeakable. "The tolerance... generates a peculiarly intolerant kind of tolerance" (ibid, p. 142).

### *1.2. The Absence of Subjects*

The discussed policies give significance to the lack of relevant subjects in the official documents. Due to exploring tolerance by silence, Russian authorities preserve the existing intolerant order without being caught articulating intolerant narratives. In legal circumstances the same situation is reproduced through the laws relevant to problems of gays and lesbians, but never applied to protect us and our rights. It is reproduced through interpretations and arbitrary rule of judges in the courts when they try to make us believe that we do not exist.

The most important legal document of Russian Federation is its Constitution. Formally it protects human and citizen rights and liberties: "A human, his rights and liberties are the most appreciated values. Recognition, observance, and protection of the rights and liberties of a human and a citizen are duties of the state" (clause 2, own translation).<sup>4</sup> The Constitution denies the possibility to abridge rights on any ground based on identity: "The state guarantees equality of human and citizen rights and liberties regardless of sex, race, ethnicity, language, origin, property status and official position, abode, religion, membership in social associations and other circumstances. Any forms of restraints of rights of citizens on the basis of social, racial, ethnical, linguistic, or religious belonging are prohibited" (clause 19.2).

The Constitution doesn't list sexual orientation among the prohibited grounds of discrimination. However, it is formally there as long as LGBT-community falls under blurred descriptions of 'social belonging' and 'other circumstances'. There is no evidently clear reference to an individual as a subject to antidiscrimination regulations in the text. The Constitution is designed to include an unlimitedly wide amount of identities in the circle of those who are entitled to enjoy human rights. Other laws are supposed to specify the conditions and the groups of rights holders.

As a consequence, the Criminal Code of Russian Federation regarding discrimination limits the discussed constitutional list. "Discrimination, that is violation of the rights, liberties or lawful interests of human and citizen on the ground of his sex, race, ethnicity, language, origin, property status and official position, abode, religion, beliefs, membership in social associations or any social groups, shall be punished..." (clause 136.1). Clause 63 of the Code lists circumstances aggravating punishment. Item "e" names hate crime which is a "commission of a crime by reason of national, racial, or religious hatred or enmity, or by reason of hatred or enmity towards any social group".

As it's noticeable, there is always the notion of social group whose rights are protected. Our legal subjectivity would probably benefit if LGBT were recognised as a social group, because, first, the recognition would equal us with other socially accepted groups; second, the term 'social group' is rather wide to include different gay and lesbian identities. In the post-modernity an identity claim may not be the best way to achieve legal recognition as the law needs to relativise definitive

---

<sup>4</sup> All the laws, NGOs' texts and survey answers are given in my own translation.

interpretations (Cossman 1994, p. 31-32). 'Social group' could appear to be a kind of post-modern identity that is blurred, fluid, and unclear enough to include a wide amount of claimants. Unfortunately, the term needs legal interpretation to be applied to gays and lesbians. However, judges keep silence.

An attempt to interpret LGBT-community in terms of 'social group' recognised in the law took place in 2007 when a couple of gay activists tried to sue a leader of Russian Muslim community, who had recently called for bashing gays and lesbians. The activists used clause 282 of the Criminal Code which prohibits "actions aimed at the incitement of national, racial, or religious enmity, abasement of human dignity, and propaganda of exceptionality, superiority, or inferiority of individuals by reason of their attitude to religion, national, racial affiliation, language, origin and belonging to any social group, if these acts have been committed in public or with the use of mass media".

The appeal to condemn the mufti was not accepted by the Russian prosecutors, so it didn't even reach the court. In the official answer a representative of the public prosecutor's office remarked that clause 282 could not be applied due to the fact that gays and lesbians were not regarded as representatives of a social group. According to the conclusion made by a professor of the Moscow University on the prosecutors' request, "sexual minorities are not representatives of a social group, they are a part of a deviant group together with criminals, drug addicts and other people who have different deviations from the acceptable behaviour" (Kochetkov (Petrov) and Kirichenko 2009, p. 344).

The notion 'social group' is met in lots of clauses relevant to the protection of rights of gays and lesbians: Anti-discrimination rules, hate crimes circumstances, social and civil rights and liberties provisions, compensatory laws for less advantaged. But the law is blind and deaf to LGBT claims. It is made up with the help of the governmental function of the Foucaultian lack. There is something alienated and suppressed that governs the very law's narrative.

We are absent from the Russian family law, as well. It does not consider LGBT to be subjects to its regulations. As well as the law does not provide any treatment for other types of family except registered unions of two people of different biological sexes. It seems to be written for an imaginary ideal of a Eurocentric heterosexual family based on religious dogmas. Probably, this is what governs the imagination of the legislators: Strong heteronormative principles resistant to any changes.

The Family Code of Russian Federation doesn't straightforwardly exclude gays and lesbians from those who enjoy matrimony rights. There is no stated prohibition for homosexuals to register marital relationships (clause 14 lists all the prohibited grounds and one's sexuality isn't there). Nonetheless, the Code specifies that "in order to register a marriage mutual and voluntary consent of a man and a woman, who are entering into a marriage, is required" (clause 12.1). So LGBT are excluded from marriage on default, 'self-evidently' so long as a homosexual couple cannot consist of a man and a woman at once. On this ground Russian courts have already refused two gay men to be registered as a married couple (N 496-O, 2006).<sup>5</sup>

Marriage in Russia is a quite developed item of civil law. Legislators do not provide legal recognition of common spouses or religious marriages. It is a civil act registered in special state bodies. Neither of coupledoms is recognised unless it is registered. In the legislators' imaginary an ideal family is a social unit where "the relations are built upon mutual love and respect" (clause 1.1). The regulation of family relationships is realised according to "principles of voluntary conjugality between a man and a woman, equality of rights of spouses in the family" (clause

---

<sup>5</sup> In the case a claimant was trying to present clause 12.1 as anti-constitutional. But the Court established that due to reproductive function of a family and national traditions the law is right.

1.3). It is a family that is supposed to establish traditional gendered roles and perpetuate reproduction.

The Code regulates the idealised family where a man, a woman and their children enjoy the equality of rights, share responsibilities and duties. The Code considers the beginning of this relationship with the proper registration and then its finalisation due to either death that does the spouses apart or a court decision. This is a traditional heterosexual family in which there is no place for different other genders. All they can get is toleration with silence instead of inclusion. As Brown points it, "gender detached from a heterosexual matrix—not only gay but transgendered and transsexual bodies—immediately convenes the discourse of tolerance, confirming that it is the heterosexual family, the family-economy relation, and the sexual division of labor that secure a gender regime in which male superordination is achieved" (2006, p. 75). Any *others* are governed by the legal silence. The family law in Russia preserves and reinforces heteronormative order and suppresses any 'deviance' from it.

### 1.3. *The Legal Subjectivity of Homosexuals*

Nowadays in Russia, homosexuality is not considered to be an act of crime. The RSFSR Criminal Code enacted in 1934 provided imprisonment for a period up to 5 years as a punishment for voluntary "sexual relations of a man with a man (buggery)" (clause 154a). The researcher of homosexuality Igor Kohn cites data, which testifies that under this clause (and its more recent descendant, clause 121) in the period from 1934 till 1989 about 1000 men per year had been condemned (2005, p. 354-355). However, since the liberalisation of the Soviet state that took place in the second half of the 1980s, included liberalisation of law, the clause ceased to be applied.

The 'buggers' officially lost their legal subjectivity in 1993, when Criminal Code amendments were issued and cancelled the clause. But it did not happen for too long. In the new Criminal Code enacted in 1997, voluntary homosexual relations were not mentioned. Nevertheless, buggers appeared there again together with a new homosexual subject (for Russian legal discourse), which is a lesbian. Clause 132 punishes homosexual assault. It is specified in the clause that "buggery, lesbianism and other actions of sexual character with application of violence ... are punished by imprisoning for a period from three up to six years" (clause 132.1).

In spite of the fact that female homosexuality does not take equal historical position with the male one in the legal and medical discourses (Jagose 2008, p. 22), Russian legislators tried to 'play fair game'. Homosexual subjects were included into the law in both – male and female – kinds. Clause 132 constructs homosexual subjectivity as something *other* to an abstract sexual norm as the norm is something *other* to homosexuality. It is to say that there is a kind of commonly accepted sexuality which, it goes without saying, has heterosexual character, and there is homosexuality which is other to it, specific: A sexuality that needs to be defined by certain alienation. To say more, there is the Family Code that represents the idealised heteronormative sexual order and there is the Criminal Code that introduces, governs and punishes sexual deviations. Homosexuality still falls under the latter.

The abnormal homosexual subjectivity is stressed in another Russian legal norm. Up to 1999 in Russia, psychiatrists used the old soviet *Reference Book of Illnesses* that defined homosexuality as a pathology. *The Book* provided both appropriate technique of diagnostics and treatment of this 'illness'. Since 1 January 1999 homosexuality has been excluded from the list of mental diseases, its treatment and diagnostics are officially ceased, the Russian psychiatrists turned to classification of illnesses accepted by the World Health Organization (ICD-10). However, in the same 1999, Russian Ministry of Health issued a clinical manual

*Models of Diagnostics and Treatment of Mental and Behavioural Illnesses* approved by the Order of Minister of Health of Russian Federation № 311. Section F65 of the Manual (*Disorders of Sexual Preference*) starts with the description of sexual norm, which, according to it, consists in heterosexuality. And "a disorder of sexual preference means any deviation from the norm in sexual behaviour, irrespective of its displays and intensity". However, the manual does not provide any advice on treatment of the disorder. It presumes to cure it with silent toleration.

These two kinds of legal norms seem to work in a very close liaison with each other. In spite of the fact that they formally use quite a confident and light rhetoric (well, in comparison with 'buggers shall be burnt on fire'), they produce the powerful silence which approves stigmatisation of homosexual subject, and they contribute to the two most important sub-discourses on sexuality: Criminal and medical ones. They confirm two basic discriminatory features: Homosexuals are mentally diseased and are subjects to criminal treatment.

Legally, homosexual subjects are different as it is determined that homosexuality is other to the acceptable norm and, furthermore, deviant. Tolerance with silence in legal and political fields turns to be an appropriate technique to deal with the difference. This is what goes *without saying*. Sometimes laws do not need to talk in order to say. Silence applied to homosexual subjects in the law, politics, and science governs the 'deviant' bodies to keep them unsubjected to these important parts of social life. We find ourselves both: Subjects – as deviants; and non-subjects – so long as we are alienated from anything else. In other words, we find ourselves inappropriate subjects of the heteronormative world imagined by the Russian law.

## 2. To Fly Solo

The law and governmental policies are basically keeping silence about homosexuality. The discourse around the issue is contributed by unspoken legal assumptions and heteronormative (and discriminative) character of the legal norms and policies. The science – governed by the 'powerful narrative' – contributes to the discourse according to the lawful practice without bothering itself with critical rethinking. Hence the NGOs that claim to protect rights of LGBT turn out to be almost the only articulating contributors to the discourse.

The identified 15 Russian LGBT NGOs are the organisations that are concerned with protection of human rights. Some of them are officially registered by the authorities. The majority acts in half-legal regime: They are neither prohibited, nor allowed (registered). One NGO was founded in 1991 when homosexuals were definitely outlaws. The others came instead of those NGOs that were flourishing and withering away in the 1990s. The NGOs tend to unite in groups ('networks') to help each other in their activity. The biggest network of LGBT NGOs has its headquarters in Saint-Petersburg and partners in six cities of Russia.

The NGOs create spaces relevant to the purposes of their claims. They represent a huge amount of information in the web. Due to presumable homophobic attitude of people around, the NGOs also organise private activities only for 'the insiders'. But they certainly act in the public non-virtual spaces, as well. However, the most reliable audience of the gay and lesbian NGOs are gays and lesbians. It should be acknowledged, because despite the fact that the NGOs argue with the public at large, their activities are basically perceived by LGBT-community as we are the 'involved' (interested) group.

Russian LGBT NGOs articulate their claims in human rights rhetoric. The NGOs take part in the international organisations that make them aware of strategies around the world and support their claims in local settings. More than a half of NGOs under research collaborate with the International Lesbian and Gay Association (ILGA). "The work of these international organizations has been crucial in shaping LGBT

rights as human rights, and in putting them on the global agenda" (Weeks 2007, p. 219). In this case, the task of local players turns into adjusting of international experience in claiming for human rights to the domestic circumstances.

However, the Russian NGOs consider universality of human rights to be the most appropriate way to satisfy everybody's needs. As one of the activists argues, "[t]oday Human Rights is the most universal set of humanistic values for all the people... That's why there is the word 'Universal' in the title of the Declaration of human rights" (Sabunaeva 2009, p. 3). Any doubt about the limits of this model in the replies to my survey was almost absent. Only one organisation suggested existence of rights based on other than 'human' nature. Another organisation argued that human rights are available only to those who have power and money.

Universality of human rights has been questioned a lot in different critical literature. For example, Sen points out that "it has been claimed by some that human rights are alien to some cultures which may prefer to prioritize other principles, such as respect for authority" (cited Clapham 2007, p. 12). Without taking into account possible critique of rights from a vast variety of perspectives, the Russian NGOs still adjust the rights discourse in accordance with domestic circumstances. And from my point of view, for a lot of gay NGOs in Russia the domestic circumstances are reduced to this Sen's cultural criticism.

'Respect for authorities' turns to be the cornerstone of the NGOs' argumentation. I believe that it shapes their narrative in a quite evident way. In their answers to the research questionnaire ten out of fourteen of the NGOs offer to collaborate with the state government in order to achieve positive results despite the fact that the state government is perceived by them as an obstacle of their work. Only three organisations suggested that collaboration with the homophobic state is an absurd idea. This position is dislodged to the margins of discourse since the majority believes in the contrary. The explanation of this phenomenon is simple: Some believe that without warm – however, hardly mutual – friendship with the government, there will be no success in their activities.

This idea goes along with Wendy Brown's corrective to Foucault's account of governmentality which was mentioned in the introduction to this work. If she is right and legitimising of discursive practices by the state is the necessary condition of their very existence (2006, p. 83), then the authorities obviously become the reference point of the NGOs' arguments. In this case, the organisations have to kill two birds with one stone: They have to respect homophobic government and claim for rights of homosexuals at once. As Jeffery Weeks argues, "human rights do not exist in nature. They are not there to be discovered written on tablets of stone. They have to be invented, in complex historical conjunctures and contestations... They are the result of sustained dialogue" (2007, p. 220). Probably the described attitude towards authorities is an attempt to maintain the dialogue. Nevertheless, so long as the state keeps silence, can the dialogue actually be a dialogue?

Based on the attitude towards state power, the Russian NGOs may be divided into two groups: Those who are loyal to the authorities and those who blame them in being politically wrong. According to the analysis of the NGOs' texts, the strategy of the latter group consists in an attempt to make claims for equality. Such claims are supported by arguing about the necessity to make the state respect our rights and the constitutional order, which is interpreted by these NGOs in terms favourable to gays and lesbians. On the contrary, the first group exploits rhetoric of tolerance which emphasises the difference of gay and lesbian subjects instead of sameness usually associated with equality arguments.

Attitude towards state power plays an important role in determination of NGOs' strategies. As far as tolerance arguments enable the discursive attempts to maintain a dialogue with the state, the explorers of these arguments are supposed to stay loyal to the powerful. On the other hand, equality arguments in an unequal

society may appear as a discourse of resistance to the existing social and political powers (Cossman 1994, p. 32). Moreover, these discursive practices may contribute in construction of two different subjects so long as the homosexual body of which they speak is described in completely different ways. Further analysis will try to uncover the sub-discourses' subjectivities.

### 2.1. *The Dangers of Tolerance*

The majority of the Russian LGBT NGOs frequently use rhetoric of tolerance. They are aware of international documents that define tolerance. Besides, there are some attempts to reflect on different meanings of tolerance in the current situation. What the NGOs claim for is, on the one hand, a strong demand for respect of difference that LGBT have in comparison with heterosexual majority. On the other hand, tolerance talk could also turn into toleration – by gays and lesbians ourselves – of the miserable condition in which LGBT are now margined to. The two features are significantly unlike but suckle from the same source.

The NGOs exploit tolerance to emphasise difference of the groups they represent. As it is stated on the *Queer Festival* web-page, "the world in which we live is full and reach of different cultures, identities, sexualities, expressions. We all are different, but the language of art unites us as well as the common values do: Love, tolerance, and respect".<sup>6</sup> The NGOs usually celebrate the Day of Tolerance that "aims to remind about the true meaning of tolerance which is respect and acceptance of other person despite his differences".<sup>7</sup>

In liberal states "tolerance carries its historical glory of liberating individuals from church and state persecution" (Brown 2006, p. 38). It has a great potential of emancipation of certain identities, however, tolerance argumentation remains a two-edged sword strategy for any organisation. In some cultures the othering may result in emphasising deviation of the subject that differs. Taking into account the position of Russian government that evidently explores tolerance by silence and 'politely' reminds us about our deviant medical past, tolerance vocabulary seems to be a rather questionable talk to be used in a successful strategy.

The term 'tolerance' is cast by the majority of organisations in the interpretation of *The Declaration of Principles of Tolerance* (1995). It was produced by UNESCO and ratified by Russia. Tolerance is defined there as "respect, acceptance and appreciation of the rich diversity of our world's cultures, our forms of expression and ways of being human" (art. 1.1). Some NGOs argue that the respect and acceptance ought to be 'active'. In other words, there is no point in silent tolerance – the attitude must be articulated and backed by deeds.

In the discourse of the Russian NGOs tolerance talk is imagined as depoliticised narrative that aims to achieve social goal of including LGBT to the society as a different group of people in comparison with the normative majority. Unwillingness to conduct political discussion is clearly stressed in the charters of NGOs (e.g., *Charter of the Interregional Social Movement 'The Russian LGBT-Network'* (2006), art. 2.2.1). This may be regarded as an attempt to exploit tolerance arguments detached from their close liaison with the governmental power. In the international documents 'tolerance' is interpreted as a universal concept or principle that "appears as a discourse of pure normativity, of pure recognition" (Brown 2006, p. 75). However, "what this appearance hides is the inequality and the regulation (achieved through the governmentality of tolerance dispersed in society), and not simply the normative marginalization organizing its subjects" (ibid).

Hence, state authority remains an important power in the discourse of tolerance even if there are some attempts to depoliticise it. Brown argues further that

---

<sup>6</sup> Cited from 'What is Queer?' (2010).

<sup>7</sup> Cited from 'People of Rostov Have Celebrated the Day of the Different' (2009).

tolerance is not just a universal principle explored by international NGOs. Instead she suggests that "tolerance is exemplary of Foucault's account of governmentality as that which organizes "the conduct of conduct" at a variety of sites" (ibid, p. 4). Whenever the arguments of tolerance are involved, the authority is over there. The Russian NGOs that use arguments of tolerance enable the mechanism of which Brown speaks.

From the point of view of the NGOs, tolerance is a perfect tool to claim for difference and acceptance of a homosexual subject at once. On the other hand, historically, tolerance rather showed itself as a perfect tool for stigmatisation of the subject. The othering of the subject, its alienation from the accepted model, should enable certain mechanisms of acceptance. If these mechanisms are depoliticised then they may convey *bearing*; hence, the subject will be taken neither equally, nor with respect (Strasser 2002, p. 103). If one takes the tolerance claims into the realm of politics, then they presuppose *indulging* as an acceptance instrument. This is tolerance that "entails suffering something one would rather not, but being positioned socially such that one can determine whether and how to suffer it, what one will allow from it" (Brown 2006, p. 26). It is authority that makes possible this dimension of tolerance — "a posture of indulgence toward what one permits or licenses, a posture that softens or cloaks the power, authority, and normativity in the act of tolerance" (ibid).

Therefore, both approaches fail to provide substantive inclusion of the subject of tolerance in the society. The subject remains different and there is something that needs to be done about the difference. If the society is being convinced to tolerate the difference then certain compromises are demanded from the tolerated. Anne Phillips calls it a 'tolerance bargain'. The conditions of it work best "for societies in which power is relatively evenly distributed. Since toleration is most commonly called on to regulate relationships between minority and majority groups, the implied bargain is far more contentious" (1999b, p. 127). Moreover, since almost all the NGOs claim to support the state power, the bargain clearly goes on the authorities' conditions.

In order to claim for difference in a favourable environment, the majority of the NGOs argue to promote a 'positive image of gays and lesbians'. This move is undertaken to provide the inclusion of gays and lesbians based on the difference, but positively perceived by the public. The strategy presupposes that a 'good gay' can easily be tolerated by the majority simply because he is good, though he is still gay. As far as the argument goes, it turns out that the 'good gay' is the one who publicly can never be distinguished from a heterosexual — and that is precisely why he is good. As a gay activist points out talking about LGBT-people, "it is necessary to stop considering them somehow special, it is necessary to stop considering heterosexuality to be special, as well. Homosexuality and bisexuality are given facts of life of a society. Hence, one has to deal with it alike he deals with facts" (Sozaev 2009, p. 20).

Homosexuals are supposed to deny that the sexual part of our identity is special. But we are actually different because our sexuality is 'special'. The whole big deal is because of that. However, this is the part of the tolerance bargain. "Those who happily tolerate their unassuming gay neighbour may still object violently to the high-profile activist who 'flaunts' his sexuality in public and seems to expect government funding for gay social clubs. The toleration was offered at a price and keeping things private was part of the deal. Keep your head down, don't draw too much attention to yourself, don't generate a backlash by forcing others to deal with your difference" (Phillips 1999b, p. 127).

A "tolerable homosexual" is the one who would carry out her private affairs in discretion and secrecy controlling "the external manifestation of morality in 'visible' conduct..." (Rose 1990, p. 225). As will be shown further, privacy turns to be another significant feature of the tolerance promoted by some gay and lesbian

organisations in Russia. But it is necessary to be aware that "the rhetoric of privacy has historically functioned to perpetuate the oppressive politics of the 'closet': privacy is the ideological substrate of the very secrecy that has forced gay men and lesbians to remain hidden and underground" (Bamforth 2001, p. 37-38).

These mobilisations of tolerance contribute to the creation of a subject that is intolerant to herself. Tolerance claims – that remain unheard due to tolerance by silence used by the powerful – end up with continuing non-recognition of rights and the very existence of gays and lesbians in Russia. It "potentially imprisons people 'in a false, distorted, reduced mode of being... saddling people with crippling self-hatred'... It is not so easy... to live with mere 'tolerance' of what others see as your perverted sexuality..." (Phillips 1999b, p. 129).

The tolerable subject keeps her intolerable features of identity in secret due to acknowledging of her deviance. As Phillips points it, tolerance "reinforces inequalities between majority and minority groups, confirming the 'normality' of those who are dominant, defining the others (even to themselves) as 'deviant'" (ibid). Hence, the difference may be accepted by the subject herself in privacy, but it cannot be taken to the public to be accepted there because taking it into public domain politicises it. But this is precisely what the NGOs argue against.

The subject of the discourse then is an opportunist who is ready to conform to the heteronormative order to be accepted as a part of the society. Conformism turns to be the mechanism of toleration of the difference that the tolerated tolerates in herself. She gives up the difference in exchange for partial acceptance. The tolerance approach provides to gay men and lesbians the way to be treated as a part of the whole society, but not to be accepted as equals (McGhee 2004, p. 367).

The conformist subject is likely to accommodate herself to the environment. As long as the environment is homophobic, the subject will not be accepted to the society as its equal part. It is also true that as long as the subject doesn't contribute to the change of the environment, the situation is likely to remain immutable. Tolerance arguments produce a subject that is incapable to act publicly and, hence, bring changes to the society. Political challenge to the existing order and subversive subjectivity could be recipes from the disease of conformism.

Some activists claim that there is no 'LGBT-community' in Russia (Marchenkov 2009). What this basically means is that it is impossible to mobilise gay men and lesbians for public activities and struggles. Paradoxically, it seems to me, that the activists are responsible for this situation themselves. It's not that the LGBT-community exists or not. It's that tolerance talk makes people stay at home and conform. Coming-out from home (privacy) to streets (public) is a challenge to the self and the heterosexual norms. But tolerance seems to be an inappropriate strategy to call for the challenges.

In the Russian NGOs' argumentation tolerance cuts two ways. On the one hand, the organisations argue for difference that must be accepted. On the other hand, they claim for respect of the authorities. In this situation, everything that could disturb the heteronormative order of the society maintained by the powerful is considered by the NGOs harmful for the 'LGBT-community'. Gay pride march, political demonstration, participation in parliament elections or support of a political party are all means of struggle that are denied by the organisations because they presuppose challenge instead of tolerance.<sup>8</sup> On the contrary, the quiet tools of claiming are accepted: Internet discussions within a closed circle of participants,

---

<sup>8</sup> E.g., in addition to the Charter cited on p. 20 see *Charter of Autonomous non-commercial organization for social and legal services 'LGBT organization Coming Out'* (2008), articles 3.2.6 and 7.3. The articles state that political means of struggle for rights are excluded from the organisation's possibilities.



festivals for the 'insiders', street flash-mobs with mouths cross-bound.<sup>9</sup> It produces a subjectivity characterised by shame to herself. This subject prefers to stay private and accommodate.



**Figure 1. Silent fights against silence.**<sup>10</sup>

Does anybody know what those people are fighting against? Well, they probably hope nobody even guesses.

## 2.2. *The Limits of Equality*

Alternative sub-discourse is offered by another group of Russian gay and lesbian organisations. This group is significantly smaller: It unites several organisations and acts-up basically in two Russian cities. Discourse of tolerance takes a weak position in their activities. On the contrary, equality vocabulary is prioritised and mirrored even in the names of some organisations (*The Equality* and *The Marriage Equality*). Their position is, so to say, marginalised as the organisations are blamed by their colleagues from other NGOs to conduct discussion disrespectful to the authority and, therefore, it is considered to be harmful for gays and lesbians.

Equality arguments are exploited as a part of human rights rhetoric. On *The Equality's* web-site the position is explained as follows: "[H]uman rights is a one and indivisible concept, that's why encroachment of one's rights (for example, deprivation of the right to freedom of assembly for LGBT-citizens) automatically ends up with the limits to the rights of all the others (including the rights to life, health, and enjoyment that are so necessary for all the people)".<sup>11</sup> *The Marriage Equality* picks up and develops the topic: "[E]quality is not a sophisticated idea. It is as usual and inalienable from the modern civilisation as Internet or public transportation. The meaning and power of the principle is that each of us regardless any factors could fully develop one's potential alone or together with the others".<sup>12</sup>

Analyzing equality arguments Feldblum believes that they very well go along with fairness: It is simply fair to give to everybody equal rights (2001, p. 56). Equality arguments also aim to resolve the problem of morality while they entail "the strong claim that lesbian and gay sexuality – or some specified aspect of it – is just as good, morally-speaking, as heterosexuality" (Bamforth 2001, p. 39). On the basis of equality of homosexuality and heterosexuality, gays and lesbians are supposed to be granted with equal rights.

Anne Phillips argues for "equality under conditions of difference" (1999a, p. 14). She ironically questions "whether tolerating people's peculiarities really counts as equal treatment" (ibid, p. 27). Equality then means for people "being of intrinsically equal worth" (ibid, p. 2). In this case, the task of activists is to emphasise the difference and make the others to accept its right to existence, its equal worth.

<sup>9</sup> E.g., see 'And Once Again about Gay-Parade' (2009). The publication describes a discussion organised by gay-activists in order to argue against the Pride. They conclude that the Pride is too 'startling' or 'shocking'. On the contrary, quiet means of struggle get recognition and respect in the text.

<sup>10</sup> The pictures are available from the official Day of Silence web-page:

<http://dayofsilence.lgbtnet.ru/2009/img/spb/spb4.jpg> [Accessed 1 August 2010]

<http://dayofsilence.lgbtnet.ru/2009/img/spb/spb5.jpg> [Accessed 1 August 2010]

[http://dayofsilence.lgbtnet.ru/2009/img/spb/spb\\_13.jpg](http://dayofsilence.lgbtnet.ru/2009/img/spb/spb_13.jpg) [Accessed 1 August 2010]

<sup>11</sup> Cited from 'The Organising Committee of Saint-Petersburg Gay Pride: We Have the Full Moral and Legal Right to Come Out in the Streets' (2010).

<sup>12</sup> Cited from 'Appeal of the Organisers of the Project' (2010).

The NGOs under discussion are conducting their activities in this direction. Their arguments are built on the ground that despite of the peculiarities gays and lesbians are equally entitled to rights: "We are an inalienable part of the multifaceted society and we demand to respect our human dignity: To guarantee our rights!"<sup>13</sup> The head of the Moscow Pride Committee argues, talking about anti-gay manifestations in Moscow: "What is the difference between us? We recognise their right to organise alternative meetings with crosses or whatever. You can say that homosexuality is bad. But let us organise gay manifestation on the parallel street. And then let's see whose part the society will take. I'm sure that it will be on our side, because Pride is beautiful, colourful, gay, and good" (Klimenyuk 2006).

This rhetoric is quite different from the rhetoric of difference of the tolerable kind. If tolerable difference argues to be good while it masks under a cover of sameness, equality difference is emphasised as something good as it is. 'Gayness' is the feature that is claimed to be equally recognised. In this case, while tolerance "marks inassimilability to a hypostasized universal" (Brown 2006, p. 71), equality exaggerates difference and claims for its equal worth. "Where social recognition is at issue, it may be that groups need to assert and/or celebrate their difference, for they need others to be willing to accept them as equals while still accepting them for what they are" (Phillips 1999a, p. 42). That's why pride manifestations are employed by these organisations as the most appropriate strategy for fights around rights.<sup>14</sup> In fact, two of them were founded with the aim to carry on a pride: *GayRussia* emerged in April 2005 and announced Gay-Pride in July; *The Equality's* founding and announcement of the first Saint-Petersburg Pride by the NGO coincided.

A pride march is "the celebration and exaggeration of difference, the refusal to keep peculiarities behind closed doors... Equality then becomes more than an accommodation or modus vivendi. It means being able to see people as both different and equal" (ibid, p. 29). Nevertheless, it is necessary to add that exaggerating of difference and continuing non-recognition of its equal worth "can breed a new kind of intolerance towards intransigent groups" (Phillips 1999b, p. 143).

With the activities and discourse the NGOs conduct they politicise difference, making it public. Indeed, "gay-pride is a political action of LGBT-community undertaken to defend our rights".<sup>15</sup> The politicisation entails acknowledging of oppositional nature of the talk. In the answer to the research questionnaire *GayRussia* activist confirms that "it is impossible to 'collaborate' with the homophobic government because it results in profanation of LGBT rights. The price of a compromise with the authorities is deprivation of fundamental rights to freedom of assembly and speech". Unlike the group of the NGOs that uses tolerance arguments, these organisations are not troubled to explore political dimensions of struggle for rights.

The resistance of these NGOs consists in challenging the heteronormative order of Russian law and policies, however, by the available non-violent means provided by the liberal system. It is their attempts to hold a gay pride in Moscow and Saint-Petersburg are blamed by their colleagues from other NGOs<sup>16</sup> and banned by the

---

<sup>13</sup> Cited from 'About the Event' (2010).

<sup>14</sup> E. g., see frequently asked questions section of Saint-Petersburg Pride 2010 on <http://www.spb-pride.ru/?p=faq> [Accessed 22 April 2010]. It is argued there: "To come out openly means to demonstrate to the public and the state that we have a variety of legal, social, and economical problems; that it is impossible for us to enjoy fully our lives due to ignorance, irrational fears, prejudices and scorn expressed towards us"; "only by being opened in everyday activities, at work, in the march and a manifestation... we'll defeat myths and prejudices and make the authorities respect our rights".

<sup>15</sup> Supra note 13.

<sup>16</sup> See 'Absolute Majority of Bloggers Supports Organisation of Debates between Nikolay Alexeev and Igor Kochetkov' (2010).

government. It is their claims are in the Strasburg Court of Human Rights and Supreme Court of Russia.

It seems that equality arguments brought into the discourse of rights at a particular point require from the subject of the discourse to become resistant to the political power. "As long as the dominant cultural representation of lesbians and gay men remains one of deviance and otherness, worthy only of social contempt, the claim to equal rights and equal respect of our relationships remains subversive" (Cossman 1994, p. 32). Hence, the very regulative power of the heteronormative discourse of the authorities combined with the claims to equality contributes to the construction of a subject that may oppose to the powerful. In explaining Foucault's ideas of this phenomenon, Wendy Brown believes that "insofar as power always produces resistance, even the disciplinary subject is perversely capable of resistance, and in practicing it, practices freedom" (1993, p. 397). The subject of this discourse is not a conformist who seeks to be unnoticeably the same. In this case, the subject is a rebel who denies her compulsory deviance by claiming to be equally 'normal' with the others and therefore to have the same rights.

Brenda Cossman points out that "the fight to obtain equality rights... is the necessary first step in gay and lesbian struggles" (1994, p. 33). Nevertheless, the equality discourse is finite and, according to Cossman, is followed by a different second step. As soon as equality is achieved, the subject of the discourse significantly changes because it loses the normative order to which she has been opposed. "[P]oliticized identities generated out of liberal, disciplinary societies, insofar as they are premised on exclusion from a universal ideal, require that ideal, as well as their exclusion from it, for their own perpetuity as identities" (Brown 1993, p. 398).

The next step is reduced to the strategy of normalisation and at this point constitutes a conformist subject out of the rebel. If gays and lesbians achieve equality in political and legal domains our subjectivity loses the basis on which it resides within equality discourse. Equality then turns into governmentality discourse due to recognition of our new legal subjectivities by the new normative order. "[T]hese new legal subjects are simultaneously challenging dominant modes of legal subjectivity and heteronormativity and being absorbed within them" (Cossman 2002, p. 245). From this perspective, equality arguments have their limits so long as the achieving of their goals in a fight entails defeat in the war.

What this change of subjectivity brings to us is again a compulsory conformism and "sexual and cultural assimilation" (Cooper 2001, p. 76) to the heteronormative models. Due to the fact that "equality rights discourse is based on comparisons" (Young and Boyd 2006, p. 227), the disadvantaged group is supposed to seek for parity with the majority group and conform to the majority's model of social behaviour. The problem hides in inassimilability of homosexual subject to the heterosexual norm. As Rosemary Auchmuty argues, "although the 'we are just like you' rhetoric has clearly won much sympathy and support for lesbian and gay legal lobby, it has one fundamental flaw. The truth is, we are *not* just like you" (2003, p. 180). However, in this process of normalisation we have to become to some extent heterosexual. "It is a process of assimilation, of reconstituting gay and lesbian subjects into the dominant legal narratives and ideologies, and of simultaneously excluding those subjects who do not conform" (Cossman 2002, p. 245). Under governmentality of sameness, gay and lesbian peculiar features are oppressed and alienated from the reconstituted – but hardly significantly changed – dominant heterosexual models.

Equality struggles turn out to be a strategy of fundamentally subversive resistance when the equality is far from being reached. The subject of this discourse is resistant to its compulsory deviance. But the deviance feeds the rebellious subjectivity. As soon as dominant discourse gives up a bit, the subjectivity changes to be absorbed by heteronormativity.

### 3. Gay Marriage in Russia Now

In the previous section I argued that Russian LGBT NGOs contribute in construction of two different homosexual subjects. First one is a conformist subject made up by tolerance discourse. The other one is constituted by a marginalised equality discourse. The tolerable subject prefers to carry out her affairs in private. The equality subject is engaged in public political talk. Hence, two of them are offered different strategies to arrange their conjugal relationships.

There are different approaches involved to guarantee availability of marriage for gay men and lesbians. Brenda Cossman distinguishes functional approach (legal recognition of relationships of different sorts), and equality argumentation (access to the existing form of marriage for everybody) (1994, p. 6). These strategies involve assimilationist as well as 'fundamentally subversive' roles of struggles around family rights.

The ways in which the same-sex family issue is addressed by LGBT organisations in Russia are also diverse. However, twelve out of fourteen NGOs argue that gay and lesbian families should be recognised by the law. Only one NGO suggests that "people should not depend on any kind of conjugalities". The others argue for same-sex marriage and same-sex partnership possibilities. The debates presume that gay men and lesbians already have families. The point of the struggles is to provide legal recognition to the existent co-habitation traditions.

As Cossman puts it, "[w]e are not in any absolute way located outside family, nor inside. We are both. We are neither. We are in. We are out" (ibid, p. 12). Only when the struggle is taken to the domain of legality one has to decide either she is in or out. Being inside family entails claims to benefits that legal recognition of the family provides. Being outside it means free existence of the subject in its peculiar ways of arranging her life. The first approach makes homosexual family public so long as it becomes an object of political claims for legal equality. The latter one addresses private sphere as far as the subject is left to do what she wants. The problem that the NGOs face concerns the questions of enjoying rights within this private/public dichotomisation occurred in the Russian context.

It is claimed by the defenders of equality: "[W]e are sure about two points. Firstly, rational decision about entering into a marriage is impossible without understanding of all its advantages and disadvantages. Secondly, according to the principle of equality, no matter if same-sex couples have or do not have a desire to get married, they must have this opportunity" (*the Programme*, 2010). In order to achieve these goals the NGOs are engaged in a public political struggle. The tolerance group is both of the same and different opinions: Everybody should decide for themselves whether they need a marriage or not, but the consequences of this decision should not be expressed in public. As one of the activists points answering to the survey questions: "We claim for such a form of marriage that would satisfy at least the most powerful groups of the society". This goal is supposed to be achieved through a quiet and peaceful strategy that occurs in the domain of privacy.

The contents of these approaches are set out in two documents: *The Programme of the All-Russian Movement for Marriage Equality* (hereinafter referred to as *the Programme*) and *Family Rights of Gays and Lesbians in Russia* (hereinafter referred to as *the Family Rights*). They will be analysed further.

#### 3.1. Coming-In the Closet

*Family Rights of Gays and Lesbians in Russia* is a legal manual for same-sex couples that explains how to regulate personal conjugal relationships within the homophobic frameworks of Russian law. The text describes procedures of making one's own marriage arrangements with the existing legal tools in the given

circumstances. In order to follow the strategy one isn't supposed to bring her marriage in the public field. It is a manual of making a secret same-sex marriage about the existence of which nobody would even guess.

This manual is designed for the depoliticised homosexual subject of tolerance talk. Hence, it explores the private dimension of same-sex marriage and never goes beyond its boundaries. Taking heterosexual model of marriage as a standard pattern, *the Family Rights* carefully explains how to achieve almost the same result without disturbing the society, in private. In fact, everyone can register her own same-sex marriage with the available provisions of the law now. The difference is in the procedures which will take more time.

The manual is divided in two chapters. The first one concerns relations between two persons of the coupledness. In order to make one's same-sex family protected in almost the same way in which heterosexual families are protected, *the Family Rights* suggests to enter into a number of contracts. Firstly, the book explains exactly which rights the marriage gives to heterosexuals. Then, it goes on to describe how homosexuals may approach the same conditions involving private deals, contracts, and other legal papers.

For example, the Civil Code of Russian Federation provides different possibilities for persons that would like to share common property as all the married heterosexual couples do. Contract relations could set a share of each person's salary that is one way or another divided between the parties. Apartment and other property could be also divided by a contract. Succession right could be regulated by each partner's testament. Moreover, even the right to change each partner's last name is offered by *the Family Rights*: It is not prohibited by the law and nobody asks the reasons. Hence, the secret same-sex family can become more or less similar to its heterosexual exemplary model without marches, manifestations and political fights. Homosexuals can regulate their emotional coupledness with property deals, testaments, and symbolic name changes in the secrecy of the private.

The second chapter concerns kinship. According to the Russian law, single person can adopt a child. As it is said in *the Family Rights*, in this case it is better to be silent about your sexual orientation in front of social workers and the court who make a decision if one can be a parent or not (2009, p. 12). Homosexual couples can also resort to the help of surrogate fathers and mothers. In both cases only one partner of the family can officially become a parent of a child. The second partner may get the status of a guardian with the help of a relevant contract.

The author of the book acknowledges that there are fields of same-sex conjugal relationships which cannot be regulated by contracts and other tricks. However, they believe that "it is impossible to guess if we can live that long to hear Mendelssohn's march played for homosexual couples in our country" (ibid, p. 5). Those features are under jurisdiction of politicians and lawyers who may work to change the existing norms in favour of LGBT (ibid). However, in this regard "changing the people who formulate the policies looks a promising start" (Phillips 1999a, p. 34). As Anne Phillips suggests, politicisation of different experiences rather than closing them behind the doors contributes to changes in the society; the problem which one may meet in this way is that this may make for a more intolerant society (1999b). But as far as the NGOs use the rhetoric of tolerance it seems to be their direct field of work.

On the one hand, depoliticised subjectivity evidently fails to maintain powerful discourse of rights and bring changes – to the better or to the worse – to the society. Enabling governmental function of tolerance the subject conforms and gives up the fights for her own acceptance. It is very well illustrated by the taken example. The law doesn't provide legal remedies to recognition of homosexual families. Then the families are provided with tools to arrange the recognition by themselves. The subject of this discourse is not called to fight for better conditions.

The subject is given tips on how to accommodate better. The strategy explores narrative of compromise: It should satisfy both parties. Homosexual families tolerate their deprivation of rights and enjoy pittance of formally equal opportunities. All the rest enjoy unchangeable order of things and tolerate those whom they don't see.

On the other hand, this discourse doesn't allow the access of the subject to the domain of the public. The discourse, so to say, protects the subject from the dangers of politicised public sphere. But, then, the rhetoric of sameness employed in *the Family Rights* seems to be irrelevant. Difference is the feature that could be upheld. But it is precisely sameness that appears to be a good strategy for being easily tolerable.

### 3.2. *Coming-Out from the Unsaid*

In the contemporary circumstances equality arguments contribute to the discourse in different direction. The subject who claims for equality is more likely to change the environment and make it respect her, rather than change herself and gain the respect from the environment with this. In this regard, the NGOs that promote the second same-sex marriage strategy claim for marriage equality that already exists. All we need is to make the powerful recognise it.

*The Programme of the All-Russian Movement for Marriage Equality* argues that same-sex marriage is already available in Russia. Well, at least there is no formal prohibition for same-sex couples to enter into a marriage. All the prohibited grounds are listed in clause 14 of the Family Code and homosexuality isn't there. As for the point of clause 12.1 that requires "mutual and voluntary consent of a man and a woman" to register a marriage in Russia, the authors argue that, in fact, the clause doesn't prohibit same-sex partners to obtain marital status. 'A man and a woman' requirement simply stresses equality between two sexes and monogamous character of the marriage. The activists believe that "attempts to consider the principle of voluntary conjugality between a man and a woman as the one used to limit the notion to the union of two different sexes, are absolutely unfounded" (*the Programme*, 2010).

However, the authors of the strategy agree that despite the fact that there are no formal prohibitions for homosexuals to enter into a marriage in Russian law, neither is there real marriage equality in Russia. They think that "due to a stereotypical idea about a same-sex family as something different" (*ibid*) our marriages are not considered to be equal to the heterosexual unions. Therefore they propose some relevant strategies to promote changes in the law and society. *The Programme* offers to create a precedent of recognition of a same-sex marriage in Russia according to the law currently in force. Simultaneously the activists should work to promote legal changes that would grant rights to marry to same-sex couples in the most unambiguous manner.

There are two ways in which the Programme deals with creation of a precedent goal. Firstly, same-sex couples may register a marriage in another country (Canada) and then come back to Russia and claim to recognise the marriage. This kind of legal recognition should not meet too many obstacles, because recognition of foreign marriages is provided by the Russian law. The foreign marriage should meet two requirements: It should be a marriage (partnership doesn't count) and it shouldn't contradict prohibited grounds of the Family Code (where homosexuality is not listed). According to the data of the NGO, this case is quite common for foreign diplomats who come to Russia with their same-sex spouses (*ibid*). However nobody knows how courts would deal with a similar case when two Russian citizens were involved. Considering heteronormative character of Russian laws, it would be true to say that the claim will be refused.

The second way supposes entering into a registration office, claiming to equality of marriages and making the clerks register a same-sex marriage. When they refuse, the couple goes to the court. Cases relevant to the both ways of recognition are approaching the European Court of Human Rights now. Russian courts are not ready yet to satisfy these claims. However, the courts are forced to break the legal silence. Following Judith Butler, Brenda Cossman argues that "even when a court refuses to recognize the legal validity of the same-sex marriage or civil union, it is forced to recognize and perform the "speakability" of same-sex marriage" (2008, p. 164). She then continues:

Judith Butler, in connecting the "domain of the sayable" with subjectivity, argues that "[t]o embody the norms that govern speakability in one's speech is to consummate one's status as a subject of speech." Butler further argues that prohibition in the form of censorship is often contradictory, speaking the very thing that it seeks to prohibit. "The regulation that states what it does not want stated thwarts its own desire . . . . Such regulations introduce the censored speech into public discourse, thereby establishing it as a site of contestation, that is, as the scene of public utterance that it sought to preempt."

The strategy of recognition of same-sex marriage by its non-recognition in court challenges the governmental function of silence of the Russian law and may be quite successful in destroying it. Coming-out from the domain of unspeakable, the same-sex marriage becomes a part of our reality. "The marriage is real, just not in the here and now, but in the there and then. The marriages migrate, even if only in the imagination: it is migration that can now be imagined in law, even if it is not actually recognized by the courts as legally valid within their geographic and jurisprudential jurisdiction" (ibid). We, then, become really equal, but the equality has not yet been recognised.

The subject of this discourse challenges the dominant legal presumptions about herself and approaches equality in the domain of politicised public sphere. However, coming-out from the unsaid the subject finds herself in one step from transformation. If the strategy is successful, two concurrent discourses will contribute to the destruction of the resistant feature of the subject: Changing the legal discourse from emphasising of deviance to equal recognition of homosexual subjectivity unhorses the subversive nature of the equality claims and enables process of normalisation of the subject. Equality discourse starts to "encourage the internal policing of group membership. The mantra of sameness that accompanies calls for inclusion ensures that couples who embrace non-normative configurations of relationships become the new second-class citizens" (Wray 2009, p. 18-19).

The new legal subject, who is about to appear, risks to fall under governmentality of normalisation, being absorbed by heteronormativity. "The new lesbian and gay subject lives in a monogamous and respectable relationship with responsibilities of mutual care and commitment. It is a subject constituted in and through ideologically dominant discourses of familialism at the same time as this subject reshapes these discourses" (Cossman 2002, p. 246). Being outside the family in the new circumstances will then mean to deviate for LGBT again. "[O]nly if recognition of lesbians and gay men as 'family' eventually destroys or displaces the centrality of 'family' in how society organises redistribution of economic well-being would such recognition lead to more fundamental social change" (Boyd 1999, p. 382).

If familial values remain hardly touched by the access of gay men and lesbians to the family, the notion perpetuates its inglorious existence of an institution that establishes ownership of men over women and reproduces gender roles. For LGBT ourselves it "may have the paradoxical effect of diminishing, rather than increasing, our chances to justice, for our assimilation to the heterosexual model may obliterate the very features of our relationships which make them *different* from heterosexual relationships – in particular, the absence of a gendered power dynamic" (Auchmuty 2003, p. 175).

### **Conclusion. The Good, the Bad, the Dangerous**

The analysis of strategies of Russian human rights gay and lesbian organisations is undertaken for the first time in this work. The described problems are addressed through an attempt to deconstruct subjectivities that are constituted by the employed sub-discourses of tolerance and equality. Questions of power play a significant role not only in relations between these discourses, but also in relations of them both to the discourse set by the authorities.

The state power stigmatises homosexual subject as deviant and subjected to the criminal law. Hence, tolerance discourse contributes to the construction of a conformist subject who tries on the mantle of deviance and tends to keep her 'deviant' sexuality in private in order to be tolerable. On the contrary, marginalised equality discourse has a resistant nature in the unequal society and, as a result, constitutes a subjectivity that is characterised by refusal of her deviance. This subject brings her sexuality in public emphasising and politicising the difference from heterosexual normativity. However, as soon as equality is achieved, the subject loses its rebellious nature and gets in a trap of discourse of normalisation.

In the Russian context, tolerance and equality arguments are cast to deal with difference. Since difference is depoliticised in the tolerance discourse, it is suppressed to the private. Historically, the private relates to the notion of closet which forces gay men and lesbians to hide intolerable features of our sexuality. At the same time, since the subject of this discourse is out of the political field, she may practice freedom and enjoyment of her peculiar way of life in private without being governed by political discourses from the outside. However, at this point the discourse of tolerance casts arguments for sameness to regulate the subject's privacy.

Equality arguments politicise difference. They are employed to claim equality on conditions of difference. The subject to this sub-discourse actively makes the authorities recognise equal social worth of her sexuality. However, when the arguments are brought into legal field they turn to be reduced to sameness in order to fight against unspeakability of the homosexual subject. Equality discourse simultaneously deals with homosexuality as with something different and same.

Despite the differences, the sub-discourses have a common point: They result in claims for sameness. Sameness governs tolerable homosexual subject leaving her to stay behind the closet doors. Sameness cuts claims to equality on conditions of difference to the claims to formal equality which confirms 'majority' status of heterosexuality and reinforces heteronormative order (Herman 1994, p. 50). It looks like both strategies fail to satisfy needs of gay men and lesbians. Although in Russia, the point at which equality strategies cease to be resistant and become assimilationist has not yet been reached.

However, the work has never aimed to give definitive answers. Gay and lesbian subjectivity is constituted and reconstituted through a number of different discourses that constantly change themselves and influence subjects with different forces. The discourses may be more powerful or less powerful at different points in time. Moreover, an identity may be constructed and reconstructed by different subjectivities that may concur or contradict each other. Therefore, we may simultaneously find ourselves as produced by an immense amount of different forces.

"There are mobilizations of tolerance that do not simply alleviate but rather circulate... homophobia" (Brown 2006, p. 10). Politicisation of difference within the discourse of equality may make a society more intolerant (Phillips 1999b, p. 143). Hence, both the arguments of tolerance as well as the arguments of equality may appear as inappropriate narratives. But the 'truth' is that there are no bad, no good strategies. It's "not that everything is bad, but that everything is dangerous, which is not exactly the same as bad" (Foucault 1983, p. 231-232). The danger results in



the situation when the NGOs turn into certain elements of governmentality, constituting, organising, and shaping subjects of discourses together with the state authority. Narratives alternative to the existing governmental discourses seem to be more promising in this regard so long as some new ways of talk could cast arguments that do not need state legitimisation and, therefore, escape from regulatory provisions of discourse.

## References:

### *Literature*

- Auchmuty, R., 2003. When Equality Is Not Equity: Homosexual Inclusion in Undue Influence of Law. *Feminist Legal Studies*, 11 (2), 163–190.
- Bamforth, N., 2001. Same-Sex Partnerships and Arguments of Justice. In: R. Wintemute and M. Andenaes, eds. *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart, 31–54.
- Boyd, S. B., 1999. Family, Law and Sexuality: Feminist Engagements. *Social and Legal Studies*, 8 (3), 369–390.
- Brown, W., 1993. Wounded Attachments. *Political Theory*, 21 (3), 390–410.
- Brown, W., 2006. *Regulating Aversion: Tolerance in the Age of Identity and Empire*. Princeton University Press.
- Clapham, A., 2007. *Human Rights. A Very Short Introduction*. Oxford University Press.
- Cooper, D., 2001. Like Counting Stars? Re-Structuring Equality and the Socio-Legal Space of Same-Sex Marriage. In: R. Wintemute and M. Andenaes, eds. *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart, 75–96.
- Cossmann, B., 1994. Family Inside/Out. *University of Toronto Law Journal*, 44 (1), 1–39.
- Cossmann, B., 2002. Lesbians, Gay Men, and the Canadian Charter of Rights and Freedoms. *Osgoode Hall Law Journal*, 40 (3-4), 223–248.
- Cossmann, B., 2008. Betwixt and Between Recognition: Migrating Same-Sex Marriages and the Turn toward the Private. *Law and Contemporary Problems*, 71, 153–168.
- Deleuze, G., 2006. *Foucault*. Minneapolis: University of Minnesota Press.
- Dijk, T. V., 2001. Principles of Critical Discourse Analysis. In: M. Wetherell, S. Taylor and S. J. Yates, eds. *Discourse Theory and Practice: A Reader*. London: Sage, 300–317.
- Feldblum, C. R., 2001. The Limitations of Liberal Neutrality Arguments in Favour of Same-Sex Marriage. In: R. Wintemute and M. Andenaes, eds. *Legal Recognition of Same-Sex Partnerships: A Study of National, European and International Law*. Oxford: Hart, 55–74.
- Foucault, M., 1972 [1969]. *Archaeology of Knowledge*. London: Routledge.
- Foucault, M., 1983. On the Genealogy of Ethics. In: H. L. Dreyfus and P. Rabinow, eds. *Michel Foucault: Beyond Structuralism and Hermeneutics*, 2nd ed. The University of Chicago Press, 229–252.
- Hall, S., 2001. Foucault: Power, Knowledge and Discourse. In: M. Wetherell, S. Taylor and S. J. Yates, eds. *Discourse Theory and Practice: A Reader*. London: Sage, 72–81.

- Herman, D., 1994. *Rights of Passage: Struggles for Lesbian and Gay Legal Equality*. University of Toronto Press.
- Jagose, A., 2008. *Queer Theory: An Introduction*. Moscow: Kanon.
- Kohn, I. S., 2005. *Faces and masks of Same-Sex Love*. Moscow: Iris-Press.
- McGhee, D., 2004. Beyond Toleration: Privacy, Citizenship and Sexual Minorities in England and Wales. *British Journal of Sociology*, 55 (3), 357–375.
- Phillips, A., 1999a. *Which Equalities Matter?* Oxford: Polity Press.
- Phillips, A., 1999b. The Politicisation of Difference: Does This Make for a More Intolerant Society. In: J. Horton and S. Mendus, eds. *Toleration, Identity and Difference*. New York: Macmillan, 126–145.
- Potter, J. and Wetherell, M., 1994. Analyzing Discourse. In: A. Bryman and R. G. Burgess, eds. *Analyzing Qualitative Data*. London: Routledge, 47–66.
- Rose, N. S., 1990. *Governing the Soul*. London: Routledge.
- Strasser, M., 2002. *On Same-Sex Marriage, Civil Unions, and the Rule of Law: Constitutional Interpretation at the Crossroads*. Westport: Praeger.
- Weeks, J., 2007. *The World We Have Won: The Remaking of Erotic and Intimate Life*. London: Routledge.
- Wetherell, M., 2001. Debates in Discourse Research. In: M. Wetherell, S. Taylor and S. J. Yates, eds. *Discourse Theory and Practice: A Reader*. London: Sage, 380–399.
- Wray, B., 2009. Screening Desire: Same-Sex-Marriage Documentaries, Citizenship, and the Law. *Canadian Journal of Law and Society Review*, 24 (1), 1–21.
- Young, C. and Boyd, S., 2006. Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada. *Feminist Legal Studies*, 14 (2), 213–240.

#### *Legal Documents*

- The Criminal Code of Russian Socialistic Federative Soviet Republic (1934).
- The Criminal Code of Russian Federation (1997).
- The Constitution of Russian Federation (1993).
- The Family Code of Russian Federation (1995).
- Section F65. Disorders of Sexual Preference. In: *Models of Diagnostics and Treatment of Mental and Behavioural Illnesses*. Minister of Health Order N 311, 1999.
- Decision of the Constitutional Court of Russian Federation made on 16 November 2006 N 496-O.

#### *Internet Sources*

- Klimenyuk, N., 2006. Nikolay Alexeev, Gay-Pride Initiator. *Snob*, 11 (160). Available from: <http://www.bg.ru/article/5851/> [Accessed 20 April 2010].
- Kochetkov (Petrov), I. and Kirichenko, K., 2009. Situation with Sexual Minorities. In: D. Mescheryakov, ed. *Human Rights in Russian Federation: 2008 Events Report*. Moscow: Moscow Helsinki Group, 289–374. Available from: <http://www.mhg.ru/publications/D4D5F55> [Accessed 25 May 2010].
- Marchenkov, A., 2009. *LGBT-Community Doesn't Exist in Russia. Almost*. Available from: <http://piter.lgbtnet.ru/2009/03/09/pochti/> [Accessed 23 April 2010].

- Sabunaeva, M., 2009. *Human Rights and Fairness: From Theory to Practice*. Available from: <http://www.ljfoundation.org/doc/rus/esse/Sabunaeva.doc> [Accessed 26 April 2010].
- Sozaev, V., 2009. *Myths and Facts about Gay Men, Lesbians, and Bisexuals*. Saint-Petersburg: Russian LGBT-Network. Available from: <http://lgbtnet.ru/publications/mythsandfactslgbt.pdf> [Accessed 26 April 2010].
- Unesco, 1995. *The Declaration of Principles of Tolerance*. Paris: Unesco. Available from: <http://www.unesco.org/cpp/uk/declarations/tolerance.pdf> [Accessed 23 April 2010].
- About the Event*, 2010. Saint-Petersburg: Equality. Available from: <http://www.spb-pride.ru/?p=about> [Accessed 22 April 2010].
- Absolute Majority of Bloggers Supports Organisation of Debates between Nikolay Alexeev and Igor Kochetkov*, 2010. Moscow: GayRussia. Available from: <http://www.gayrussia.ru/actions/detail.php?ID=15533> [Accessed 22 April 2010].
- And Once Again about Gay-Parade*, 2009. Saint-Petersburg: Coming-Out. Available from: <http://piter.lgbtnet.ru/2009/06/16/infopraide-2/> [Accessed 23 April 2010].
- Appeal of the Organisers of the Project*, 2010. Moscow: Marriage Equality. Available from: <http://marriageequality.ru/practise/appeal-from-project-organizers.php> [Accessed 22 April 2010].
- Charter of Autonomous non-commercial organization for social and legal services «LGBT organization Coming Out»*, 2008. Saint-Petersburg: Coming-Out. Available from: <http://piter.lgbtnet.ru/about/charter/> [Accessed 23 April 2010].
- Charter of the Interregional Social Movement 'The Russian LGBT-Network'*, 2006. Saint-Petersburg: Russian LGBT-Network. Available from: <http://lgbtnet.ru/news/detail.php?ID=4116> [Accessed 6 April 2010].
- Culture Committee of Saint-Petersburg Recognised Existence of Homophobia in the City*, 2010. Saint-Petersburg: Equality. Available from: <http://www.spb-pride.ru/?p=news&id=3> [Accessed 22 April 2010].
- Family Rights of Gays and Lesbians in Russia*, 2009. Saint-Petersburg: Russian LGBT-Network. Available from: <http://lgbtnet.ru/publications/lgbtfamily.pdf> [Accessed 22 April 2010].
- The Ombudsman's Report 2009*, 2010. Moscow: Ombudsman Office. Available from: [http://ombudsmanrf.ru/index.php?option=com\\_content&view=article&id=718:-2009-&catid=6:2009-11-02-08-41-14&Itemid=29](http://ombudsmanrf.ru/index.php?option=com_content&view=article&id=718:-2009-&catid=6:2009-11-02-08-41-14&Itemid=29) [Accessed 1 June 2010].
- The Organising Committee of Saint-Petersburg Gay Pride: We Have the Full Moral and Legal Right to Come Out in the Streets*, 2010. Saint-Petersburg: Equality. Available from: <http://www.spb-pride.ru/?p=news&id=12> [Accessed 22 April 2010].
- People of Rostov Have Celebrated the Day of the Different*, 2009. Rostov-na-Donu: Rainbow Syndrome. Available from: <http://www.rainbow-syndrome.org/novosti/id/7/vn/%D0%A0%D0%BE%D1%81%D1%82%D0%BE%D0%B2%D1%87%D0%B0%D0%BD%D0%B5-%D0%BE%D1%82%D0%BC%D0%B5%D1%82%D0%B8%D0%BB%D0%B8-%D0%BF%D1%80%D0%B0%D0%B7%D0%B4%D0%BD%D0%B8%D0%BA-%D0%BD%D0%B5%D0%BF%D0%BE%D1%85%D0%BE%D0%B6%D0%B8%D1%85/> [Accessed 27 April 2010].

*The Programme of the All-Russian Movement for Marriage Equality*, 2010. Moscow: Marriage Equality. Available from: <http://marriageequality.ru/practise/programme-of-russian-marriage-equality-movement.php> [Accessed 22 April 2010].

*The Tolerance. Programme for Harmonisation of Interethnic and Intercultural Relations, Prevention of Xenophobia, Improvement of Tolerance in Saint-Petersburg in 2006-2010*, 2006. Saint-Petersburg Government. Available from: [http://gov.spb.ru/gov/admin/otrasl/c\\_foreign/toler/zapiska](http://gov.spb.ru/gov/admin/otrasl/c_foreign/toler/zapiska) [Accessed 10 July 2009].

*What is Queer?*, 2010. Saint-Petersburg: Russian LGBT-Network. Available from: <http://queerfest.ru/?p=1> [Accessed 26 April 2010].

## Appendix 1. Methodology

The analysis consists of two phases:

1. Analysis of texts from the Russian Human Rights LGBT non-governmental organisations.
2. E-mail survey of representatives of the NGOs.

I identified 15 NGOs that are concerned with protection of LGBT rights in Russia. They are:

1. GayRussia (Moscow)
2. LGBT Rights (interregional organisation)
3. Marriage Equality Russia (Moscow)
4. Coming-Out (Saint-Petersburg)
5. Gender-L (Saint-Petersburg)
6. Circle-Karelia (Petrozavodsk)
7. Wings (Saint-Petersburg)
8. LGBT-Network (interregional organisation)
9. LesbyPARTYя (Saint-Petersburg)
10. Maximum (Murmansk)
11. Equality (Saint-Petersburg)
12. Rainbow House (Tumenn)
13. Rainbow Syndrome (Rostov-na-Donu)
14. Rakurs (Archangelsk)
15. Ural-Positive (Ekaterinburg)

Five out of 15 NGOs do not have a web-site, but they have a web-page in the Russian social network *vKontakte* where they represent relevant to the purposes of the analysis information. Ten NGOs frequently refresh their web-sites with news and publications. I examined almost all the documents available on the web looking for arguments of claims. My initial hypothesis consisted in the assumption that the arguments would include claims for tolerance and/or equality. The hypothesis have been proved. Four NGOs prioritise rhetoric of equality (*GayRussia*, *Equality*, *Marriage Equality* and *Ural-Positive*). Eight NGOs prioritise rhetoric of tolerance (*LGBT Rights*, *Coming-Out*, *Gender-L*, *Circle-Karelia*, *Wings*, *LGBT-Network*, *Rakurs* and *Rainbow Syndrome*). In the texts of three organisations it is stated that protection of rights is their aim, however, it doesn't go further this statement (*LesbyPartyя*, *Maximum* and *Rainbow House*).

The meanings of 'tolerance' and 'equality' were clearly specified on the web-pages of six organisations. In some cases, however, the deeds and words were at variance. Moreover, some contradictions in different texts of the same organisation could be found. Especially this situation was relevant to talk around same-sex marriage and concrete strategies concerned same-sex coupledness.

Therefore, I identified certain points that I wanted to clarify in a survey. The survey is divided into three major parts:

1. Meanings of terms. The part offers to the respondents to give definitions to 'equality', 'tolerance' and answer the question whether LGBT rights are human rights.

2. State power. During analysis of documents I found out that the NGOs may be clearly divided into two groups based on their attitude towards state power: Loyal to it and resistant to the authorities. I've decided to check this hypothesis by the survey.
3. Same-sex marriage. Clearly stated strategies for same-sex marriage can be identified in the narrative of *The Marriage Equality* and its supporters and of *Ural-Positive*. All the other NGOs are quite cautious in expressing their point straightforwardly. However, their position may be seen in other texts. In this section of the survey I wanted to clarify concrete points about same-sex marriage possibilities.

I decided to conduct an e-mail survey because the NGOs under research are located in different places around Russia and I couldn't get an easy access to all of them. The questionnaire of the survey was designed in MS Word and divided in several parts (Appendix 2). It has an introduction with all the explanations and support of the NGOs' work. Some questions are closed and the others are open-ended. However, I encouraged the respondents to give broad answers as far as I needn't quantitative data and wanted to get explanations.

I e-mailed the questionnaire to all the 15 NGOs. I used personal e-mail addresses when I knew them and general e-mails when I didn't. I expected 100% response rate. However, I didn't get even one answer from the NGOs in the first round. The second try was more successful; the NGOs started answering. During the time of conducting the survey I contacted some representatives of the NGOs through the Russian social network *vKontakte* (*Face Book* 'brother'). It turned out that convincing them through a personal talk in the chat of this network is the easiest way to higher response rate. I e-mailed the questionnaire for four times to some NGOs. I also designed a special questionnaire for a couple of NGOs: It was not a MS Word attachment, but it was incorporated in the body of the e-mail text. So those NGOs needed to press 'reply' and then mark and type in the answers to the questions. The strategy worked. In the end of the day I had 14 NGOs out of 15 responded to the questionnaire. All of them have got a 'Thank you' postcard in turn.

The answers to the research questionnaire were compared with the statements that I got from the NGOs' web-pages. Besides, I counted answers of the 'attitude towards state power' section to identify the NGOs loyal to the authorities and resistant to them. Some answers to the questionnaire helped me to prove and disapprove initial assumptions. Some statements of the respondents can be found in the presented work and on the official web-page of the research (Russian LGBT Research: <https://sites.google.com/site/russianlgbtresearch>).

For the purposes of the analysis I have also contacted Russian Ombudsman and Saint-Petersburg Government. The both answered to my questions and contributed to the argumentation.

## Appendix 2. Research Questionnaire

*Our Strategies*

*Research on Russian Human Rights LGBT Organizations*

---

Thank you for participating in the research that aims to examine the role of gay & lesbian NGOs in Russia. The data is collected for a Master thesis project in the International Institute for Sociology of Law. It is a unique study in Russia as no one ever conducted similar research before. Though it will be written in English, some basic conclusions are to be published in Russian on the research web-page:

<https://sites.google.com/site/russianlgbtresearch/>

Your participation and your activities in our common cause are crucially influential. Your answer to this survey is an important contribution to the attempt to describe and analyse the strategies in use.

To fill up the questionnaire follow the instructions. To start writing, click on the text box. To choose an option from a list, click on the square beside the chosen answer and type "x" inside the square. Filling up the questionnaire will not take too much of your time, not more than 20 minutes. Should you have any difficulties in responding, please, e-mail me: [research.lgbt@gmail.com](mailto:research.lgbt@gmail.com)

Your responses are confidential. However, if you think that the position of an NGO and its activists should be public, please, specify it above:

- I don't care about confidentiality of my responses.
- I prefer that my responses would stay confidential.

After filling the questionnaire up, please, **save the changes** in the document and e-mail it at: [research.lgbt@gmail.com](mailto:research.lgbt@gmail.com)

**Thank you for your participation!**

*Section 1 / 4*  
*General Information*

---

Question 1 / 12

Please, type in the name of your organization here:

Question 2 / 12

What is the aim of your organization? Please, type in a short statement here:

Question 3 / 12

Who is represented by your organization? Please, choose from the options below (as much you need if necessary) or type in your own answer:

- LGBT
- Gays
- Lesbians
- Bisexuals
- Transgenders
- Transsexuals
- Transvestites
- Your answer:





### Question 4 / 12

We think that the rights we fight for are (choose the most relevant answer):

- Human Rights, relevant for everybody in the world.
- Specific rights, relevant only for the group we represent.
- Both.
- Your own answer:

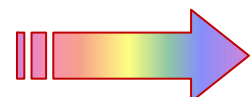
### Question 5 / 12

Please propose a definition to the word "tolerance":

### Question 6 / 12

Please, choose the most appropriate from your point of view definition of "equality" for the group you represent, or type in one of your own:

- Equality of rights with the rights of majority.
- Equality of benefits with the benefits the majority gets.
- Your definition:



*Section 3 / 4**The Relations with the Powerful*

---

Please, specify if you agree or disagree with the following statements:

Question 7 / 12

State power helps us to fight for the rights of the group we represent.

- Agree
- Disagree
- Neither

Question 8 / 12

State power is an obstacle in our fighting for the rights of the group we represent, but it is necessary to collaborate with it to achieve positive results.

- Agree
- Disagree
- Neither

Question 9 / 12

State power is the obstacle in our fighting for the rights of the group we represent, and we have to fight against the state power.

- Agree
- Disagree
- Neither



*Section 4 / 4*  
*Same-Sex Family*

---

Question 10 / 12

The position of your organization towards same-sex marriage may be described in following words (choose the most appropriate option or type in your own answer):

- It is necessary to fight for the right to marry for the group we represent.
- The group we represent does not need legal recognition of intimate relationships.
- At the moment the position of my organization is not elaborated yet.
- Type in your own answer if none of those above is appropriate:

Question 11 / 12

Which of the following terms of same-sex relationships legal recognition your organization would support? Please, choose one option or type in your own answer:

- Marriage, the same as the majority has.
- Partnership, a special definition for same-sex couples.
- Your answer:



**Question 12 / 12**

How would the notion of marriage change if the group you represent got access to it? Please, choose one option or type in your own answer:

- It wouldn't change, because the same family values are relevant for the group we represent.
- It wouldn't change, because we argue for a special term for our legal relationship status.
- The meaning of marriage would change significantly by the access to it of the group we represent.
- We argue for cardinal changes of the notion for everyone and abolishing of marriage as we know it now.
- Your answer:

There are no more questions!

Please, save the changes and e-mail the document at: [research.lgbt@gmail.com](mailto:research.lgbt@gmail.com)

**Thank you for your participation!**

*Our Strategies*

*Research on Russian Human Rights LGBT Organizations*

---

The project supervisor is PhD Rosemary Hunter, professor of the Kent University (England).

The research is being conducted by Alexander Kondakov, a participant of the Master Programme in the International Institute for Sociology of Law (Oñati, Spain).

Further information is available on the research web-page:

<https://sites.google.com/site/russianlgbtresearch/>

Should you have any questions, please, e-mail me: [research.lgbt@gmail.com](mailto:research.lgbt@gmail.com)

