

# Gender Identities and Human Rights<sup>1</sup>

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## SUMMARY

In the light of continuing discrimination against trans people this article explores the question which human rights are violated when trans persons still see themselves subjected to extensive stigmatization. The contribution discusses the report of the United Nations High Commissioner for Human Rights as well as the Yogyakarta Principles and ends with eleven closing remarks that outline a way forward for taking necessary steps to reduce still prevalent discrimination against trans and intersex persons.

## SEX/GENDER AND HUMAN RIGHTS

The group of trans persons is not only in Luxembourg society a minority group that has been discriminated against and stigmatized for centuries. The prejudices are deeply entrenched: Trans persons are portrayed as irresolute and eccentric, as people without a desire to have children and thus as somebody who jeopardizes the future of our society. By going against all norms they threaten our young people. From this perspective, restrictions against trans persons are not seen as discrimination, since they are perceived to be sick, immoral and unbalanced. I here refer to the International Statistical Classification of Diseases and Related Health Problems of the World Health Organisation (WHO). In this context I would also like to mention the article “Transsexualisme et droit européen” which begins with the following definition: “Also known under the term of Harry Benjamin Syndrome, transsexualism defines itself as the unwavering conviction of belonging to the opposite sex, and as consequence the desire for

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1 | Original version in French.

gender reassignment. Transsexualism is therefore seen as an illness and not as a perversion or a kind of homosexuality.”<sup>2</sup>

My contribution examines the issue primarily from a human rights perspective and deals with the question which human rights are violated with respect to trans persons.

Before turning to a number of relevant pieces of legislation I would like to refer to the report of the United Nations High Commissioner for Human Rights on discriminatory laws and practices and actions of violence against individuals based on their sexual orientation and gender identity (A/HRC/19/41).<sup>3</sup> This report has a chapter on violence, starting with killings, rapes and other acts of discriminatory violence. Navi Pillay here differentiates between two aspects of violence, physical and psychological, and clarifies: “These attacks constitute a form of gender-based violence, driven by a desire to punish those seen as defying gender norms.”<sup>4</sup> She also distinguishes between ‘street’ violence and organized abuse and emphasizes in this context the acts of violence coming from families and communities. She notes: “Lesbians and transgender women are at particular risk because of gender inequality and power relations within families and wider society.”<sup>5</sup> She emphasizes the particularly barbaric character of these acts of violence, compared to others committed based on prejudices. In this context she also mentions the “so-called ‘honour’ killings” carried out against those seen by family or community members to have brought shame or dishonour on a family.<sup>6</sup> A further point of concern are the “denigration campaigns and violent threats against defenders of lesbian, gay, bisexual and transgender rights.”<sup>7</sup> The report also mentions the hate rhetoric’s used by political and community leaders to instigate hate and violence contributing to homophobia and harassment of individuals (see *ibid.* pp. 11-12). The chapter on torture and other forms of cruel, inhuman and degrading treatment deals primarily with the dehumanization of the victim and the High Commissioner also emphasized the aspect of violence in detention facilities. A particular feature here is “the susceptibility of male-to-female trans prisoners to physical and sexual abuse if placed within the general prison population.”<sup>8</sup>

Navi Pillay quotes incidents that have been reported by several special rapporteurs. Transsexual women for instance were deliberately beaten on their

**2** | Dubos, O. (Ed.) (2007): *Sexe, sexualité et droits européens – Enjeux politiques et scientifiques des libertés individuelles*. Paris: Edition A. Pedone, p. 55.

**3** | United Nations (Ed.) (2011): *Discriminatory laws and practices and actions of violence against individuals based on their sexual orientation and gender identity*. URL: [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/A-HRC-19-41\\_en.pdf](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/A-HRC-19-41_en.pdf) [27.11.2013].

**4** | *Ibid.* p. 8.

**5** | *Ibid.*

**6** | *Ibid.* p. 9.

**7** | *Ibid.* p. 11.

**8** | *Ibid.* p. 12.

breasts and cheekbones in order to burst their implants and release the toxins into their bodies (see *ibid.* p. 12). Another example from El Salvador: Here a trans woman was placed in an all-male prison, in a cell together with gang members who raped her more than a hundred times, sometimes with the support of the prison guards (see *ibid.* p. 12).

The chapter about discrimination in health care points out that therapies for sex/gender reassignment – if they exist at all – are often prohibitively expensive and only rarely covered by state funding or insurance. Health care personnel are often poorly sensitized to the needs of trans persons and lack necessary professional training. In addition, intersexual children which already at birth display atypical sex/gender distinguishing features, are also often discriminated against, and unnecessary surgery is performed on them to fix their sex and gender. The latter often happens without the consent of these children or that of their parents and – one could add – often without any knowledge of which gender identity the child will develop in the future.

Regarding discrimination in education, “it is often in the primary school playground that boys deemed by others to be too effeminate or young girls seen as tomboys endure teasing and sometimes the first blows linked to their appearance and behaviour, perceived as failing to fit in with the heteronormative gender identity.”<sup>9</sup> This could also go on to include children whose gender identity deviates from the sex/gender assigned at birth, as well as those whose sex/gender identity does not deviate but who do not act according to the still prevailing stereotypes. Isolation and stigmatization engender depression and other health problems and contribute to absenteeism or even removal from school. In extreme cases they can even lead to suicide or suicide attempts.

The High Commissioner’s report also contains examples of discriminatory practices in the family and community. These discriminations show themselves in different ways, for instance by trans persons “being excluded from family homes, disinherited, prevented from going to school, sent to psychiatric institutions, forced to marry, forced to relinquish children,<sup>10</sup> punished for activist work and subjected to attacks on personal reputation.”<sup>11</sup> Here too, the risk is high for women due to the deeply rooted imbalance of the genders, and their self-determination is in particular jeopardy when it comes to crucial choices such as sexuality, reproduction and family life.

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**9** | *Ibid.* p. 19. See also International consultation on homophobic bullying and harassment in educational institutions, UNESCO concept note, July 2011. See Review of Homophobic Bullying in Educational Institutions. URL: <http://unesdoc.unesco.org/images/0021/002157/215708e.pdf> [02.12.2013].

**10** | “Relinquish” is here most certainly meant to imply abandoning existing children rather than renouncing the desire to have children. This is also corroborated by the experiences of some transgender persons with children. The French version of this passage is less ambiguous here: “obligées d’abandonner leurs enfants”, p. 23. URL: <http://www.ohchr.org/Documents/HR> [15.12.2013].

**11** | *Ibid.* p. 21.

After having outlined the various forms of discrimination listed in Navi Pillay's report, I will now examine how the violation of human rights of trans persons is addressed in a number of conventions and international norms.

First I would like to point to the issue paper<sup>12</sup> by Thomas Hammarberg, former Commissioner for Human Rights at the Council of Europe as well as to the document about 'good practices' that was drafted at Hammarberg's recommendation. It is also necessary to examine the recommendations of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity,<sup>13</sup> as well as the publications of the European Union Agency for Fundamental Rights in Vienna. The latter was involved in 2012 in a European LGBT study<sup>14</sup> which was published in 2013. In 2012, the European Commission also presented a document on this subject with the title "Trans and Intersex People. Discrimination on the Grounds of Sex, Gender Identity and Gender Expression".<sup>15</sup> In 2008 ILGA-Europe (The European Region of the International Lesbian and Gay Association) and TGEU (Transgender Europe) carried out the study "Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care"<sup>16</sup> on this subject. Finally the Belgian Institute for the Equality of Women and Men carried out in 2009 the transgender study "Being Transgender in Belgium. Mapping the Social and Legal Situation of Transgender People".<sup>17</sup>

All the texts mentioned above are based on the Yogyakarta Principles<sup>18</sup> which I will discuss in more detail below. The idea to set these up first came from a coalition of NGO's active in the area of human rights. The process of drafting the Yogyakarta Principles was accompanied, among others, by an international commission of jurists. In 2006 the idea was taken up in a speech by United Nations High Commissioner for Human Rights, Louise Arbour.

**12** | Hammarberg, T. (2009): Human Rights and Gender Identity. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1476365> [02.12.2013].

**13** | Council of Europe (2010): Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1606669>. [02.12.2013].

**14** | Agency for Fundamental Rights (Ed.) (2013): European Union lesbian, gay, bisexual and transgender survey - Results at a glance. URL: [http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance\\_en.pdf](http://fra.europa.eu/sites/default/files/eu-lgbt-survey-results-at-a-glance_en.pdf) [18.03.2014].

**15** | Agius, S., Tobler, C. (2011): Trans and intersex people. Discrimination on the grounds of sex, gender identity and gender expression. Directorate-General for Justice of the European Commission (Ed.). URL: [http://ec.europa.eu/justice/discrimination/files/trans\\_and\\_intersex\\_people\\_web3\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/trans_and_intersex_people_web3_en.pdf) [18.03.2014].

**16** | Whittle, S., Turner, L., Combs, R., Rhodes, S. (2008): Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Health Care. The European Region of the International Lesbian and Gay Association/Transgender Europe (ed.). URL: <http://www.pfc.org.uk/pdf/eurostudy.pdf> [18.03.2014].

**17** | Motmans, J. (2009): Être transgenre en Belgique. Un aperçu de la situation sociale et juridique des personnes transgenres. Institut pour l'égalité des femmes et des hommes (Ed.). URL: [http://igvm-iefh.belgium.be/fr/binaries/34%20-%20Transgender\\_FR\\_tcm337-81094.pdf](http://igvm-iefh.belgium.be/fr/binaries/34%20-%20Transgender_FR_tcm337-81094.pdf) [02.12.2013].

**18** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

The Yogyakarta Principles fulfill three functions:

1. The mapping of human rights violations that people with different sexual orientation or gender identities have been subjected to.
2. The strict and clear application of international law with respect to these experiences.
3. The detailed description of the obligations of States to effectively guarantee human rights.

For 12 months, from 2006 to 2007, 29 experts from 25 countries from all regions of the world worked together on drawing up the principles. Communication was frequently effected via electronic means and a final meeting took place from 6 to 9 November 2006 at the University Gadjadara in Yogyakarta, Indonesia. The definitive text was adopted unanimously and published on 26 March 2007. The Yogyakarta Principles were translated into the six official languages of the United Nations.

The text comprises 29 principles, beginning with three principles on the universality of human rights and their application to all human beings without discrimination. The principles 4-11 list the various fundamental rights, including the right to life, the right to freedom from torture and cruel, inhuman or degrading treatment, the right to security of the person, the right to privacy, the right to a fair trial, and the right to freedom from arbitrary deprivation of liberty. The principles 12-18 emphasize the significance of nondiscrimination with respect to social, economic and cultural rights, including the right to adequate housing, the right to work, the right to social security and other social protection measures and the right to the highest attainable standard of health. The principles 19-21 are devoted to the freedom of opinion and expression, the principles 22-23 to asylum seekers and the principles 24-26 to the right to found a family, the right to participate in public life as well as the right to participate in cultural life. Principle 27 recognizes the right to promote human rights. And finally, the principles 28 and 29 confirm the importance of the accountability of those who violate these human rights.

All these principles naturally refer to those people who have a different sexual orientation or gender identity that do not conform to heteronormativity.

In an article on the Yogyakarta Principles, Michael O'Flaherty,<sup>19</sup> the rapporteur of the group of experts, gives a critical assessment of the principles and comments that some of them could have been more extensive. For instance Principle 18 on the role of the media does not deal with all media but only with those controlled by the state. Some principles are also phrased a little vaguely. For instance Principle 21B on the expression and the promotion of different opinions leaves

the question open whether and in how far a religious community can exclude someone on the grounds of their sexual orientation. Other aspects are completely disregarded: Domestic violence in homosexual households or access to medical care in developing countries remain unmentioned. Also aspects discussed during the drafting of the text, such as the right to marriage between homosexual partners, were not incorporated. The principles were phrased neutrally in terms of gender to avoid binary gender constructions. The result of this was however that there is now no explicit reference to the particular situation of women.

The dissemination of the text was extremely successful and the Yogyakarta Principles are mentioned in almost every document on gender identities from a human rights perspective. There were also official reactions from many countries, from the bodies of the United Nations, the Council of Europe and from civil society. One should however also mention that the reaction to the Principles was not always a positive one. The American 'Catholic Family and Human Rights Institute' for instance calls it a dangerous document. Other press releases of this organization are in the same vein and for instance condemn UN General Secretary Ban Ki-Moon's address in defense of LGBT rights before the Human Rights Council in Geneva.<sup>20</sup> Fortunately there are also Roman Catholic organizations that distance themselves from the fundamentalist views of this American institute.

At this point I would like to mention only briefly the definitions of transgender as specified by the European Commission. It differentiates between: transsexual, transgender, travestite/cross dressing people, androgynous, polygender as well as genderqueer, agender people, gender variant and intersex people. The Yogyakarta Principles, which many other texts refer to, work with the following definition:

"Sexual orientation is understood to refer to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender. Gender identity is understood to refer to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms."<sup>21</sup>

**19** | O'Flaherty, M., Fisher, J. (2008): Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles. In: Human Rights Law Review 8:2. Oxford, pp. 207-248.

**20** | Gennarini, S. (2012): UN Secretary General Defies UN Member States on LGBT Rights and Reproductive Rights. URL: <http://c-fam.org/en/2012/7179-un-secretary-general-defies-un-member-states-on-lgbt-rights-and-reproductive-rights> [18.12.2013].

**21** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

In the legislative resolution of the European Parliament of 12 September 2012 on the proposal for a directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime<sup>22</sup> the gender term is used, to my knowledge for the first time, in a legislative text of this significance.

It should be underlined that the various human rights declarations and conventions are universal – they naturally also apply to trans persons.

The first Yogyakarta Principle clearly emphasizes the right to the universal meaning of human rights and specifies: “All human beings are born free and equal in dignity and rights. Human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights.”<sup>23</sup>

In the various international agreements, gender identity, as opposed to sexual orientation, is rarely mentioned as a motive for discrimination. The United Nations Committee on Economic, Social and Cultural Rights confirms: “In addition, gender identity is recognized as among the prohibited grounds of discrimination; for example persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the work place.”<sup>24</sup>

It is clear then that the anti-discrimination provisions, in so far as they are not limiting, also apply to transgender. Besides the agreements we should also mention the court decisions, in particular those of the Human Rights Court in Strasbourg, that have repeatedly dealt with transgender issues, for instance regarding the recognition of changed sex/gender features on identity cards or the question whether a total sex/gender reassignment operation can be regarded as a medically necessary treatment and is therefore eligible to be covered by insurance. This raises the question whether a person needs to undergo surgery in order to be able to benefit from such measures.

This is also addressed in Principle 3, one of the key Yogyakarta Principles: The right to recognition before the law:

“Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person’s self-defined sexual orientation and gender identity is integral to their personality and is one

**22** | European Parliament (2012): Legislative resolution 12.09.2012. URL: <http://europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P7-TA-2012-0327+0+DOC+PDF+V0//EN> [27.11.2013].

**23** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

**24** | United Nations (2009): Non-discrimination in Economic, Social and Cultural Rights. Committee on Economic, Social and Cultural Rights. URL: <http://www1.umn.edu7humanrts/gencomm/esgencom20.html> [10.12.2013].

of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilization or hormonal therapy as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity."<sup>25</sup>

To mention all human rights aspects with relation to transgender would exceed the scope of this article, which is why I will in the following discuss only the most important aspects:

A first example is the right to correct the registered gender on the birth certificate as well as the identity document. The denial of this right constitutes a violation of Article 8 of the European Human Rights Convention which states: "Everyone has the right to respect for his private and family life, his home and his correspondence." This is about two formal procedures, changing the first name and changing the registered gender. Some countries oblige these persons to comply with certain requirements, including undergoing sex/gender reassignment surgery under medical supervision, or an irreversible sterilization. These are often very protracted and lengthy procedures which means that people's identity documents are withheld from them for a long time. In addition they have to submit themselves to physical and psychological examinations that do not always respect their integrity. This forms a serious infringement of people's privacy by the state. Forcing trans persons to undergo surgery in order to have their registered gender changed constitutes a human rights violation. The same applies in the case when mentally healthy people who want to have their registered gender and first name changed in the civil register are obliged to consult a psychiatrist or psychologist in order to be issued a certificate about a (presumed) scientifically not conclusively established disorder.<sup>26</sup> The familial consequences have also to be considered. There are countries that oblige a trans person who is married to a partner of the other sex/gender to get divorced for their new gender to be recognized.<sup>27</sup> The problem arises in those countries that do not or not yet recognize same-sex marriages. Needless to say that a forced divorce also affects the children of such a couple.

**25** | The Yogyakarta Principles (2007): The Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity. URL: <http://www.yogyakartaprinciples.org/> [27.11.2013].

**26** | Drescher, J., Cohen-Kettenis, P., Winter, S. (2012): Minding the body: Situating gender identity diagnoses in the ICD-11. In: *International Review of Psychiatry*, December 2012; 24(6), p. 573.

**27** | Hammarberg, T. (2009): *Human Rights and Gender Identity*, 3.6. URL: <https://wcd.coe.int/ViewDoc.jsp?id=1476365> [02.12.2013], p. 21.

Another important aspect is the access to health care. The normal medical classifications regard transsexuality as a mental disorder. Here we should mention in particular two international classification systems: The Diagnostic and Statistical Manual of Mental Disorders (DSM) and the International Classification of Diseases (ICD) of the World Health Organisation (WHO) where transsexuality is listed in Chapter V (mental and behavioural disorders) in the category F64.<sup>28</sup> The last mentioned classification is expected to be changed in 2015. Are we here dealing with a stigmatization of a person on the grounds of a mental disorder diagnosis or does the diagnosis facilitate access to health care? It is a continuing debate.<sup>29</sup>

Setting a minimum age for gender assignment surgery and hormonal therapies constitutes a further serious restriction that does not do justice to the physical wellbeing and the ability to work of adult transgender persons or the wellbeing of a transgender child (as laid down in the Convention of the Rights of the Child, Art. 3), since this often increases and prolongs suffering. It would exceed the scope of this contribution to enter into a more detailed discussion of discrimination relating to access to employment, harassment and insults, acts of violence already described earlier, hate rhetoric against the background of transphobia, i.e. the irrational fear of and/or hostility towards transgender persons or persons who go against traditional gender norms in other ways.<sup>30</sup>

Fear is a corollary of ignorance, which also points to the role of education.

This brings me to a number of concluding remarks:

1. In LGBT the 'T', which stands for transgender persons and their concerns, is often given little space or even forgotten; something similar applies regarding the concerns of intersex persons; the concept 'LGBT' has not yet established itself comprehensively.
2. An important notion for me is that of dignity. Transgender persons deserve, just as anyone should, that one takes an interest in them, speaks of them, not in the sense of misplaced commiseration, but so that they can safeguard their rights. That is the advantage of a legal perspective: You can go to court when your rights have been violated.
3. Besides the aspect of dignity there is the aspect of non-discrimination, of physical and mental integrity. But one has to transcend these notions and bring the concept of social justice into the equation.

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28 | *Ibid.* p. 24.

29 | *Ibid.* p. 25.

30 | *Ibid.* p. 34.

4. The medicalization of the transgender issue has to be re-assessed as soon as possible and the classification of mental disorders revised.
5. The advantage of an approach from the human rights perspective is that the latter is based on a whole series of declarations and conventions that guarantee the rights of all persons and protect against discrimination. The disadvantage of such an approach is that these texts often do not reflect the specific concerns of LGBT, and most documents of the past 60 years do not explicitly mention aspects of sexuality, gender identity and also the intersex status. In the last years, however, efforts have increased to conduct empirical studies on the specific problems of LGBT that allow an approach from the perspective of social sciences and thus enable to break open the rigid frame of international norms. Such a study is the one conducted in 2012 by the Agency for Fundamental Rights (FRA), which primarily focused on the discrimination of gays and lesbians.<sup>31</sup> The peculiarities of bisexuals and transgender remained for the most part unconsidered, unless they overlapped with the concerns of gay or lesbian persons. This is why many trans persons did not care to participate in this study. So we can say that the personal situations of transgender people were not or not sufficiently portrayed. The data collected in the study are being evaluated separately since November 2013. In general one should note, however, that emotions and feelings by themselves do nothing to remedy the problems of this world, even though they might have an important collateral effect.
6. A further concern is that research should not limit itself to European studies. We should examine whether the LGBT categories, which could be extended by adding an I for intersex or a Q for queer, are not too eurocentrist or dominated by a Western perspective.
7. Guaranteeing LGBT rights occurs mostly on an international or European level and less so on a national one. The decisions of the Strasbourg court do not always go into the same direction, or as Ioanna Mincheva notes in her master thesis, “whose case-law is ever so often weakened by inconsistency.”<sup>32</sup>
8. The LGBT categories are social constructs and could therefore be questioned.
9. With regard to the rather long time it is taking to put the Yogyakarta Principles into practice one should bear in mind how long it took to establish the dispositions for the rights of women in society. Patience is required here. A top-down approach is probably faster, but it does not guarantee the accep-

**31** | Holzacker, R. (2011): *Gay Rights are Human Rights. The Framing of New Interpretations of International Human Rights Norms*, p. 3. URL: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1902165](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902165) [02.12.2013].

**32** | Mincheva, I. (2012): *Beyond equality and non-discrimination: Escaping narrow human rights framings in the context of sexual orientation and gender identity*, p.33. URL: <http://www.eiuc.org/research/publications/ema-awarded-theses.html> [02.12.2013].

tance among the wider population which is still very skeptical in particular towards the T in LGBT.

10. I also wish to emphasize the role of Article 14 of the European Convention on Human Rights. The article mentions gender as well as any other status. Although the term gender identity may be included in various directives it will be difficult to incorporate it in the Charter of Fundamental Rights itself if it is the only proposed change to an article.
11. One can see the LGBT movement as a new social movement with demands for social justice, for participatory parity which breaks through identity politics – one should also observe the parallel to the women's movement (Mincheva 2012: 64).

Let us take a brief look into the past:<sup>33</sup> In many countries the LGBT movement (initially LG) embraced the concept of identity. Activists saw their actions as part of the liberation movements of the 60s of the 20th century. Later the movement went beyond the concept of personal identity and took the demands to another level: The focus was now on the notion of protection of a public identity by the state, bringing the demands onto the level of civil law. Today it is necessary to move beyond the limited frame of equal treatment and non-discrimination aspects that the LGBT demands are still far too frequently based on. Unfortunately, it is often vague or general recommendations that win through instead of reformulating or deconstructing them to promote a better understanding. In addition to the emotional and personal claims to equity and fairness that invoke an inner sense of right and wrong, academic research should be encouraged in the field of social theory. We should, as Mincheva emphasizes, “move beyond looking at the LGBT movement through the prism of victimisation and start viewing it instead as a legitimate branch of new social movements, with a unique complexity and implications for the social and political environment.”<sup>34</sup>

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**33** | Holzacker, R. (2011): Gay Rights are Human Rights. The Framing of New Interpretations of International Human Rights Norms, S. 3. URL: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1902165](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1902165) [02.12.2013].

**34** | Mincheva, I. (2012): Beyond equality and non-discrimination: Escaping narrow human rights framings in the context of sexual orientation and gender identity, p. 67. URL: <http://www.eiuc.org/research/publications/ema-awarded-theses.html> [02.12.2013].

