



**VIOLENCE MOTIVATED  
BY HOMOPHOBIA**  
2011 REPORT

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Edited by **Mirosława Makuchowska**



Warsaw 2011

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Publication co-funded by the Foundation for Remembrance, Responsibility and Future under the project Out and Safe.



ISBN 978-83-930480-7-6

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Publisher  
Kampania Przeciw Homofobii (Campaign Against Homophobia)



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First edition  
Warsaw 2011

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## **ACKNOWLEDGMENTS**

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On behalf of the project team Out and Safe, we want to thank everyone who contributed to the realization of the project. In particular, we want to thank the Regional Hate Crime Counselors, without whose firm commitment and many hours of volunteer work, the project would not have been carried out in this form.

EVZ Foundation, thank you for the financial support as well as the substantive help in the preparation of the project.

We would also like to thank everyone who has devoted their time to filling out the questionnaire. Thanks to those surveys, we were able to conduct the study, the results of which have been presented in this report. At the same time, we hope that this publication will contribute to the improvement of the situation of Polish LGBT people, who in everyday life experience homophobic violence all too often.





## INTRODUCTION

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We present a very important publication, the first comprehensive study written in Polish to deal with violence motivated by homophobia. This issue is extremely important because it concerns a large part of the LGBT community living in Poland. Mental and physical abuse is often a part of everyday life for gays and lesbians, but the taboo that still surrounds the subject of homosexuality and the fear of social ostracism prevent victims from reporting crimes to law enforcement authorities or seeking help to cope with traumatic experiences. For these reasons, the subject of homophobic violence is invisible both to public institutions and to public opinion.

In the first chapter of this report, the authors present the concepts of hate crimes, applicable national and international standards and regulations and the attempts to monitor this issue which have been made in Poland to date.

In the second chapter, you will find the results of a study that was conducted on a group of over 400 people who have experienced homophobic violence. This study aimed to investigate the specifics of violence in terms of where it occurred, what type of violence was involved, who the

perpetrators were and whether the crimes were reported to law enforcement authorities.

In the section entitled “The attitudes and needs of people experiencing violence,” the author, based on the testimony of victims, conducts a qualitative analysis of the convictions about the violence suffered. We conclude the study with recommendations for public institutions engaged in activities connected with combating homophobic hate crime.

We are confident that this report will become an important voice in the debate on the eradication of violence motivated by homophobia and that it will provide reliable knowledge and practical guidance to law enforcement agencies and institutions providing assistance to those affected by homophobic violence.

## GLOSSARY OF TERMS

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**Coming out** – the decision to voluntarily disclose one’s non-heterosexual sexual orientation, often preceded by a process of self-acceptance.

**Hate crime** – aggression or violence directed at someone because they belong or allegedly belong to a group or category. Among the categories most frequently mentioned in criminal codes are: race, ethnicity, nationality, gender, gender identity, sexual orientation, age and disability.

Hate crime is comprised of two distinct features:

- it is an act which constitutes an offense under the criminal law, and
- the motive for the offense is based on prejudice.

**Homophobia** – prejudice against non-heterosexual people, often manifested as fear, hatred and intolerance. It may take the form of verbal and physical aggression and discrimination, i.e. worse treatment of homosexuals compared with heterosexuals. Homophobia also affects transgender

people, heterosexuals and bisexuals, when they are mistakenly attributed homosexual sexual orientation.

**Incidents of hatred** – behavior motivated by hatred against people belonging to a particular group or groups. The term refers to a broad spectrum of behavior, including physical violence, psychological or verbal abuse, sexual assault on one’s relatives and destruction of one’s property. In contrast to hate crime, an incident of hatred is not a criminal offense in the eyes of the law.

**LGBT** – the community of lesbian, gay, bisexual and transgender people (an acronym of: L – lesbian, G – gay, B – bisexual, T – transgender people).

**Non-heteronormative** – non-heterosexual or challenging the common belief that all people feel attracted to the opposite sex, and that all social institutions should favor heterosexual behavior

**A non-heterosexual person** – a homosexual person (gay or lesbian) or a bisexual person

**Sexual orientation** – a romantic, erotic and emotional desire for the people of a particular sex. There are three basic sexual orientations: heterosexuality (sexual desire for persons of the opposite sex), homosexuality (sexual desire for people of one’s own sex), and bisexuality (sexual desire for persons of the opposite sex or one’s own). Sexology considers all sexual orientations to be equal.<sup>1</sup> Statistically, most people are heterosexual (90% – 95%). The word homosexuality has been discarded in favor of the word heterosexuality.

**Outing** – the disclosure of one’s non-heterosexual sexual orientation against their will or without their knowledge. The motive for this behavior is the desire to humiliate the victim and to subject them to homophobia.

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<sup>1</sup> American Psychological Association (2008). Answers to your questions: For a better understanding of sexual orientation and homosexuality. Washington, D.C: Retrieved from: <http://www.apa.org/topics/sexuality/sorientation.pdf>

**Transgenderism** –mismatch between biological sex and psychological sex or the expression of gender. It frequently refers to transgender or transvestite people. Typically, transgender people seek to correct their biological sex, in order to match it with their psychological sense of gender.

**Transsexualism** – a discrepancy between the psychological sense of gender and the biological structure of the body, combined with a strong desire to correct the body so that it corresponds to the gender perceived by the person.

**Transvestism** – an inclination to temporarily identify with the opposite sex, which may manifest as a desire to mimic it; for example, by wearing the clothes and imitating the behavior of people of the opposite sex.

PART **I**

**ROBERT BIEDROŃ**

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## The concept of hate crimes

### **The concept of the criminality of hate crimes**

It is worth beginning our introduction to the analysis of hate crimes from the philosophical foundations of the criminality of such criminal offenses. These foundations mainly resulted from contemporary experience of the world wars. Witnessing the vast scale of hatred of one nation against others, the historical experience of religious wars and pogroms led to the adoption of doctrinal solutions for the future, doctrines which would protect humanity from the hatred of one group for another.

Two years before the outbreak of World War II, in 1937, Karl Loewenstein introduced the then controversial concept of militant democracy. Loewenstein was a philosopher, political scientist, and above all, an outstanding constitutionalist. Observing the growing popularity of the fascist movement, he noticed that the movement quickly became international,

centered on totalitarian leadership, uniformization, and subordination. Loewenstein saw in fascism the crisis of democratic governance, based on the constitution and the normative interpretation of positive law. This movement did not have any rational arguments; it only appealed to emotions and fears, resulting in prejudices and stereotypes. To defend itself against this type of movement, democracy must be equipped with instruments of protection. This should allow the democratic systems to adopt mechanisms that will protect them from destruction. Such a mechanism is, for example, a ban on political parties and movements that promote an ideology calling for the abolition of democracy and inciting hatred against any group. Adam Bodnar and Margaret Szuleka write that militant democracy is based on three fundamental assumptions. “First, it is considered a sign of democracy, not its ‘perversion.’ What one should understand by this is that the instruments serving as the defense of democracy are used in exceptional circumstances and are not the only tools for solving given problems. Second, the rules introduced in the spirit of militant democracy must meet ethical standards. In practice, the essence of militant democracy involves, for example, banning the creation of political parties, which in their platforms call for the destruction of the democratic system, creating a certain limit on the exercise of freedom of speech and placing limitations on the freedom of peaceful assembly. Thus, based on these assumptions, the legislature decides to exclude from the market of ideas certain beliefs which could impair the proper functioning of the democratic system.”<sup>2</sup>

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<sup>2</sup> Bodnar A., Szuleka M., *Koncepcja “nadużycia prawa” w Konwencji o ochronie praw człowieka i podstawowych wolności a mowa nienawiści. [In:] Mowa nienawiści a wolność słowa. Aspekty prawne i społeczne*, eds. Wieruszewski R., Wyrzykowski, M., Bodnar A., Gliszczyńska-Grabias A., Wolters Kluwer Polska: Warszawa, 2010, p. 154.



## Basic Concepts

### Hate Speech

**Hate Speech** describes a variety of emotionally negative utterances originating from prejudices and directed against groups or individuals because of alleged or actual affiliation with the group. The description of the groups as inferior and less valued can both condone or encourage violence and justify its use. Sergei Kowalski and Magdalena Tulli in the book *Instead of a trial: Report on hate speech* write that hate speech in the colloquial meaning is “any statement reviling, deriding and humiliating an individual or a group.”<sup>3</sup> In the report prepared for the Bureau of Research and Expertise of the Sejm Chancellery, we read that “*mowa nienawiści* is the equivalent of the English term ‘hate speech’ – spoken and written statements ... which revile, accuse, degrade and ridicule groups and individuals for reasons partly independent of them, such as belonging to racial, ethnic, religious and gender groups, and gender identity or sexual preference.”<sup>4</sup> The definition of hate speech can also be found in the recommendation of the Ministers of the Council of Europe of 1997, according to which hate speech is “any form of speech that disseminates, instigates, promotes or justifies racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed in the form of aggressive nationalism or ethnocentrism, discrimination or hostility against minorities, migrants or people deriving from immigrant communities.”<sup>5</sup> However, the narrow scope expressed in the recommendation is no longer sufficient because of new experiences and changes in sensitivity to hate speech, and orders the extension of the catalogue of groups protected against such acts. Eve Rylko defines hate speech as “different types of emotionally negative

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<sup>3</sup> Kowalski S., Tulli M., *Zamiast procesu. Raport o mowie nienawiści*, WAB, 2003, p. 21.

<sup>4</sup> Łodziński S., *Problemy dyskryminacji osób należących do mniejszości narodowych i etnicznych w Polsce*, raport nr 219, Wydział analiz ekonomicznych i społecznych Kancelarii Sejmu, Biuro studiów i ekspertyz, 2003.

<sup>5</sup> Annex to the recommendation of the Committee of Ministers of the Council of Europe No. R(97) 20, adopted on October 30, 1997.

utterances, directed against groups that are perceived of as ‘worse.’<sup>6</sup> It may be noticed that in the presented definitions the recipient of hate speech is defined as both a group and as an individual, since hate speech is addressed primarily to a group. Even if it seemingly affects one particular person, it does so to reduce this person to a typical representative of the group, to which all the alleged motives and characteristic features are attributed. Anna Lipowska-Teutsch believes that a significant vehicle of hate speech is the media. As an example of the impact of the media on societal hatred towards “others,” Lipowska-Teutsch mentions the Radio of a Thousand Hills, whose popularity in Rwanda contributed significantly to the Tutsi genocide, inciting hatred and murder and creating a picture of Tutsis as cockroaches who need to be exterminated.<sup>7</sup>

## Hate Crimes

As defined by ODIHR (Office for Democratic Institutions and Human Rights), an OSCE institution, hate crime is “any crime of a criminal nature, aimed at people and their property, which includes choosing the victims or other targets because of their actual or alleged affiliation with or support of a group distinguished by characteristics common to its members, such as actual or assumed race, nationality or ethnic origin, language, skin color, religion, sex, age, physical or mental disability, sexual orientation or other similar characteristics.”<sup>8</sup> Anna Szul-Szywała, following Garofalo and Martin, believes that the term hate crime “refers to such acts where the perpetrator, while committing the crime, is motivated by certain features of the victim, or by the victim’s belonging to a given group towards which the perpetrator feels resentment. The object of the perpetrator’s actions is not a specific individual, but a feature of the individual which

<sup>6</sup> Ryłko E., *Jak mówić o przestępstwach z nienawiści?* [In]: *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*, eds. Lipowska-Teutsch A., Ryłko E., Towarzystwo Interwencji Kryzysowej: Warszawa, 2007, p. 11.

<sup>7</sup> Lipowska-Teutsch A., *Mowa nienawiści. Szerzenie nienawiści przez Internet*. [In]: *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*, eds. Lipowska-Teutsch A., Ryłko E., Towarzystwo Interwencji Kryzysowej: Warszawa, 2007, p. 22.

<sup>8</sup> Ryłko E., *Jak mówić o przestępstwach z nienawiści?* [In]: *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*, eds. Lipowska-Teutsch A., Ryłko E., Towarzystwo Interwencji Kryzysowej: Warszawa, 2007, p. 11.

characterizes the victim as different, alien, or belonging to a group hostile to the offender (in reality or only in the eyes of the perpetrator).”<sup>9</sup> Hate crimes are sometimes also known as crimes motivated by prejudice, or bias crimes.<sup>10</sup>

Hate speech and hate crimes are closely related. Hateful words can encourage or accompany crimes on the targeted groups or their members. Unfortunately, no consensus has been reached in the world about the scope of criminalization of hate speech and crimes motivated by it. Despite a growing agreement on the prosecution of hate crimes against all groups prone to it, the use of hate speech often remains unpunished, and even fueled by politicians or other public authorities themselves.

What can lead to hate crimes are incidents **motivated by prejudices**, which are not directed against a particular victim and which still cannot be qualified as crimes, but which may lead to crimes.

## Homophobia

These terms are closely linked with the term **homophobia**, whose definition is central to the purposes of this report. According to the report *The social situation of bisexual and homosexual people in Poland: The report for 2005 and 2006*, **homophobia** is “resentment and negative emotions felt towards bisexual or homosexual persons, overly generalized – usually negative – convictions about features which are supposedly characteristic of all representatives of this group, and conduct resulting from these emotions and beliefs involving a different, usually inferior treatment of people perceived of as belonging to the group.”<sup>11</sup> The European Parliament on 18 January 2006 in the resolution on homophobia in Europe defined homophobia as “unfounded fear and aversion to homosexuality and to

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<sup>9</sup> Szul-Szywała A., *Przestępstwa z nienawiści w polskim prawie*. [In]: *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*, eds. Lipowska-Teutsch A., Ryłko E., Towarzystwo Interwencji Kryzysowej: Warszawa, 2007, p. 13.

<sup>10</sup> *Preventing and responding to hate crimes. A resource guide for NGO's in the OSCE region*, ODIHR: Warszawa, 2009, p. 11.

<sup>11</sup> *Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, ed. Abramowicz M., Kampania Przeciw Homofobii, Lambda Warszawa, 2007, p. 9.

lesbian, gay, bisexual and transgender people based on prejudice similar to racism, xenophobia, anti-Semitism and sexism.<sup>12</sup>

## The process of stereotyping and prejudice formation

An important factor causing crimes motivated by hatred is hostility toward a given group. As research shows, humans have readily formed groups, from the beginning of our species. Although groups are ubiquitous, they do not arise naturally, but are designed and created by human cognitive activity.<sup>13</sup> Belonging to a group makes life easier and safer. This need also exists in the animal world.<sup>14</sup> But it has a negative impact – it causes us to generally favor our own group, valuing it more than the groups we do not belong to. This constitutes the basis for negative feelings towards other groups and for the belief that their members are characterized by certain common features. Members of other groups are therefore believed to threaten our well-being or values and traditions cherished by us.<sup>15</sup> This could escalate into hostility or even aggression among groups.

**Social categorization**, which is the perceptive division of units into discrete categories or groups, is a fundamental cognitive process that simplifies, organizes and gives meaning to the social environment. It is a basic prerequisite for any kind of inter-group behavior. The tendency to perceive others as members or representatives of a category, instead of as individuals, arises in a universal, fast and apparently automatic way in many situations. One of the effects of social categorization is the emphasis on similarities within categories and on differences outside categories which constitutes the basis for stereotyping.<sup>16</sup>

<sup>12</sup> Retrieved from: <http://www.europarl.europa.eu/sides/getDoc.do?jsessionid=E573A718D7BF38A82936752C9C1E48E3.node1?language=PL&reference=P6-TA-2006-0018&type=TA>

<sup>13</sup> Duckitt J., *Uprzedzenia i wrogość między grupami*. [In]: *Psychologia polityczna*, eds. Sears, David O., Huddy, Leonie, Robert Jervis, Wydawnictwo Uniwersytetu Jagiellońskiego, 2008, p. 512.

<sup>14</sup> Brewer M.B., Miller, N., *Intergroup relations*, Pacific Grove, CA: Brooks-Cole, 1996.

<sup>15</sup> Nelson T. D., *Psychologia uprzedzeń*, Gdańskie Wydawnictwo Psychologiczne: Gdańsk 2003, pp. 22–23.

<sup>16</sup> Duckitt, J., *Uprzedzenia i wrogość między grupami*. [In]: *Psychologia polityczna*, eds. Sears, David O., Huddy, Leonie, Robert Jervis, Wydawnictwo Uniwersytetu

And this very belief that members of a given group are characterized by certain common characteristics is called a **stereotype**. This term was coined in 1922 by journalist Walter Lippmann to describe the human tendency to see people or objects as similar (with similar attributes) based on their common characteristics. Lippman says that we all have in our minds “mental images” of the outside world. They resemble templates through which we try to simplify the often ambiguous information that comes to us from the environment.<sup>17</sup> Numerous studies have shown that when individuals are categorized as members of groups, their similarity to other members of their own group and their dissimilarity to members of other groups are exaggerated. Another consequence of the division of individuals into categories of one’s own group and alien groups is the general trend of members of one’s own group to consider foreign groups less complex, less diverse and less individualized than one’s own group.<sup>18</sup>

It is also worth mentioning the category of **prejudice**, which is often a part of the intolerance and discrimination against different social groups. Prejudice is an opinion of an object formed before coming into contact with the object. It can be against a whole group or an individual who belongs to this group.<sup>19</sup> It is a biased assessment of a certain group, based on real or imagined characteristics of its members.<sup>20</sup>

Stereotypes are closely linked in everyday life with prejudice, intolerance and discrimination. This was confirmed in scientific theories, such as the **theory of homeostasis** and the theory of deliberate action. According to the theory of homeostasis, our attitudes, behaviors, and evaluation (and affection) for the other person should remain harmonious; otherwise we experience a state of “imbalance” that is an unpleasant state of cognitive arousal (we say one thing and do another). Leon Festinger, an American

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Jagiellońskiego, 2008, p. 512.

<sup>17</sup> Nelson T. D., *Psychologia uprzedzeń*, Gdańskie Wydawnictwo Psychologiczne: Gdańsk 2003, p. 25.

<sup>18</sup> Duckitt, J., *Uprzedzenia i wrogość między grupami*. [In:] *Psychologia polityczna*, eds. Sears, David O., Huddy, Leonie, Robert Jervis, Wydawnictwo Uniwersytetu Jagiellońskiego, 2008, p. 512.

<sup>19</sup> Nelson, T. D., *Psychologia uprzedzeń*, Gdańskie Wydawnictwo Psychologiczne: Gdańsk 2003, p. 29.

<sup>20</sup> *Ibid.*, p. 33.

social psychologist, has called this phenomenon **cognitive dissonance** – a term popular today. The theory of homeostasis states, therefore, that it would be absurd to have a favorable opinion on gays and to tell homophobic jokes about them at the same time. According to the **theory of deliberate action** our beliefs about the group are determined by our attitude towards it. In this model, beliefs (stereotypes) of a person about a given group are always consistent with his or her attitude (prejudice) towards this group.<sup>21</sup>

While prejudice concerns attitudes and opinions and stereotypes concern convictions, discrimination refers to actual behavior towards another group or individual. Unjustified differentiation of someone's situation or rights, particularly on grounds of sex, race, ethnicity, nationality, religion or denomination, worldview, political views, disability, age, sexual orientation, marital status or family situation is defined as **discrimination**. Discrimination means unequal treatment, legally unjustified and unwarranted by any objective reasons. Any such action constitutes a breach of the principle of equal treatment and a violation of fundamental human rights and freedoms.<sup>22</sup>

Prejudices, stereotypes and the intolerance they cause as well as discrimination are the driving force of hate crimes. This is evident when you browse human history – the Spanish Inquisition, slave trade, the Holocaust, religious wars and genocide in Rwanda and former Yugoslavia are ominous examples of the functioning of the prejudices and stereotypes.

## **The effects of hate crimes**

Crimes motivated by hatred have a greater impact on the victim than “ordinary” crimes. This is because they carry a message for the entire group to which the victim belongs. This message is that the group should be excluded, isolated or not tolerated in society. Crimes motivated by hatred propagate hatred, which can grow into major conflicts, including mass genocide. Therefore, this type of crime should be treated differently than the “usual” crimes.

Hate crimes often leave the victim fearing further attacks and increased violence. This fear involves the rejection of the identity of the

<sup>21</sup> Ibid., p. 34.

<sup>22</sup> Retrieved from: <http://www.rownetraktowanie.gov.pl/dyskryminacja>

crime victim. It is his or her identity that became the basis of aggression and made the aggressor attack the victim – because he or she was an Arab, a woman, a gay, Jewish, disabled, female, a transgender person. At the same time, this act carries the message that the victim is not accepted in his or her community. As a consequence, the attack victim may experience a sense of isolation, a bigger and longer-lasting fear than a victim of an “ordinary” crime. Research also shows that victims of hate crimes experience more negative emotions than victims of other crimes. A lack of support or assistance, or playing down crimes motivated by hatred can cause further harm to the already injured victim. This re-victimization may occur especially when the representatives of police, social services, doctors, prosecutors and judges deny or diminish the effects of the crime. For many victims of hate crimes re-victimization can lead to even greater humiliation and isolation.<sup>23</sup>

Crimes motivated by hate also have an often destructive impact on the family, friends and acquaintances of the victims. They additionally affect other people who may feel like the object of prejudice and hatred coming from criminals. They may also fear future aggression. When crimes motivated by hatred against a particular group are not adequately prosecuted and the offenders justly punished, the public can perceive such behavior as a signal that the perpetrator can act with impunity, and others may feel encouraged to commit similar crimes. A lack of protection against hate-motivated crimes can lead to further marginalization of population groups vulnerable to hatred. In extreme cases, hatred towards one group can be a catalyst of retaliation from the other group, which just increases the spiral of hate.<sup>24</sup>

## **The arguments for the criminalization of hate crimes**

Criminalization of hate crimes is important for the following reasons:

- It is a symbolic acknowledgment for the potential victims, perpetrators and society that the state treats hate crimes seriously;

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<sup>23</sup> The research of the American Psychological Association, available on [http://www.lambda.org/apa\\_hate.pdf](http://www.lambda.org/apa_hate.pdf)

<sup>24</sup> *Preventing and responding to hate crimes. A resource guide for NGO's in the OSCE region*, ODIHR: Warszawa, 2009, pp. 17–18.

- The legislative process provokes discussion about the issue. This increases public awareness of hate crimes;
- It allows institutions responsible for law enforcement to analyze the motives for the offense, so they can professionalize the prosecution of such crimes;
- It allows victims to enforce their rights;
- It facilitates the collection of more accurate data on hate-motivated crimes.<sup>25</sup>

### **Social perception of hate speech**

In May 2007, the Public Opinion Research Center (CBOS) conducted a survey which aimed to diagnose the extent to which hate speech exists in the public mind, where this form of verbal violence is perceived most often, and who – according to those surveyed – communicates these messages and what features this hatred mainly contains. Poles were also asked about attitudes toward freedom of expression and they were asked to express their opinions about a variety of terms operating in discursive space.

Two fifths of respondents (40%) admitted that at least once they encountered statements that have offended others because of their race, color, national origin, sexual orientation, etc. More than half of the respondents (55%) said they did not notice this form of verbal violence. Research shows that witnesses of hate speech were often the youngest respondents, including high school and college students. Also, people with higher and secondary education acknowledged more often than less educated people that they have heard such statements. For 78% of Poles who have witnessed hate speech, these statements were blatant, and 17% had a neutral attitude towards them. One can clearly observe here a difference in perception of oppressive messages between men and women. Men are much more likely than women to declare their indifference to offensive speech. Poles believe that hate speech is used most often by politicians (up to 49% of responses), members of ideological organizations (44%) and pedestrians in the street (42%). Quite a large group of respondents (36%) noted that offensive speech often comes from people connected with the Catholic Church. Offensive speech, according to respondents, most often targets sexual orientation (up

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<sup>25</sup> Ibid., pp. 19–20.



to 78% responses), skin color (60%), religious beliefs (39%) and also nationality and ethnicity (36%).

The survey clearly shows that Poles consent to limiting the freedom of expression so as not to violate the dignity of others. As many as 73% of respondents believe that “freedom of speech guarantees the freedom of expression, provided that the opinions expressed are not offensive, deriding or harmful to other people.” The respondents were also asked about the most offensive words. Among the terms presented by the CBOS, the most unanimously rated as offensive were those relating to homosexual men (“*pedał*” or fag) and (“*ciota*” or queer), coming before “redneck,” “nigger” and “dyke.”

Also alarming is the lack of legal awareness relating to the criminalization of hate speech; only two fifths of adult Poles know that language of hatred towards some social groups<sup>26</sup> is penalized in Poland.<sup>27</sup>

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<sup>26</sup> The Penal Code penalizes incitement to hatred, insults, violence or unlawful threats towards a group of persons or individuals because of their national, ethnic, racial, political or religious identity or because of their lack of religious belief.

<sup>27</sup> *Spółeczna percepcja przemocy werbalnej i mowy nienawiści. Komunikat z badań*, Centrum Badania Opinii Społecznej, Warszawa, May 2007.

# Hate crimes motivated by homophobia. A review of standards, commitments and international and domestic law

## **International standards and commitments**

In 2001, under the auspices of the **United Nations** (UN), a World Conference Against Racism was held in Durban. The action plan adopted by the participating countries “urges states to collect, compile, analyze, disseminate and publish reliable statistical data at the national and local levels and to undertake all other related measures which are necessary to regularly assess the situation of individuals and groups of individuals who are victims of racism, racial discrimination, xenophobia and related intolerance.... The statistical data and information should be collected with the objective of monitoring the situation of marginalized groups, and the development and evaluation of legislation, policies, practices and other measures aimed at preventing and combating racism, racial discrimination, xenophobia and related intolerance, as well as for the purpose of determining whether any measures have an unintentional disparate impact on victims. To that end, [the Conference] recommends the development of voluntary, consensual and participatory strategies in the process of collecting, designing and using information.”<sup>28</sup> The conference was of fundamental importance for the creation of a UN system of monitoring and prevention of hate crimes. The work undertaken in 2001

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<sup>28</sup> Retrieved from: <http://www.mswia.gov.pl/portal/pl/100/208/Dokumenty.html>

was continued during the next conference in 2009.<sup>29</sup> In the UN structure, the parties responsible for this issue are: the UN Special Rapporteur on Racism, the Office of UN High Commissioner for Human Rights (OHCHR) and UN High Commissioner for Refugees (UNHCR).

In the systems of the Council of Europe and the European Union a number of political and legal standards and obligations have recently appeared regarding hate crimes. The framework decision of the **European Union** (EU) in combating racism and xenophobia, adopted April 20, 2007, is binding for all EU member states. The decision emphasizes that racist and xenophobic motives in crimes are incriminating circumstances, and should be taken into account by courts in determining the length of sentences.<sup>30</sup> An important element of the European Union is also the Fundamental Rights Agency (FRA), which monitors whether human rights are upheld in member countries.

One of the first political acts in the realm of counteracting hate speech and hate crimes motivated by it was the adoption by the General Assembly of the Council of Europe of Recommendation No. R 97 (20). The recommendation not only formulates the definition of hate speech (presented at the beginning of this analysis), but also gives the mandate of the Council of Europe to member countries for further action.

**The European Commission against Racism and Intolerance** (ECRI) – an independent body monitoring the phenomenon of racism and intolerance within the **Council of Europe** – since adopting Recommendation No. 7 on “national legislation combating racism and racial discrimination” on December 13, 2003 – has encouraged member states to adjust their laws so that crimes motivated by racial hatred become additional aggravating circumstances. The ECRI recommends its member states to introduce or supplement relevant legal regulations in civil, administrative and penal codes. It contains a definition of racism as well as direct and indirect racial discrimination, and recommends that national legislation clearly define both forms of discrimination and prohibit it. Especially noteworthy is the mandate that the legal prohibition of discrimination be in force not only for public authorities (vertical plane), but also individuals and legal enti-

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<sup>29</sup> Retrieved from: <http://www.humanrightsfirst.org/our-work/fighting-discrimination/united-nations/>

<sup>30</sup> *2008 Hate Crime Survey*, Human Rights First, Washington, 2008, p. 171.

ties (horizontal plane). According to the recommendation, the granting of contracts, subsidies or other benefits by a public authority to private entities or NGOs should be dependent on these entities' compliance with and promotion of a non-discrimination policy. The ECRI also recommends that countries set up an independent national body dedicated to combating racism and racial discrimination. This recommendation was supported by the subsequent Council document – Recommendation No. 11 of June 29, 2007 – on “combating racism and racial discrimination in police operations.” The ECRI stressed the important role of the police in better reporting of such crimes, the term “police” signifying all those who have the power to use force to execute the law and maintain order in society, especially the power to perform activities of a preventive and investigative nature. It therefore refers to the actions of both the police and other agencies responsible for order and security, regardless of their name or civil or military nature, including the security services, intelligence agencies and border control. As a priority, the ECRI recommends that the Council of Europe member states clearly define and prohibit what – for lack of a better term – can be described by a direct translation from English as “racial profiling” (*profilowanie rasowe*), understood in the recommendation as “the use by police in controlling, supervising or investigating, without objective or reasonable justification, of criteria such as race, skin color, language, religion, nationality or national or ethnic origin.” Understood this way, in the light of the recommendation, racial profiling constitutes a specific form of racial discrimination. The detailed provisions contained in this document recommend among others: establishing a reasonable standard and objective criteria for defining suspects as the sole basis for police action, broadly defined, against a given person; establishing and maintaining a system for recording and monitoring racist incidents understood – very broadly – as the incidents that are perceived as racist by the victim or anyone else; establishing a body independent of the police and prosecutors for investigating cases of racial discrimination by the police; police training to act in a racially diverse society; and employing on the police force persons belonging to underrepresented minority groups and ensuring cooperation between them and the police.<sup>31</sup>

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<sup>31</sup> The recommendations are available on: [http://www.coe.int/t/dghl/monitoring/ecri/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp)

The Council of Europe also adopted another important document: a Supplementary Protocol to the Convention on Cybercrime. The Protocol orders the punishment of acts of a racist and xenophobic nature committed through computer systems, calls for the punishment of, among other things, disseminating racist and xenophobic content as well as making insults and threats on racist and xenophobic grounds through the Internet, and the punishment of “the Auschwitz lie.” However, the states are left the possibility of excluding the prosecution or punishment of acts committed only with intent to incite hatred, violence or discrimination. The Protocol, however, remains a mere declaration; it was in fact ratified by six countries.<sup>32</sup>

An important element of the Council of Europe is the **European Court of Human Rights** in Strasbourg. The line of adjudication of the Court with regard to hate crimes unanimously underlines the obligation of state institutions to investigate racist motives in cases of violent crimes. In its ruling of *Nachova et al. v. Bulgaria*, from 2005, the Court repeated that “the right to life and the prohibition of any discrimination, in particular one of racial or ethnic origin, reflect the fundamental values of democratic societies, on which the Council of Europe was built. Acts motivated by hatred on ethnic grounds leading to loss of human life shake the foundations of such societies, and, therefore, always require exceptional insightfulness and effective response from the national government. Hence, in each case in which there is a suspicion that the use of violence was caused by racist motives, it is particularly important that the following investigation be carried out in a fully impartial manner. This is meant to consistently demonstrate to the public the condemnation of racial and ethnic hatred and to maintain the trust and faith of minority groups in the authorities to protect them from the threat of racist violence. Thus, if the state wants to meet its positive obligation procedurally stated in Article 2 of the European Convention on Human Rights, it must effectively enforce criminal laws against those who unlawfully took human life, regardless of the racial or

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<sup>32</sup> Śledzińska-Simon A., *Decyzja ramowa w sprawie zwalczania pewnych form i przejawów rasizmu i ksenofobii jako trudny kompromis wobec mowy nienawiści w Unii Europejskiej*. [In:] *Mowa nienawiści a wolność słowa. Aspekty prawne i społeczne*, eds. Wieruszewski R., Wyrzykowski, M., Bodnar A., Gliszczyńska-Grabias A., Wolters Kluwer Polska, Warszawa, 2010, p. 98.

ethnic origin of that person.”<sup>33</sup> A similar position was represented by the Court in matters of *Angelova and Iliev v. Bulgaria* and *Secic v. Croatia*.<sup>34</sup>

Counteracting crimes motivated by hatred is an important aspect of the system of the Organization for Security and Co-operation in Europe (OSCE). In order to coordinate the work on a solution to this problem, among other things, the Office for Democratic Institutions and Human Rights (ODIHR) was established. The institution was founded in 1990 under the Charter of Paris. The ODIHR, in cooperation with police experts from six countries of the OSCE, has created a training program for law enforcement officers, whose focus is combating hate crimes. This program has been expanded and now also includes training for prosecutors and court investigators. It consists of four main components: 1) training police officers in the field in all aspects of hate crime: intervening, investigating, acquiring information, making information available and cooperating with prosecutors; 2) developing strategies for fighting hate crimes based on the active leadership of the police and community initiatives; 3) developing effective procedures for acquiring and publicizing data on hate crimes; and 4) training prosecutors in using the information acquired in order to determine whether there was a crime.<sup>35</sup> The ODIHR also annually publishes a report on crimes motivated by hatred. This report is published based on data supplied by the OSCE member states, international organizations, NGOs and the media.<sup>36</sup> There are also two websites devoted to this subject: *Legislationonline* includes source data from the OSCE member states, and *TADIS* (Tolerance and Non-Discrimination Information System) is a collection of information on preventing discrimination and tolerance in 56 countries of the OSCE.

On 24 October 2006, the Polish government joined the Law Enforcement Program for Combating Hate Crime, coordinated by the Organization for Security and Cooperation in Europe, which currently includes as members Spain, Croatia, France, Germany, Great Britain, Hungary and the United States. Countries participating in the program try to

<sup>33</sup> More on the ruling at: [www.pk.gov.pl/upload\\_doc/000001033.doc](http://www.pk.gov.pl/upload_doc/000001033.doc)

<sup>34</sup> *2008 Hate Crime Survey*, Human Rights First, Washington, 2008, p. 171.

<sup>35</sup> Retrieved from: <http://www.osce.org/pl/odihr/20701>

<sup>36</sup> *Preventing and responding to hate crimes. A resource guide for NGO's in the OSCE region*, ODIHR: Warszawa, 2009, p. 12.

develop common and national strategies to fight hate crimes with the active participation of social partners. In line with the recommendations of the ODIHR, the program should include all groups vulnerable to hate crimes. Unfortunately, in Poland, LGBT organizations do not participate in the work on the program and the program itself does not mention the problem of homophobia.<sup>37</sup>

### **Legislation on hate crimes in selected countries**

It is worth pointing out that the regulations relating to hate crimes emerged from the experience of cruelty and violence of World War II, and that they are the result of the development of grassroots movements for human rights (including women's, LGBT and blacks' movements, etc.) and of the development of anti-discrimination laws and standards.

The legal solutions concerning hate crimes can be grouped into the following categories:

- Laws defining acts motivated by prejudice as a separate offense;
- Classification of offenses or a risk of higher punishment;
- Rules underlying civil claims in cases of violations motivated by prejudice; and
- Laws requiring public institutions to collect statistical data on crimes motivated by hatred.

In some cases, e.g. in Bosnia and Herzegovina, the law also focuses on war crimes, genocide and crimes against humanity, with the prohibition of discrimination limited to representatives of public bodies.

**Relevant regulations exist today in many countries of Western Europe, the USA, Canada and New Zealand.**<sup>38</sup> For example, in 2003 France strengthened the law concerning the criminalization of hate crimes, increasing the penalty for hate-motivated murder from 30 years in prison to life imprisonment. At the same time, the penalty for hate crimes in which the victim suffered permanent injuries was raised from 10 to 15 years imprisonment. In 2002, the Swedes adopted an amendment

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<sup>37</sup> More on the "Program" at: [http://www.mswia.gov.pl/portal/pl/343/4342/Program\\_Stosowania\\_Prawa\\_na\\_rzecz\\_Zwalczania\\_Przestepstw\\_z\\_Nienawisci.html](http://www.mswia.gov.pl/portal/pl/343/4342/Program_Stosowania_Prawa_na_rzecz_Zwalczania_Przestepstw_z_Nienawisci.html)

<sup>38</sup> Retrieved from: [http://www.bezupzedzen.org/doc/opinia\\_prawna\\_PSEP.pdf](http://www.bezupzedzen.org/doc/opinia_prawna_PSEP.pdf)

to their constitution which added sexual orientation alongside features such as nationality, ethnicity and religion on the list of traits under the protection against hate speech. One of the first people to be tried under this law was a Protestant pastor, Ake Green. In his statements, he compared homosexuality to “a very big cancer eating society from the inside,” adding that “God may vomit on Sweden because it is tolerant towards sexual minorities.”<sup>39</sup> A similar provision, concerning anti-discrimination policy, is set forth in the constitution of the Republic of South Africa. The Canadian Parliament in 2004 adopted an amendment to the criminal code which added sexual orientation to the four other traits protected from hate speech. Today, this protection embraces skin color, race, religion, ethnicity and sexual orientation.

In Europe, only Albania, Cyprus, Estonia, San Marino and Slovenia do not have adequate legislation on hate crimes.

### **Hate crimes in the Polish legal system**

Legislation on hate crimes can be inferred from the Constitution of the Republic of Poland. Article 35 states that “the Republic of Poland shall ensure for Polish citizens belonging to national or ethnic minorities the freedom to maintain and develop their own language, to maintain customs and traditions, and to develop their own culture. National and ethnic minorities shall have the right to establish educational and cultural institutions, institutions designed to protect religious identity, as well as to participate in the resolution of matters connected with their cultural identity.”

This Article directly corresponds to Article 13, where the legislature has prohibited the existence of “political parties and other organizations whose platforms are based upon totalitarian methods and the modes of activity of nazism, fascism and communism, as well as those whose platforms or activities which sanction racial or national hatred, the application of violence for the purpose of obtaining power or to influence national policy, or the secrecy of their own structure or membership.” The Constitution also contains a provision on human dignity (“The inherent and inalienable dignity of the person shall constitute a source of freedoms

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<sup>39</sup> Ibid.



and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities.” – Art. 30) and one for gender (“All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities. No one shall be discriminated against in political, social or economic life for any reason whatsoever.” – Art. 32).<sup>40</sup>

## **Penal Code**

### **Chapter XVI**

#### **Crimes against peace, humanity and war crimes**

##### **Article 118**

§ 1 Any person who, with the purpose of destroying in whole or in part, a national, ethnical, racial, political or religious group or a group holding certain beliefs, commits homicide or causes serious injury to a person belonging to such a group, shall be subject to imprisonment of not less than 12 years, with a sentence of 25 years imprisonment or life imprisonment.

§ 2 Any person who, for the purpose specified in § 1, provides for persons belonging to such a group living conditions which carry the risk of its biological destruction, applies measures aimed at preventing births within the group or removes children from members of the group by force, shall be subject to imprisonment of not less than 5 years or a sentence of 25 years imprisonment.

§ 3 Any person who makes preparations for the offense specified in § 1 or 2, shall be subject to imprisonment of not less than 3 years.

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<sup>40</sup> **The Constitution of the Republic of Poland, Retrieved from:** <http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm>

## Article 119

§ 1 Any person who uses violence or makes an unlawful threat towards a group of persons or particular individuals because of their national, ethnic, racial, political or religious identity or because of their lack of religious belief, shall be subject to imprisonment of 3 months to 5 years.

§ 2 The same sentence shall be given to a person who incites others to commit the offense specified in § 1.

## **Chapter XIX**

### **Crimes against life and health**

## Article 148

§ 1 Any person who kills a human being shall be subject to imprisonment of not less than 8 years, with a sentence of 25 years imprisonment or life imprisonment.

§ 2 Any person who kills a human being:

- with particular cruelty,
- in connection with taking hostages, rape or robbery,
- for motives deserving special condemnation, or
- with the use of firearms or explosives,
- shall be subject to imprisonment of not less than 12 years, with a sentence of 25 years imprisonment or life imprisonment.

§ 3 Subject to the sentence specified in § 2 is a person who in one act kills more than one person or has previously been legally convicted of murder.

§ 4 Any person who kills a human being under the influence of strong mental agitation justified by the circumstances shall be subject to imprisonment of 1 to 10 years.

## **Chapter XXIV**

### **Crimes against freedom of conscience and religion**

#### Article 194

Any person who limits a human being in his or her rights because of his or her religious affiliation or lack of religious belief shall be subject to a fine, restriction of liberty or imprisonment of up to 2 years.

#### Article 195

§ 1 Any person who maliciously interferes with a public religious performance of a church or other religious association with official legal status shall be subject to a fine, restriction of liberty or imprisonment of up to 2 years.

§ 2 The same sentence shall be given to a person who maliciously interferes with a funeral, mourning ceremonies or rites.

#### Article 196

Any person who offends the religious feelings of other people, publicly deriding an object of religious worship or a place dedicated to public religious rites, shall be subject to the restriction of liberty or imprisonment of up to 2 years.

## **Chapter XXVII**

### **Crimes against dignity and personal inviolability**

#### Article 212

§ 1 Any person who slanders another person, group of people, institution, legal person or organizational entity without legal personality for such behavior or characteristics that may humiliate them in the public opinion or expose them to a loss of trust necessary for a given position, profession or type of business, shall be subject to a fine, partial restriction or deprivation of liberty for 1 year.

§ 2 If the perpetrator commits the act specified in § 1 through means of mass communication, he or she shall be subject to the restriction of liberty or imprisonment of up to 2 years.

§ 3 In the event of a conviction for an offense specified in § 1 or 2, the court may order compensation to the victim, to the Polish Red Cross or another charity or social aim specified by the victim.

§ 4 The prosecution of the offense specified in § 1 or 2 should proceed from a civil claim.

## **Chapter XXXII**

### **Crimes against public order**

#### Article 254

§ 1 Any person who takes an active part in an unlawful assembly, knowing that the participants are jointly committing a violent assault on a person or property, shall be subject to imprisonment of up to 3 years.

§ 2 If the consequence of a violent assault is the death of a human being or serious damage to health, the participant of the unlawful assembly as defined in § 1 shall be subject to imprisonment of 3 months to 5 years.

#### Article 256

Any person who publicly promotes a fascist or other totalitarian system of government or incites hatred on grounds of national, ethnic, racial or religious differences, or because of a lack of religious belief, shall be subject to a fine, restriction of liberty or imprisonment of up to 2 years.

### Article 257

Any person who publicly insults a group of people or a particular person because of their national, ethnic, racial, or religious affiliation, or because of their lack of religious beliefs, or for these reasons infringes on the physical inviolability of another person, shall be subject to imprisonment of up to 3 years.

### Article 258

§ 1 Any person who is involved in an organized group or association aimed at committing crimes, including tax fraud, shall be subject to imprisonment of up to 3 years.

§ 2 If a group or association specified in § 1 carries and possesses arms, it shall be subject to imprisonment of 3 months to 5 years.

§ 3 Any person who founds a group or association specified in § 1 or 2, or is a leader of such a group or association, shall be subject to imprisonment of 6 months to 8 years.

Protection against hate-motivated crimes is reflected in several articles of the Penal Code, but is restricted to only a few selected groups: national, ethnic, racial, political, religious, ideological or atheistic. Only these groups have been enumerated in the Penal Code, which makes the protection of other groups (e.g. LGBT, disabled people, women, the elderly, etc.) much weaker.<sup>41</sup> Much controversy is also raised by the ineffectiveness of using existing legal instruments against various forms of aggression. The practice of prosecutors and courts in this area is very lenient on those who violate the law. As Prof. Monika Płatek from the University of Warsaw writes, although the crimes specified by Art. 256 and Art. 257 of the Penal Code are prosecuted by public indictment, “one of the reasons for refusing enforcement is referring to the fact that the act is reported by a person who

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<sup>41</sup> Retrieved from: <http://www.crisisintervention.free.ngo.pl/prawo/bprawo1.html>

was not directly affected, as he or she is not, for example, a Rom or a Jew. So what today – at least in academic literature – defines the form of this offense, so recognition of the perspective of the victim is used in Poland to resign from undertaking any legal action. In Poland, there is still no understanding of the nature of hate speech-motivated crime. It is an indictable crime, which imposes on law enforcement authorities *ex officio* and on the citizens by civic duty to report violations (Art. 304 CPC). It is clearly visible, then, that the aforementioned practices are rather motivated by finding excuses for abandoning the action.”<sup>42</sup>

Within the framework of international obligations and domestic law being in force in Poland, a number of institutions and instruments to monitor and combat hate crimes were established. These include a nationwide government program to support the Roma community in Poland, the implementation of which was planned for the years 2004–2013 with the possibility to continue in subsequent years. It was developed based on experiences from the **Pilot Government Program for the Roma Community** in the Małopolska province for the years 2001–2003. It refers to similar programs implemented by European countries, also aimed at improving the situation of the Roma. The scope of the program includes the prevention of crimes committed on ethnic grounds. The coordination and monitoring of the implementation of the program is run by the Ministry of Internal Affairs and Administration. The program is implemented with the participation of local communities.<sup>43</sup>

An important event for this analysis is the **draft amendment of the Penal Code** prepared in 2008 by a coalition of NGOs. NGOs propose amendments to existing legislation by including additional groups to be protected by law protection. These changes are connected with Art. 119 on the use of violence or unlawful threats (Art. 119), incitement to hatred (Art. 256) and to derision (Art. 257) of a person or persons because of their gender identity or sexual orientation. The authors of the draft, referring in the justification to the changes to Art. 32 (prohibition of discrimination),

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<sup>42</sup> Płatek, M., *Mowa nienawiści – przesłanki depenalizacji*. [In:] *Mowa nienawiści a wolność słowa. Aspekty prawne i społeczne*, eds. Wieruszewski R., Wyrzykowski, M., Bodnar A., Gliszczyńska-Grabias A., Wolters Kluwer Polska: Warszawa, 2010, pp. 77–78.

<sup>43</sup> More on the program on: <http://www.mswia.gov.pl/portal/pl/100/208/Dokumenty.html>

emphasize that this article did not survive to be fully reflected in the existing regulations of criminal law. “The current state of protection by criminal law does not correspond to modern social needs, as shaped by a more extensive and more apparent presence in the public sphere of representatives of the groups hitherto excluded, marginalized and neglected,” organizations write in support of the bill. The justification for the bill was prepared by Eleonora Zielińska, an outstanding professor of criminal law from the Law and Administration Department of Warsaw University. Encouragement for this type of legislation also found its place in the Memorandum of the Council of Europe to the Polish Government of June 20, 2007, Par. Review of Progress in Implementing the Recommendations of the Commissioner for Human Rights, the Council of Europe in 2002. In conclusion, the Commissioner recommended “the application of appropriate legal measures to combat hate speech and discrimination against people with different sexual orientation or gender identity.”<sup>44</sup> The need to combat homophobic hatred spread via the Internet is mentioned in the European Parliament Resolution of December 13, 2007 on combating the growing extremism in Europe.<sup>45</sup>

On March 3, 2011, a seminar was held on hate crimes, summarizing the project and once again drawing attention to the need to change the rules. On that day, NGO representatives placed in the hands of Sejm Deputy Speaker Jerzy Wenderlich a ready draft of the bill. The Deputy Speaker agreed to officially introduce the bill for consideration by the Sejm at the initiative of the SLD parliamentary party. The draft was forwarded to the Speaker of the Sejm on April 19, 2011.<sup>46</sup>

**A lack of legal regulations concerning the protection of non-heterosexual people against hate speech and hate crimes in Poland is reflected in the level of sensitivity of public administration.** The Polish government was obliged by the UN Human Rights Council in its recommendations to conduct training for law enforcement officers and justice department workers, including police officers and judges, on hate

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<sup>44</sup> Lipowska-Teutsch A., *Mowa nienawiści. Szerzenie nienawiści przez Internet*. [In]: *Przemoc motywowana uprzedzeniami. Przestępstwa z nienawiści*, eds. Lipowska-Teutsch A., Rylko E., Towarzystwo Interwencji Kryzysowej, Warszawa, 2007, p. 24.

<sup>45</sup> *Ibid.*, p. 25.

<sup>46</sup> Retrieved from: <http://www.kph.org.pl/pl/edukacja/mowa-nienawici-przestpstwem>

speech and hate crimes. Unfortunately, so far, these recommendations have been implemented to a very limited extent. A system of monitoring hate crimes motivated by homophobia is also missing from the activities of the police and various government departments.

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**MIROSŁAWA MAKUCHOWSKA**

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## Monitoring violence motivated by homophobia. The activities of public institutions and NGOs

Before proceeding to analyzing the data from reports of NGOs on the situation of LGBT people with respect to violence and hate crimes, I would like to look at systemic solutions designed to monitor homophobic hate crime. Such solutions are in fact recommended by international organizations dealing with human rights. The OSCE<sup>47</sup> and the Council of Europe see the threat posed by hate crimes and urge states' parties to take firm action to

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<sup>47</sup> The OSCE is an international organization considered as a regional organization within the meaning of Chapter VIII of the UN Charter. Its goal is the prevention of conflicts in Europe.

combat this phenomenon. “According to the OSCE / ODIHR report entitled ‘Hate crimes in the OSCE region: cases and reactions’,<sup>48</sup> homophobic crimes and incidents are often characterized by a high degree of cruelty and brutality, involve severe beatings, torture, mutilation, castration and sexual assault and can even lead to death. They can also take the form of property damage, insults, verbal attacks, threats or intimidation.”<sup>49</sup>

The recommendations of the Steering Committee for Human Rights of 2010 relate to, among other things, the need to implement a system that would enable the anonymous reporting of hate crimes based on homophobia:

“Member states should introduce appropriate measures aimed at encouraging victims and witnesses of crimes and other hate-motivated incidents on the grounds of the victim’s sexual orientation or gender identity to report such incidents. These measures should include, among others, the implementation of a system of anonymous complaints or complaints via the Internet or through other means of easy and quick communication, and the possibility for applications to be submitted by third parties in order to gather information on the extent and specific nature of these incidents.”<sup>50</sup>

Taking into account the dangers that violence motivated by homophobia entails, it is warranted that public institutions conduct systematic monitoring of these phenomena. Among the Polish public institutions which are obliged by law (the police) or by the decision of the Council of Ministers (MIA)<sup>51</sup> to collect data related to discrimination – including hate crimes – I chose to discuss the police and the Monitoring Team on Racism and Xenophobia, which functions within the structure of the MIA Department of Control, Complaints and Petitions.

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<sup>48</sup> OSCE annual report for the year 2005, pp. 53–54.

<sup>49</sup> The recommendation of the Steering Committee on Human Rights (CDDH), CM(2010)4 add.3 rev.2, p. 8.

<sup>50</sup> *Ibid.*, p. 11.

<sup>51</sup> By the decision of the Council of Ministers of January 6, 2004, the Ministry of Internal Affairs and Administration is responsible for collaborating with the Agency for Fundamental Rights (formerly European Monitoring Centre on Racism and Xenophobia).

The selection of only these institutions is due to the fact that they both have or attempt to create systemic tools for collecting data about violence motivated by prejudice.

### **The National Police Information System (KSIP)**

The first institution from which one can theoretically obtain information on the extent and characteristics of reported crimes against homophobia is the police. The National System of Police Information (KSIP) is a tool used to collect and process data on crimes.<sup>52</sup> The system can also generate statistics.

The type of information collected in the system and the instructions for its use were established by Decision No. 167 of the Chief of Police dated March 19, 2008, on the functioning of the central data archives forming the National Police Information System, and its annex, “The Instructions for carrying out official duties in the field of processing information in the National Police Information System.”

Data on crimes reported to the police are entered into the system, which contains four main categories: events, physical persons, legal persons and things. In the “event” category, there are many subcategories, such as the time and place of the event, the method of reporting the crime, legal qualification of the act, etc.

The data on the type of crime and its legal qualification will, unfortunately, not be useful in monitoring homophobic crime because the Penal Code does not take into account in any of the articles a homophobic motive for a crime, which also makes it impossible to gather data in KSIP on this basis.

The Penal Code contains several articles, including Art. 119, 256 and 257, which directly relate to the theme of an offense based on prejudice; nevertheless, this list is defined and limited to only four categories, namely: nationality, ethnicity, race, denomination or lack of religious belief.

Among the many data being collected by KSIP within the current legal system, only one category, namely a verbal description of the of-

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<sup>52</sup> The legal basis for data collection by the police is (Article 20) the Bill of April 6, 1990 about the Police (OJ 1990 No. 30 pos. 179) and the Decree of the Minister of Internal Affairs and Administration dated 05.09.2007, concerning the processing by the Police of information about people (Dz.U.2007.170.1203).

fense, is useful for generating statistics and creating qualitative reports on homophobic crimes.

A verbal description of the event does allow one to include information about the homophobic motive of the crime; yet, from the standpoint of both the victim and law enforcement authorities, information regarding the motive for a crime which is based on prejudice but not mentioned in the Penal Code is irrelevant in a legal sense. To illustrate this with an example, assault whose motive was hooliganism and assault whose motive was sexual orientation (or alleged sexual orientation) will be prosecuted under the same article. In a legal sense, therefore, it does not matter whether or not this information is disclosed to law enforcement authorities.

We should also bear in mind the specific conditions under which LGBT people function in heteronormative society and the ensuing consequences. In the context of hate crimes on homophobic grounds, these conditions are relevant in connection with the reluctance of LGBT people to inform the outside world about their sexual orientation or gender identity. This reluctance is caused by fear of social ostracism or discriminatory treatment. In case of crime motivated by homophobia, the victim is much more inclined to conceal the information about the homophobic motive for the crime from law enforcement agencies because it would involve the disclosure of a non-heteronormative sexual orientation and the threat of experiencing secondary victimization on the part of law enforcement officers. This is one of the reasons why such crimes are very often not reported at all. According to a report from 2007,<sup>53</sup> less than 18% of people who are victims of a homophobic crime report it to the police.

Returning to the KSIP system and the possibility of using it to study the phenomenon of homophobic crime, it is technically possible to “catch” homophobic crimes in the system. This system has an option to search the database by entry, similar to a web browser. By entering the keywords “homophobia,” “gay,” or “lesbian,” one could find all the cases in which it was mentioned. Unfortunately, the data are not organized in any way and an appropriate methodology should be used to systematize them. But this is not the only problem associated with monitoring such events. Given the relatively low social awareness and police officer knowledge about

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<sup>53</sup> *Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, ed. Abramowicz M., Warszawa 2007.

minority groups – including the LGBT community – it is very unlikely that the police officer would have included information about the homophobic motive for the crime in the event description.

Another obstacle is the availability of the data stored KSIP. “Access to KSIP resources is very limited and is restricted to authorized personnel only. In practice, this means that police themselves would have to systematize the data. There is no indication that such analyses [of crimes on racist grounds] were carried out in the past or in the present.”<sup>54</sup>

In summary, KSIP as a systemic tool is not effective in monitoring homophobic crime.

### **The Team on Monitoring Racism and Xenophobia in the Ministry of Internal Affairs and Administration**

This team, appointed by the Council of Ministers Decision on January 6, 2004, is responsible for cooperation with the Agency for Fundamental Rights (formerly known as the European Monitoring Centre on Racism and Xenophobia). As we read on the Ministry of Internal Affairs and Administration (MSWiA) website, the team was appointed “in order to complete the tasks arising from this cooperation and effectively accomplish tasks assigned to the MSWiA by the National Program Against Racial Discrimination, Xenophobia and Related Intolerance, in November 2004.... Since December 2007, the Team on Monitoring Racism and Xenophobia functions within the structure of the MSWiA Department of Control, Complaints and Petitions.”<sup>55</sup> The scope of the team’s duties includes keeping a database about the phenomena of ethnic discrimination, racism and xenophobia.<sup>56</sup>

In 2010, the MSWiA commissioned the Association of Legal Intervention (SIP) to prepare methodology for setting up the database. The methodology, along with a form for entering data, was described in a publication titled “Methodology for the preparation of a database to identify

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<sup>54</sup> *Metodologia przygotowania bazy danych do identyfikacji zdarzeń o charakterze dyskryminacyjnym, ksenofobicznym i rasistowskim*, eds. Klaus W., Frelak J., Warszawa 2010, p. 14.

<sup>55</sup> Retrieved from: <http://www.mswia.gov.pl/portal/pl/99/204/Dzialalnosc.html>

<sup>56</sup> *Ibid.*

incidents of a discriminatory, xenophobic and racist nature,” edited by Witold Klaus and Justyna Frelak.

The MSWiA, after receiving the publication, commissioned the preparation of a legal opinion of the form’s compliance with applicable regulations, in particular with the Bill on the Protection of Personal Data.

The opinion stated that the form as proposed by the SIP cannot be used for data collection because it contains open-ended questions (e.g. description of the event, nationality, etc.) in which a person reporting would have the option of entering personal data which are protected by the Bill on Personal Data Protection. This means that the form could contain only closed questions that could not offer the possibility for the “reporting person” to freely create the content.

This obstacle, it seems, could be removed by an appropriate modification of the form. A more significant obstacle standing in the way of creating the database is that “due to the constitutional principle of legality which bind bodies of public authority, the form should be introduced only on a basis of a specific legal framework. This applies to both the Minister of Internal Affairs and Administration, and other public authorities (police, border guard, etc.).”<sup>57</sup>

This means that the Team on Monitoring Racism and Xenophobia has no legal basis to establish and maintain a database of the phenomena of discrimination, even though – as we read on the MSWiA website<sup>58</sup> – this should constitute the core of the team’s activities.

Therefore, until now, despite the steps taken in this direction, the database has not been created. But, as Agnieszka Mikulska writes, “At this stage ‘thinking’ about the database shows a tendency towards reducing it to a collection of cases of racism and discrimination against ethnic and national minorities and foreigners under protection, because the issues of these groups lie within the competency of the MSWiA, and thus the ministry can process the data about them.”<sup>59</sup>

<sup>57</sup> The legal opinion on the compliance of the form developed by the Institute of Public Affairs in cooperation with the Association of Legal Intervention with the official regulations, in particular with the Bill of 29 August 1997, On Personal Data Protection: An Independent View DKSİW-S-026-6/10/MZ, Law Counsel Martin Zreda, p. 20

<sup>58</sup> Retrieved from: <http://www.mswia.gov.pl/portal/pl/99/204/Dzialalnosc.html>

<sup>59</sup> *Metodologia przygotowania bazy danych do identyfikacji zdarzeń o charakterze dyskryminacyjnym, ksenofobicznym i rasistowskim*, eds. Klaus W., Frelak J., Warszawa 2010, p. 35.

Consequently, it can be assumed that even in the event a database is established, data on homophobic crimes will not be stored in it.

## **NGOs' research**

To date, six reports have been published in Poland on the issue of violence motivated by homophobia or biphobia. Five of them were prepared by non-governmental organizations: Association of Lambda Groups, Campaign Against Homophobia and Lambda Warsaw Association. The publication from 2009 entitled *Marked* and edited by Ireneusz Krzeminski was published by the Institute of Sociology at the University of Warsaw, commissioned by the Ministry of Labor and Social Policy's Department for Women, Family and Counteracting Discrimination, and co-financed by the European Commission within the European Year of Equal Opportunities for All.

*Report on discrimination based on sexual orientation in Poland in 1994*  
Publication, 1994, Association Lambda Group

*Report on discrimination based on sexual orientation in Poland  
(for the year 2000)*  
Publication, 2001, Lambda Warsaw Association

*Report on discrimination and intolerance based on  
sexual orientation in Poland. Report for 2001*  
Publication 2002, Warsaw Lambda Association,  
Campaign Against Homophobia

*Report on discrimination and intolerance based on  
sexual orientation in Poland. Report for 2002*  
Publication, 2003, Warsaw Lambda Association,  
Campaign Against Homophobia

*The social situation of bisexuals and homosexuals in Poland.  
Report for the years 2005 and 2006*  
Publication, 2007, Warsaw Lambda Association,  
Campaign Against Homophobia

*Stigmatized. Sexual Minorities in Poland, report 2008,*  
*edited by Ireneusz Krzeminski*

Publication, 2009, Institute of Sociology, University of Warsaw

Social research about LGBT groups is extremely difficult for several reasons. The first impediment is the fact that some LGB people (it is difficult to estimate the size of the group) do not disclose their sexual orientation for fear of discrimination and social ostracism. For these reasons, they rarely build long-term relationships (social or emotional) with other LGB people. They do not visit social networking websites or meeting places and do not participate in events intended for this community. Reaching this group of people is therefore almost impossible.

Of course, every year the number of people participating in LGB community life rises. New venues, cultural and social initiatives, and – above all – social networking websites appear, which allows one to interact while maintaining anonymity. These obstacles to conducting a full examination of the LGB community make it impossible to identify the group’s characteristics and to assume simple random sampling. In Polish studies on LGB people, one may observe, for example, the over-representation of young people from large cities (although there is no characterization of LGB groups, we posit that these people are in each age group). This over-representation follows from the fact that younger people, especially those growing up in an era of public debate on homosexuality and the expanding “infrastructure” of LGB, are more able to live in harmony with their sexual orientation, which also increases the chances of them being reached by researchers, and of them participating in a study on homophobia. Another research difficulty is the vague definition of homo – and bisexuality and such self-identification of people with this group. Some people who in society’s perception would be defined as non-heteronormative because they form close emotional and/or sexual relationships with same-sex persons, for various reasons do not define themselves as homosexual or bisexual.

The above-described methodological difficulties make it necessary to utilize various research methods and impose constraints on, for example, the sample size.

The following table presents a summary of research methodology used in each study on a group of LGBT people in Poland. This will allow us to assess whether and to what extent it is possible to make a compara-



tive analysis of data from individual reports and to draw any conclusions about the increasing or decreasing trends of violence against this group.

**Table 1 Research methodologies in reports on the situation of LGBT people in Poland**

TITLE OF THE REPORT	RESEARCH TOOL	SAMPLE SIZE				TIME PERIOD SPECIFIED BY THE SURVEY
		W	M	T	ALL	
Report on discrimination on grounds of sexual orientation in Poland (for 1994)	Survey, Monitoring of the media	0	10	0	37	no information
Report on discrimination on grounds of sexual orientation in Poland (for 2000)	Survey	35	179	1	215	no information
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2001)	Survey	216	379	4	632	12 months (2001)
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2002)	Survey	128	284	4	425	12 months (2002)
The social situation of bisexual and homosexual people in Poland. The report for 2005 and 2006	Survey	417	584	0	1002	24 months (2005–2006)
Stigmatized. Sexual Minorities in Poland, report 2008.	Survey	167	232	4	409	no information

One of the most important factors determining the possibility of comparing data from research is the time period in which they were conducted and the design of questions relating to the problem of interest.

The most problematic and, at the same time, the one which provides the least information is the report from 1994. The authors themselves, however, note that the report is not intended to shift the statistical situation of LGBT people, and that it is merely a collection of testimony about discrimination which was obtained from the victims. The report also

includes excerpts of newspaper articles and other media coverage that contain homophobic content. Discriminatory situations are not limited to a specific time range, and although the majority of them come from the years 1992–1994, many of the descriptions also portray situations that had occurred in previous years. Many descriptions of discrimination incidents contain elements of psychological violence such as verbal abuse, blackmail, threats, or physical violence such as beatings.

The questions about violence in the surveys from 2000 and 2008 do not refer to a defined period of time, but the structure of questions concerning violence is not the same in each of them, which prevents their comparison.

2000 Report:

*Have you ever experienced physical violence because either you are or someone suspected that you are gay?*

*Have you ever experienced psychological/verbal (spoken) violence or seen graffiti about you / vandalism / hate letters / threats / blackmail / other because either you are or someone suspected that you are gay?*

2009 Report:

*Have you ever experienced physical violence because of your sexual orientation?*

*Have you ever experienced psychological violence because of your sexual orientation?*

The next two reports specify the time period as 12 months (2001 and 2002). Here is the structure of questions concerning violence:

*Did you experience physical violence in 2001 because either you are or someone suspected that you are bisexual or homosexual?*

*Did you experience physical violence in 2002 because either you are or someone suspected that you are bisexual or homosexual?*

Taking into account the fact that the range of time being studied and the design of the questions are the same, it is possible to make a comparative analysis of results from these two reports.

The report released in 2007 covers the time period of 2005–2006. The questions were designed as follows:

*From January 2005 until now, have you experienced any of the following situations because someone knew or suspected that you are bisexual or homosexual?*

- pushing, hitting, pulling, or kicking*
- beating*
- armed assault*
- sexual harassment which infringed on your physical inviolability (such as touching against your will),*
- sexual violence (e.g. rape or its attempt)*
- another form of infringement of physical inviolability – what kind?*

*In the period from January 2005 until today, have you experienced any of the following situations because someone knew or suspected that you are bisexual or homosexual?*

- verbal teasing / verbal aggression,*
- insulting, belittling, ridiculing,*
- dissemination of negative opinions about you,*
- threats,*
- hateful letters to you or your loved ones,*
- blackmail,*
- vandalism or destruction of property,*
- graffiti / posters / leaflets about you,*
- other forms of psychological harassment – what kind?*
- no,*
- other answer – explain;*

None of the other publications include research relating to a two-year time period, which renders it impossible to compare data.

In summary, due to differences in the time periods covered by the surveys and the different constructions of questions contained in the surveys, the opportunity to compare data is very limited.

Therefore, the results presented below should be considered for information purposes only. It is not possible to examine whether there is an upward or downward trend of violence against LGBT people over the particular years.

**Table 2. Psychological violence motivated by homophobia**

TITLE OF THE REPORT	TOTAL	FREQUENCY OF EXPERIENCING VIOLENCE	REPORTING THE OFFENSE TO THE POLICE	MOST FREQUENTLY MENTIONED FORM OF VIOLENCE
Report on discrimination on grounds of sexual orientation in Poland (for 2000)	51%	17% – one 17% – twice 65% – three times or more	5%	verbal assault, threats
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2001)	35%	17% – once 14% – twice 66% – three times or more	4%	verbal assault, threats
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2002)	31%	15% – once 16% – twice 69% – three times or more	13%	verbal assault, threats
The social situation of bisexual and homosexual people in Poland. The report for 2005 and 2006	51%	17% – once 12% – twice 70% – three times or more	4%	verbal teasing, verbal aggression; insulting, humiliating, ridiculing
Stigmatized. Sexual Minorities in Poland, report 2008.	47%	22% – once or twice 27% – three to five times	no data	no data

**Table 3. Physical violence motivated by homophobia**

TITLE OF THE REPORT	TOTAL	FREQUENCY OF EXPERIENCING VIOLENCE	REPORTING THE OFFENSE TO THE POLICE	MOST FREQUENTLY MENTIONED FORM OF VIOLENCE
Report on discrimination on grounds of sexual orientation in Poland (for 2000)	22%	46% – once 15% – twice 39% – three times or more	21%	beating, pushing
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2001)	14%	43% – once 25% – twice 30% – three times or more	22%	beating, pushing
Report on discrimination and intolerance on grounds of sexual orientation in Poland (for 2002)	12%	41% – once 31% – twice 27% – three times or more	25%	beating, pushing or kicking
The social situation of bisexual and homosexual people in Poland. The report for 2005 and 2006	17%	39% – once 18% – twice 42% – three times or more	15%	pushing, kicking, pulling, hitting; beating
Stigmatized. Sexual Minorities in Poland, report 2008.	11%	63% – once or twice 17% – three to five times	no data	no data

Particularly noteworthy is the large percentage of people experiencing physical violence against homophobia. The data in the various reports show that between 11% and 22% of LGB people have experienced this type of violence. What seems to be additionally disquieting is that on average only every fifth person reports these offenses. We are therefore facing a phenomenon on a large scale and, at the same time, its invisibility. As the previously mentioned analysis shows, public institutions, despite the clear recommendations of international organizations, do not conduct systematic monitoring of violent incidents motivated by homophobia. The need to conduct such monitoring seems particularly justified when a lack of Penal Code articles relating to the homophobic motive of an offense makes it impossible to generate police statistics.

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PART **II**



**JAN ŚWIERSZCZ**

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# Violence motivated by homophobia – A study and results

## **Main objectives and detailed research and assumptions**

The study was aimed at understanding the specifics of violence motivated by homophobia. In particular, we sought information about who experiences such violence, who perpetrates it, where it takes place and what form it usually takes. The collected information can be used to plan more effective assistance for people experiencing homophobic violence and also to plan preventive actions.

The scope of this study overlaps with research which was carried out on the subject of LGBT in previous years (reports which Lambda and the Campaign Against Homophobia made between 2003 and 2007 and the

study led by Ireneusz Krzeminski of 2009),<sup>60</sup> but which, unfortunately, did not yield an accurate and in-depth analysis of violence. In contrast to previous reports, this study did not focus on understanding the social situation of non-heterosexual people and the spectrum of their experiences in Poland (including the experiences of discrimination). The focus of this work is the very nature of violence: its various forms and specificity. Because homophobia can affect any person regardless of the sexual orientation assigned to the non-heterosexual victim by the perpetrator, incidents of violence motivated by homophobia may affect and are affecting heterosexual people as well. At the same time, not every gay, lesbian or bisexual person has experienced violence based on their sexual orientation or they do not consider the violent incidents that they have actually experienced to be homophobic violence. Therefore, it became justified to define the group of respondents, restricting it to those who met with violence motivated by homophobia, but not to limiting it only to non-heterosexual people. For the same reasons, the respondents were not restricted to any specific gender or gender identity. Transgender people's participation in the study was desirable insofar as they met with homophobic violence. Prejudice against transgender and transvestite people can often result from an erroneous association of such persons with homosexuality – the evidence for this association is the homophobic hate speech which they encounter. So this is homophobia by association. This observation can lead to hypotheses and speculation about a possible difference in the experience of homophobia-motivated violence by homosexual, heterosexual, bisexual and transgender people, but that was not the subject of this study. Undoubtedly, it is a question worth exploring and empirically investigating, but when homosexual people are the main victims of violence motivated by homophobia, data on violence by association or erroneous attribution of a non-heterosexual sexual orientation are treated as value added to the report, but do not lie not in the center of interest.

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<sup>60</sup> *Raport o dyskryminacji i nietolerancji ze względu na orientację seksualną w Polsce* Stowarzyszenie Lambda Warszawa, Kampania Przeciw Homofobii: Warszawa 2003. *Sytuacja osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, ed. Abramowicz M., Stowarzyszenie Lambda Warszawa, Kampania Przeciw Homofobii: Warszawa 2007. *Naznaczeni. Mniejszości seksualne w Polsce raport 2008*, ed. Krzemiński I., Instytut Socjologii UW, Warszawa 2009.

## Tools and information about the study

For the purpose of this study, a questionnaire in paper and online formats was drawn up. The items in the questionnaire were modeled on the forms from the report on incidents motivated by hatred which are used by the British authorities (a program initiated in Leicestershire County).<sup>61</sup> Questions in the survey relate to:

1. Demographic data: name or nickname, city of residence, province of residence, age, gender, nationality, disability, sexual orientation;
2. Data concerning the incident: time of the event, place of the event, city where the event took place, open description of the incident, the type of violence experienced<sup>62</sup> (verbal taunts, verbal abuse, insults or humiliation; threats to use physical violence; threats to use another form of violence; vandalism or destruction of property; pushing, shaking, hitting or kicking; beating; assault with a weapon; sexual harassment; rape or attempted rape; another type of violence – the person filling out the form had the opportunity to describe the violence in their own words, if they did not choose any of the previous categories), whether the perpetrator knew the sexual orientation of the victim, whether there were witnesses and whether they intervened, the previous occurrence of similar incidents, along with the number of previous incidents;
3. Data on the perpetrators: the number of perpetrators, the age of the perpetrators, the sex of the perpetrators, the relationship between the perpetrators and the victim; and
4. Data on reporting the incident to the police and the willingness to take advantage of the help provided by the hate crime victim counselors from the Campaign Against Homophobia.

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<sup>61</sup> Retrieved from: <http://www.leicester.gov.uk/your-council-services/cl/community-safety/report-hate-incidents>

<sup>62</sup> The deployed categories of violence were defined in the report: *Sytuacja osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, ed. Marta Abramowicz.

The survey began with a short introduction, which defined the purpose of the study, assurance of anonymity and an explanation that the subject of the research is instances of violence motivated by homophobia.

Most of the items in the questionnaire were mandatory. When the respondent tried to send an incomplete questionnaire, a message box popped up with a request to complete the mandatory fields. It also happened that the fields were filled in with incomprehensible data (e.g. a string of characters); in such situations, responses were coded as no data.

Questionnaires in paper form were held by hate crime victim counselors from the Campaign Against Homophobia, who distributed them in their region and presented them to the victims they were in contact with. The electronic survey was posted on the website [bezpieczniej.kph.org.pl](http://bezpieczniej.kph.org.pl), which was set up specially for this purpose. After completing the online form, the mechanism checked whether the test subject completed the relevant fields, and sent information about surveys with insufficient data to the Campaign Against Homophobia server. People filling out the questionnaire had the choice between remaining fully anonymous or providing contact information (email) and turning to the Campaign Against Homophobia hate crime victim counselors in order to get assistance with their case. Although the subject of the study was not based on the assumption that respondents would be only non-heterosexual persons, the decision was made to concentrate on the audience who is most likely to experience homophobic violence and is aware of it. Thus, the project was promoted mainly through LGBT electronic media and flyers distributed at LGBT festivals and LGBT cultural events. Promotion via the Internet took place on Facebook, through mailing lists, by sending messages to users of LGBT social networking sites and by posting information about the study on LGBT socio-cultural portals. Data were collected from October 2010 to April 2011.

## **Results**

448 people completed the questionnaire, of which 40 applications came from the paper survey and 408 entries were filled out online. The data was subjected to a preliminary analysis aimed at excluding cases of violence which were not underpinned by sexual orientation (real and alleged). The decision to do so resulted from the observation that not all LGBT people

distinguish between violence motivated by homophobia and violence affecting non-heterosexual people in which the theme of homophobic bias does not appear or is debatable. From the analyzed data we excluded all cases whose descriptions did not unambiguously indicate homophobic violence, and whose respondents stated that the person using violence did not know their non-heterosexual sexual orientation or did not attribute it to them. The preliminary analysis of the cases submitted by online questionnaire also consisted of checking the source pages that redirect users to the survey, and the repetition of IP addresses to identify surveys that may be the result of attempts to manipulate the test results. No evidence was found, however, which would lead to such conclusions.

In the end, 423 cases were included in the actual analysis.

In describing the results, we decided to first present the general characteristics of victims and perpetrators, then a detailed description of the forms of violence occurring and data related to reporting the incidents to the police. Due to the small size of some groups and varying frequency of the particular forms of violence, not all comparisons and analyses were feasible.

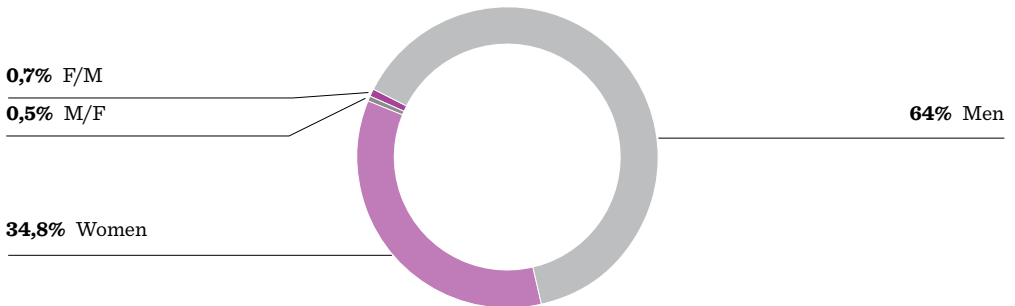
### **Demographic characteristics of people reporting violence**

Almost twice as many men as women took part in the study. It is worth noting that this may not necessarily be due to the difficulty in reaching female respondents: most data was collected via the Internet and the promotion took place on portals such as Facebook and innastrona.pl on which women are more active than men. One likely reason could be the difference in the experience of violence motivated by homophobia or in recognizing their experience of violence as worthy of acknowledgment in a survey. Transgender people<sup>63</sup> accounted for 1.2% of the respondents (three M / F and two F / M people).

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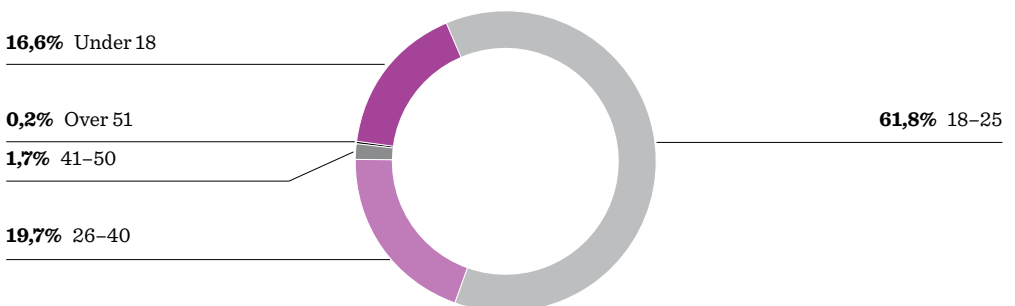
<sup>63</sup> The term *transgender* is used to describe transsexual and transvestite people. M/F are people who are biologically male, but identify themselves with women. F/M people are biologically women, but they identify themselves with men.

**Fig. 1. Gender of respondents indicated in percent (n = 423)**



The average age of all subjects was 22.24 years. The youngest person completing the questionnaire was 11 years old, the oldest 60 years old. 95% of all subjects were between 16 and 30 years of age. The average age of women was 21.41 (SD = 4.40), and of men 22.65 (SD = 6.46). The average age of transgender people was 26 (SD = 7.03). Most of the respondents are young people. The reason for this may be a general difficulty of LGBT initiatives in reaching older non-heterosexual people and the difficulty of spreading a message distributed mainly over the Internet to older people. Older people with a non-heterosexual sexual orientation often remain in the closet and purposely hide their sexual orientation from others, not taking part in the lives of the LGBT community. Choosing not to come out, they may be also less prone to violence motivated by homophobia.

**Fig. 2. Characteristics of respondents by age (n = 423)**

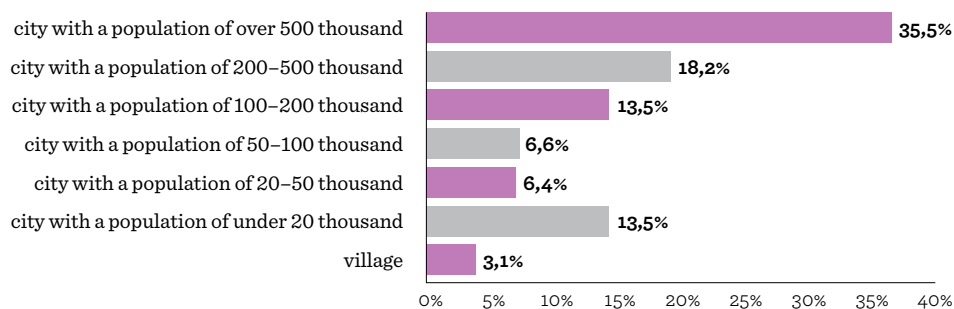


More than half of the subjects are gay; one fourth are lesbians. Also, bisexual (14%) and heterosexual (2.1%) people took part in the study. 2.9% of people who filled out the questionnaire decided to choose *uncertain* and did not specify their sexual orientation.

Table 1. Sexual orientation in percentage by gender (n = 423)

	WOMEN	MEN	M/F	F/M	ALL
HOMOSEXUAL	24,9%	56,1%	-	-	81,0%
BISEXUAL	7,6%	6,2%	-	0,2%	14,0%
HETEROSEXUAL	1,1%	0,5%	0,5%	-	2,1%
UNCERTAIN	1,2%	1,2%	-	0,5%	2,9%

We tried to reach the widest possible group, also with regard to the region and place of residence. The task is difficult as in smaller towns there are no LGBT community initiatives, and people hide their identity by not setting up accounts on social networking sites associated with the LGBT community. Statistics and research on sexual orientation in different societies show that the percentage of non-heterosexual people in each population is similar and is about 5–8%. At the same time, looking at the data, one should keep in mind the trend of LGBT people migrating from small towns to big cities in search of anonymity and/or acceptance from a new environment. Despite these difficulties, 23% of the respondents come from small towns and villages, which is a large group if compared to the situation of non-heterosexual people in previous surveys. The survey reached respondents in all provinces (*województwa*), but their representation in the results is disproportionate to the populations of various Polish regions. This is due to low social activity of the LGBT in some provinces and the lack of an adequate network of contacts to allow suitable distribution of the questionnaire. Most data flowed from the Mazowieckie province (20%). The percentage of questionnaires from the rest of the individual provinces ranged between 1.4% and 11.2%.

**Fig. 3. Size of the home city of respondents (n = 423)**

Almost all people declared Polish nationality (96.7%); 11 (2.6%) respondents came from EU countries other than Poland and 3 (0.7%) people came from countries outside the EU. 17 respondents (4%) indicated having some type of disability.

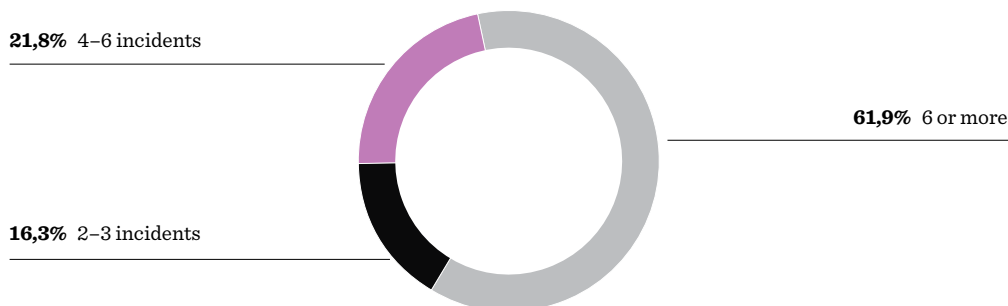
### **Time and repetitiveness of experienced violence**

The experiences of violence reported through the questionnaire have taken place both in the distant past and more recently in the lives of the respondents. 65% of reported incidents took place in 2010–2011 and over 95% of the cases occurred after 2004.

Over half (54.4%) of those surveyed experienced violent incidents on grounds of their sexual orientation more than once. Every third respondent experienced violence repeatedly. In very many cases, respondents had difficulty in determining the exact number of homophobic incidents which they had experienced and the time interval in which they had taken place. Therefore they were using the descriptive answers, emphasizing the prevalence of violence in their lives: *regularly, once in a while, at almost every meeting, in the last year, in the past two years, after coming out, ever since I can remember, almost every day, all the time, all school year.*



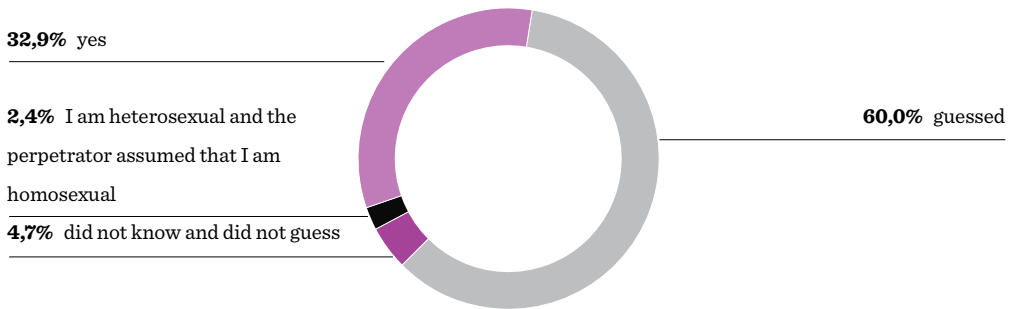
**Fig. 4. Number of incidents motivated by homophobia for people who have experienced violence more than once (n = 202)**



### **The presumption of sexual orientation by the perpetrator**

People reporting cases of violence were asked to indicate whether their sexual orientation was known to the perpetrators of violence. This is important information which was used to verify the data and to exclude cases that were not motivated by homophobia. At the same time, if the test subject marked the answer that his or her sexual orientation was not known and the offender did not assume it, and descriptions of violence and the language used by the perpetrator included unequivocally homophobic behavior or words, then this form of violence was classified as motivated by homophobic prejudice and it was subjected to further analysis. In 92.3% of cases, the person using violence knew that the victim was non-heterosexual or properly attributed non-heterosexual sexual orientation to the victim. We did not collect information about the subjects' coming out, but it was observed that the perpetrators knew for certain about 40% of the women's sexual orientation, compared with 28.6% of men's ( $p < 0.05$ ). It can be concluded that often women do not hide their non-heterosexual sexual orientation or that the perpetrators of violence against them are more frequently people from whom they do not hide this fact.

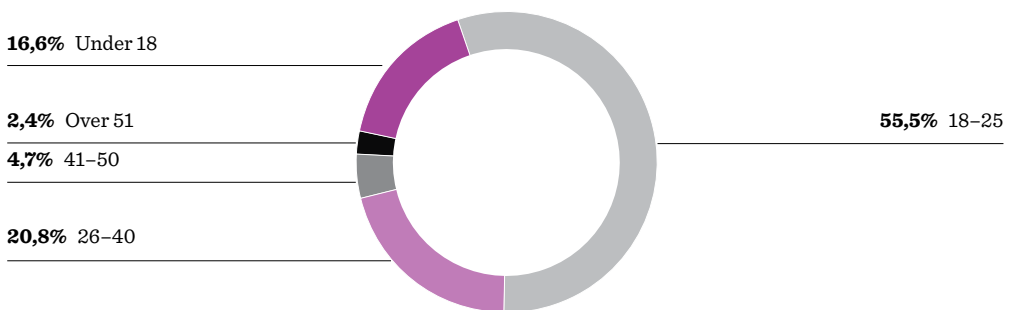
Fig. 5. Did the perpetrator of violence know your sexual orientation? (n = 423)



### General characteristics of people using violence

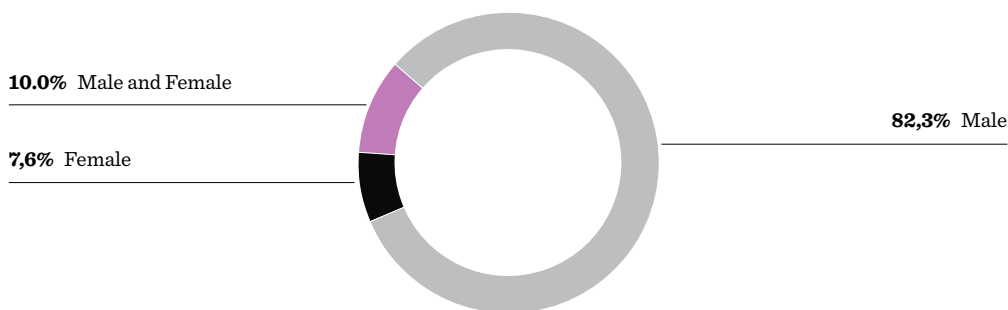
Characteristics of the perpetrators of violence can be found in an analysis of the particular forms of violence in the descriptions, where the number of people in the groups allowed for detailed analysis. At the same time, it is worth looking at the group of people using violence from a broader perspective. The perpetrators of violence are usually at approximately the same age as the victims. 80.1% of people perpetrating violence are between 16 and 30 years of age.

Fig. 6. Age of perpetrators of violence (n = 409)



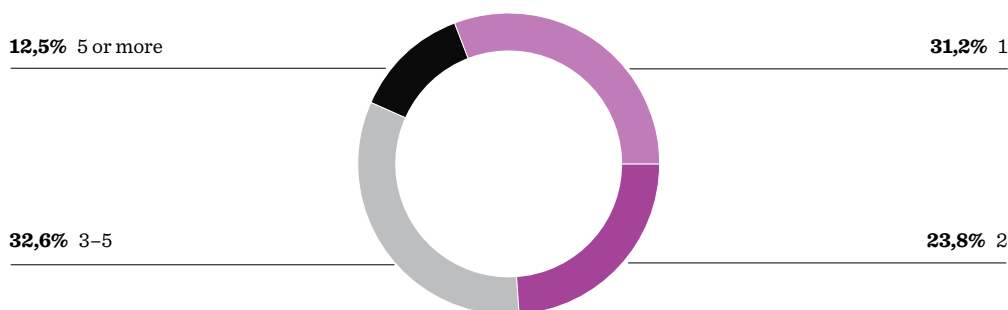
Men were perpetrators in 82.3% of cases. Women more often participated in acts of violence when they were in the company of a man (10%) than when they were alone (7.6%).

**Fig. 7. Gender of perpetrators of violence (n = 419)**

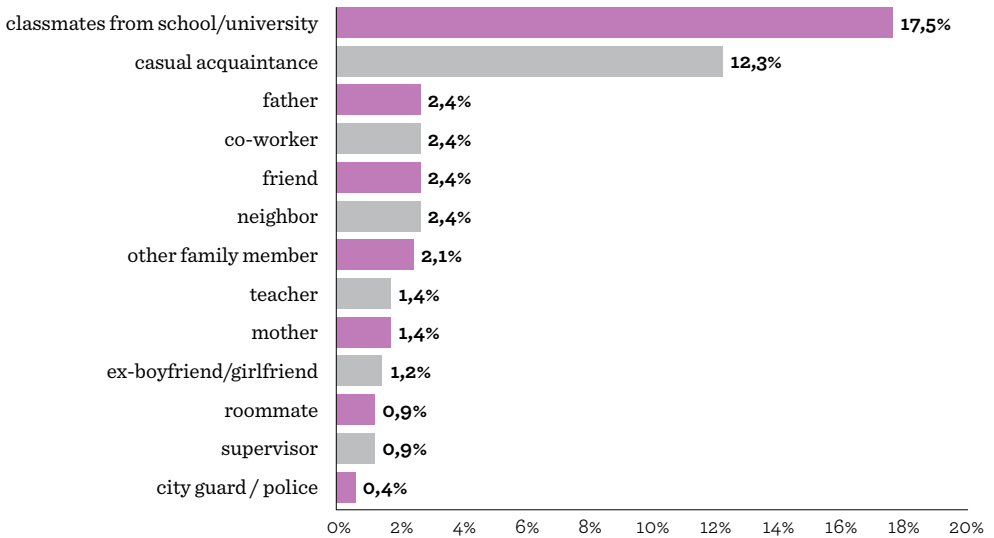


Persons experiencing violence indicated the number of assailants who were involved in the incident of violence. What can be concluded from the victims' testimony is that most assailants attack alone (31.1%) or in small groups (32.6%). The least frequent occurrence is of attackers consisting of more than 5 persons.

**Fig. 8. The number of offenders involved in incidents of violence (n = 383)**



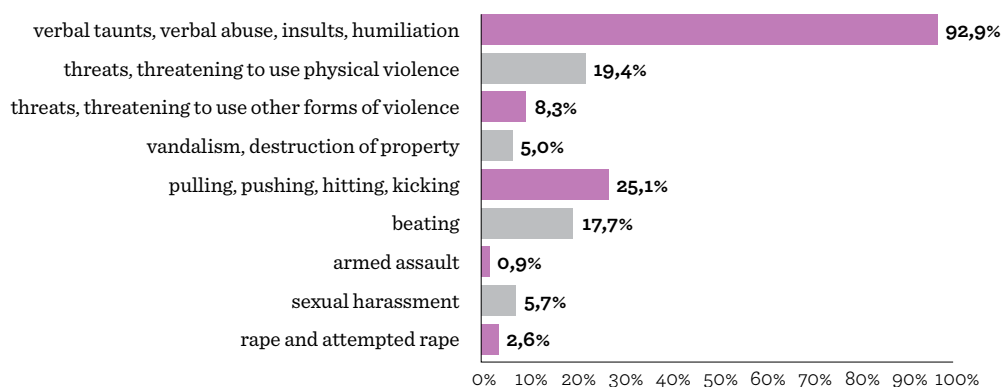
Just over half of the perpetrators of violence were strangers to the victims (55.8%). Most of the known perpetrators were friends from school (17.5%) or casual acquaintances (12.3%). Another important group of offenders is family members: mother, father, siblings and other relatives (5.9%).

**Fig. 9. Relationships with perpetrators which the victims knew (n = 196)**

### **Analysis of the form of violence**

Violence experienced by respondents was analyzed according to categories of violence presented in the questionnaire. For a sense of order we decided to divide the presentation of results according to the categories made in the report edited by Marta Abramowicz in 2007 on psychological and physical violence. Fig. 10 shows the frequency of experiencing various forms of violence by the subjects.

Fig. 10. Forms of violence experienced on grounds of sexual orientation (n = 423)



## Psychological violence

### Verbal violence

*Passing a bench on which a boy and a girl were sitting, I heard the boy saying: there's more and more of these fucking fags. The words were spoken loudly enough for me to hear them and were evidently addressed to me.*<sup>64</sup>

*I was on a tram holding hands with my girlfriend, when a guy started to insult us, call us names and threaten us.*

The verbal violence described in the survey as verbal taunts, verbal abuse, insults or humiliation affected 393 people, representing 92.9% of the total sample. 138 women and 249 men, so 92.6% of women and 93.9% of men who completed this survey, met with this form of violence. This means that men and women equally encounter homophobic verbal violence.

<sup>64</sup> The bulleted and italicized statements are quotations from statements filled in by the respondents of the surveys. They are presented intact, with preserved sentence structures and words in their original form. The only introduced change was the correction of spelling errors.

Those surveyed who indicated that they experienced violence described as verbal taunts, verbal abuse, insults or humiliation had an opportunity to write what words were used by the perpetrators. Several people decided not to give all the words that were used against them but signaled their content or described the situation, e.g.:

- *words unfit for quoting;*
- *questions as to which of us is the guy, ridicule;*
- *unmistakably insinuating my homosexuality;*
- *dyke, ridiculing the items of clothing (shoes, coat) and the person, namely me, saying that someone feels the need to defecate (I'd shit on her, meaning me) rather than have sex with me;*
- *vulgar words (to put it diplomatically);*
- *offensive words*

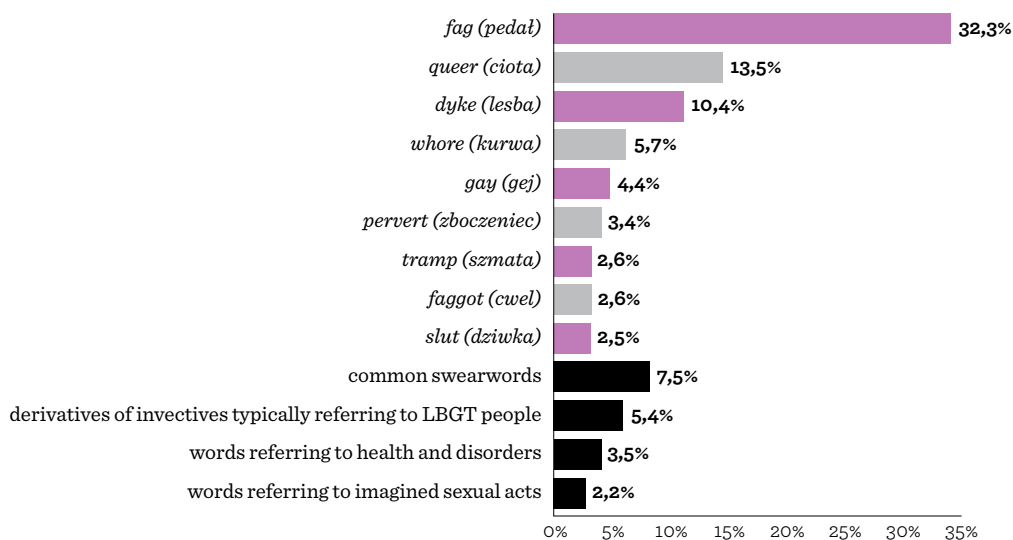
Most people quoted the exact phrasing and words which were addressed to them. Most frequently cited were long, compound expressions that contained popular swearwords and invectives, such as:

- *You dykes you lick each other? What you need is a dick;*
- *Fucking dykes, get the fuck out of here, you'd better hope I don't fucking see you again;*
- *Cunts, whores, come over here, after I bang you, you'll know how to behave;*
- *Bitches, fucking lesbians, whores, fuck off to Holland;*
- *Die you bitch, we don't want homos here;*
- *Fucking whore, fucking dyke, Jewish bitch;*
- *Male whore, fucking fag;*
- *You're such a queer. Want to suck mine? He's a fag. You'd love to fuck me, wouldn't you?*

In order to produce a more thorough analysis of the frequency of particular offensive terms from all the statements cited by the respondents, we isolated individual words used as insults. Phrases preceded by popular offensive epithets were reduced to basic noun forms (e.g., fucking fag was reduced to fag). As a result, we received a list of 772 words which the people reporting verbal violence came across. Analysis of the frequency of recurring items (Table 8) shows that the words most frequently used to insult people because of sexual orientation are the terms fag (*pedał*)

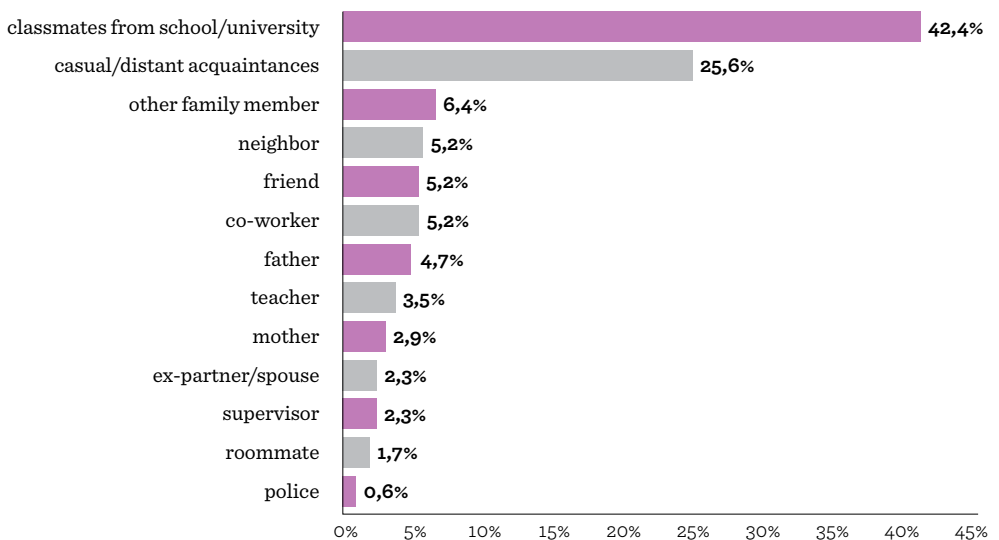
(32.25%), queer (*ciota*), (13.47%), dyke (*lesba*) (10.36%), whore (*kurwa*) (for both men and women – 5.7%), gay (*gej*) (4.4%), (fucking fag – very vulgar) (*cwel*) (2.59%), tramp (*szmata*) (for both men and women – 2.59%), pervert (*zbozzeniec*) (both for men and women – 2.59%), and slut (*dziwka*) (for both men and women – 2.33%). The analysis of the remaining terms shows that although they are relatively rare, one can distinguish among them four emerging categories: common swearwords (e.g. dick [*chuj*], bitch [*suka*], loser [*frajer*], cunt [*pizda*], motherfucker [*skurwysyn*], or shitbag [*gnój*]); derivatives of invectives and words referring to LGBT people (e.g. faggot [*pederasta*], homo, lesbo [*lesbijka*], poof [*pedzio*], fairy [*ciotka*], or geisha); terms referring to disorders and health (e.g. sick, abnormal, perverted, deviant, mentally ill, handicapped or unnatural); and words referring to the imagined sexual acts between persons of the same sex (e.g. cocksucker [*lachociąg, obciągacz*], fudgerpacker [*dupojebca*], dick licker [*lodziarz*], ass licker [*dupolizca*], cum dumpster [*spermojad*]).

Fig. 11. The frequency of certain words in the use of verbal violence (n = 772)



People using verbal violence are, in a slight majority of cases, strangers (56%). Survey respondents had the opportunity to note the type of relationship between themselves and the perpetrators of violence, when they did know them. Among the perpetrators of verbal violence known to the respondents were mostly friends and acquaintances from school and university – they constitute 40.1% of known perpetrators of verbal violence. The next isolated group of people are acquaintances (25.6%). The third group who uses verbal violence most often is the family. Fathers, mothers and other family members (e.g. aunts, uncles and siblings) are responsible for 14% of the total cases of verbal aggression motivated by homophobia.

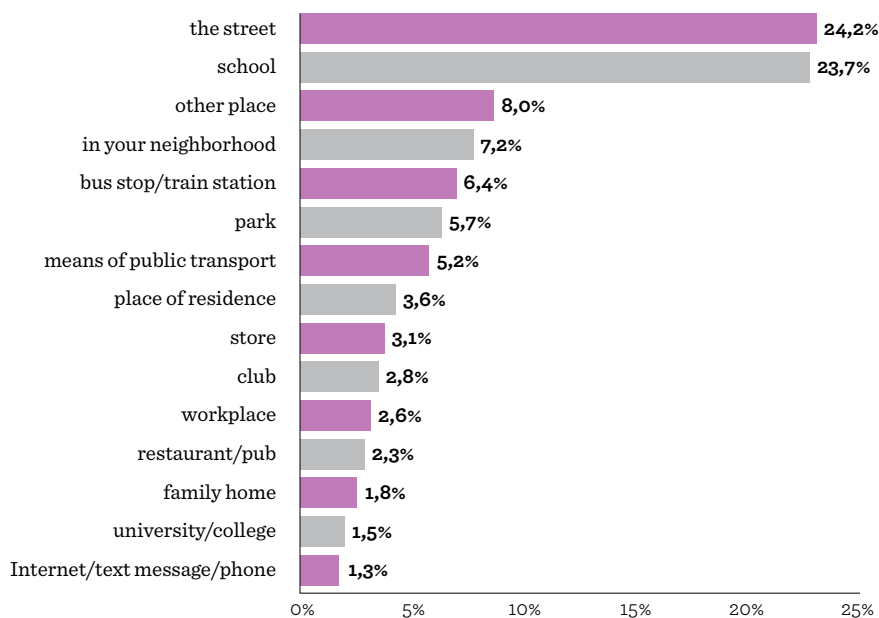
**Fig. 12. People using verbal violence who are known to the victim (The percentages do not add up because in some cases the perpetrators belonged to several categories at the same time.) (n = 173)**





Based on the descriptions of the places where the incidents of violence took place, categories for the most frequently recurring locations have been created. Verbal abuse most often occurs on the street (24.2%) and in school (23.7%). This violence often does not end at verbal taunts, but is combined with other forms of assault. We should also pay attention to the category *in your neighborhood* (7.2%). It describes the insults and slurs heard on the way to and from home, in backyards and staircases, where the perpetrators are most often people familiar by sight – unacquainted neighbors or friends from the backyard. Another major site for verbal violence involves means of public transport (buses, trams or trains), train stations and waiting areas on public transport lines (bus/tram stops) – a total of 11.6% of reported cases of verbal aggression happens there.

Fig. 13. Place of occurrence of verbal abuse (n = 388)



More than half of the cases of verbal abuse take place in front of some witnesses (67.4%), but in only 13.2% of situations of violence in which there were witnesses, is there intervention on their part. Respondents did not provide examples of such interventions; they did write, however, why the bystanders, seeing the situation, did not take any action. Typical reasons for not reacting are illustrated by the following statements:

- *Because everyone was laughing and walking past indifferently;*
- *Because everyone participated;*
- *Because they were the friends of that person;*
- *Everyone around had suddenly disappeared;*
- *I don't know if anyone heard it.*

These reasons are identical in all cases with a lack of reaction for other forms of violence as well.

### Threats and threats to use physical violence

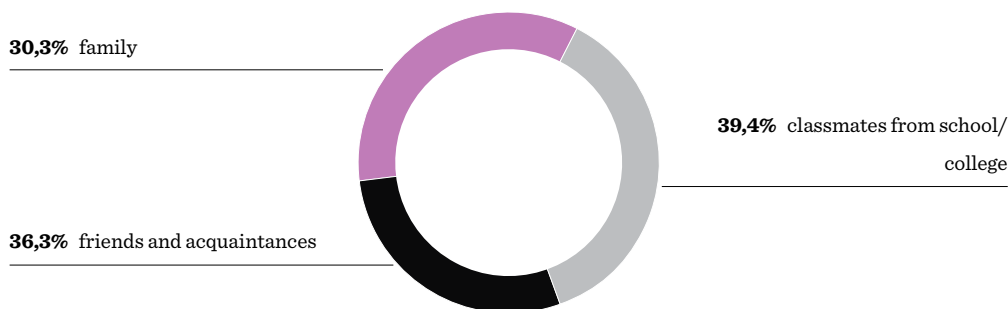
82 people, or 19.4% of respondents, have indicated that they have experienced the type of violence described in the survey as threats and threats to use physical violence. 13.6% (20) of female respondents and 22.7% (61) of male respondents met with this form of violence. The sex of the person to whom the threats were addressed proved to be a statistically significant ( $p < 0.05$ ) factor; therefore, it can be concluded that men are almost twice as likely as women to experience this form of violence. The threats of physical violence occur most frequently with verbal taunts, insults and harassment, and are an escalating form of verbal violence on homophobic grounds, e.g.:

- *You fucking dyke, I'm gonna fucking kill you, you whore;*
- *Abnormal, fucked up, fucking freak, People like you should be killed, God created us but you're a mistake;*
- *Fucking fag, I'm gonna rip your fucking head off the next time I see you for being a fag;*
- *You are sick, abnormal, you should be treated, you're fucked up, you're perverted, sexually unsatisfied, pitiful child, you should sleep with a guy, I can cure you with my cock, etc.;*
- *"Get the fuck out of here," "I'll kill you, you stupid dyke," "Lesbians to the gas chambers";*

- *We'll castrate you, we'll rip off your balls, we'll put barbed wire up your ass;*
- *We'll get you anyway, we're gonna the beat shit out of you.*

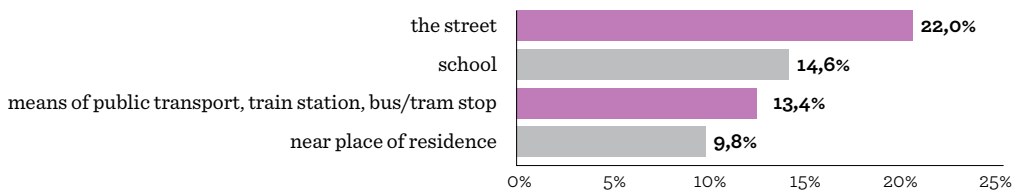
Just like in the case of verbal violence, in most cases of threats of physical violence, the perpetrators are not known to the victim (59.8%). Most often the offenders familiar to the victim were people from school or college (although only one such case from university was recorded) and family (including the father, who was the perpetrator threatening a family member in half of the cases of all family-related offenders). The third category of people using threats of physical violence is distant or close acquaintances, such as colleagues, ex-partners, friends, neighbors, roommates, superiors at work and neighbors.

Fig. 14. The perpetrators of threats to use physical violence (The percentages do not add up because in some cases the perpetrators belonged to several categories at the same time.) (n = 33)



Places where it most often comes to threats include: the street (22%), school (14.6%), means of public transport, bus/tram stops and train stations (13.4%) and places of residence (9.8%). Just as in the case of verbal abuse, threats take place in front of witnesses (68.3%) who rather don't intervene (64.6%).

Fig. 15. Location of threats to use physical violence (n = 82)



### Threats to use another form of violence

35 people, or 8.30% of the respondents, pointed out that they had received threats of violence other than physical violence. Because there are so few people in this group, it is impossible to create a comprehensive analysis of this kind of violence. Nevertheless, it is worth taking a closer look at the relationship of victims to better understand how this violence is defined by them.

Many of the people who filled out the questionnaire called the violence which they experienced psychological violence in the following manner:

- *psychological blackmail;*
- *emotional blackmail;*
- *bullying;*
- *“I’ll see you again”;*
- *the threat of public humiliation.*

One of the recurring elements of this kind of violence was the threat to reveal the victim’s sexual orientation to the broader public:

- *I got a message from a “classmate” that she knows who I am and everyone will find out and I will not have an easy life;*
- *My roommate’s ex-boyfriend accused me that I was surely having an affair with her and threatened to tell my mother and hers;*
- *It’s about stalking. The guy who I was dating and didn’t want to see anymore started following me, threatening to kill me, he outed me to my parents, he also threatened the boy I started seeing a month after I stopped dating the one who persecuted me. The police didn’t help much;*
- *Someone I knew was shouting different insults under my window, there were notes posted in the staircase exposing my sexual orientation.*

## Vandalism and destruction of property

21 people, or 5% of all respondents, said that cases of vandalism or destruction of property happened to them because of the non-heterosexual sexual orientation attributed to them. This is too small a number for a detailed analysis, but – as in the previous case of threats – one can notice that this form of violence consisted of psychological violence (threats and hateful language) that accompanied physical violence.

- *On my locker door in the locker room someone would persistently write various insults and vulgar words such as FAG, FOO FOO, COCOA on the label with my first and last name, and besides that, somebody stuck a picture of a bottle of juice, and the caption said FAG JUICE (...)*
- *I was mugged by a group of about 5–6 men, pushed by force inside a door, beaten and robbed.*
- *On my car, parked on the street, someone wrote the word “fag.”*
- *During a free lesson in my class, the subject of relationships was brought up. In turns, everyone was supposed to talk about their love life.... Then a classmate (sitting with me at the same desk, unfortunately) mentioned briefly that I draw naked women on the covers of my notebooks (I like to draw, and the female body is especially fascinating as an art object.) That unleashed an avalanche of very nasty comments. They even started tearing up the covers of my notebooks, and yanking them! Thankfully, the teacher entered in that moment (it was very loud). Because of all that I got individual tuition in school, but I still hear unpleasant comments in the hallway.*

## Physical violence

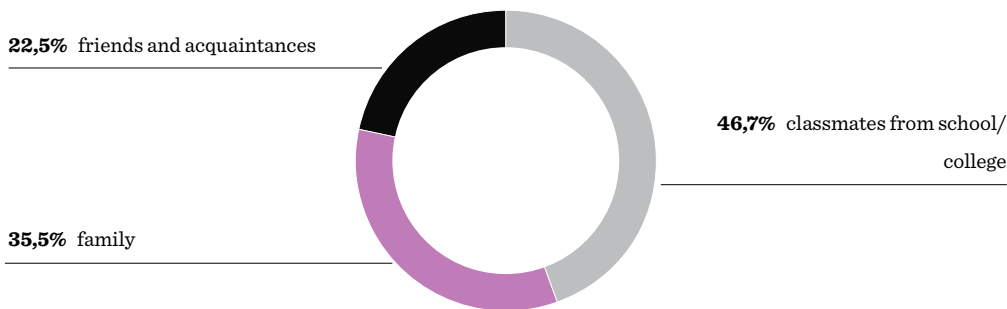
### Pushing, pulling, hitting, kicking

106 respondents – that is, every fourth person (25.10%) – encountered physical violence defined in the survey as pushing, pulling, hitting or kicking. Gender is not a significant factor differentiating the experience of this form of violence – 24.9% of all surveyed men and 22.40% women experienced such violence.

- *The former husband of my partner informed by a colleague, came to our friend's apartment. He went in, threw my shoes out the window and began insulting me, and then pulling me. He threatened me and said that he had paid someone to kill me, and that when I walk the streets I should be careful because a drug addict might infect me with HIV, stabbing me with a needle.*
- *I was attacked by a drunken man, about 40 years old, who had problems identifying my sex, after which, he started calling me vulgar names and slapped me in the face.*
- *I was on a bus, which four drunk young men boarded. They put a sticker with a Celtic cross, and another one with the slogan "No faggoting" on the window pane. I protested and began tearing off the homophobic label. The perpetrators called me very offensive names (e.g. "dyke," the perpetrators were convinced that I am homosexual), one of them spat at me, the other pushed me around.*
- *My girlfriend and I were walking and holding hands, an older man pushed me and said that it is hideous and in the name of God, we should stop being promiscuous and slutty in public*
- *My (ex-) boyfriend and I were hugging on a park bench when two drunk men in tracksuits started harassing us – there was a lot of yelling, name-calling, my ex was hit in the face, but thankfully nothing more serious happened.*

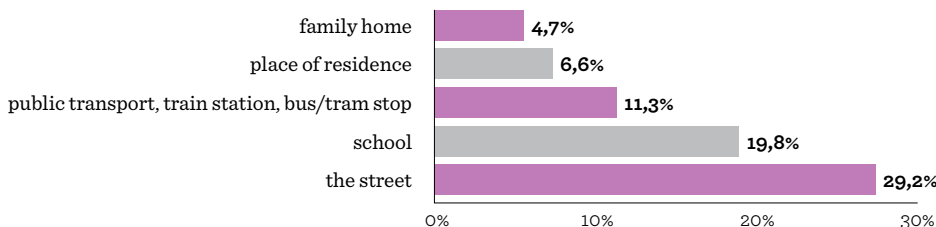
In more than half of the cases (57.5%), perpetrators were not known to the victims. When a known person uses violence, they are often friends from school or college (46.7%), a father, a mother or another person from the family (35.5%) and close and distant acquaintances (22.5%).

**Fig. 16. The perpetrators of pushing, pulling, hitting and kicking (The percentages do not add up because in some cases the perpetrators belonged to several categories at the same time.) (n = 45)**



The place in which respondents came across pushing, pulling, hitting and kicking is most often the street (29.2%), school (19.8%), public transport and bus/tram stops and train stations (11.3%), places of residence (6.6%) or family home (4.7%). Most incidents of this form of physical violence (69.8%) take place in front of witnesses, who often do not react (76.4%).

**Fig. 17. Location of pushing, pulling, hitting and kicking (n = 105)**



## Beating and armed assault

Of the people who filled out the questionnaire, 72 (17.7% of respondents) experienced homophobia-motivated beatings. 9.5% of women and 21.6% of men experienced such an incident. The predominance of men in this group is statistically significant ( $p < 0.005$ ), which means that gender is an important factor differentiating the frequency of experiencing this form of violence.

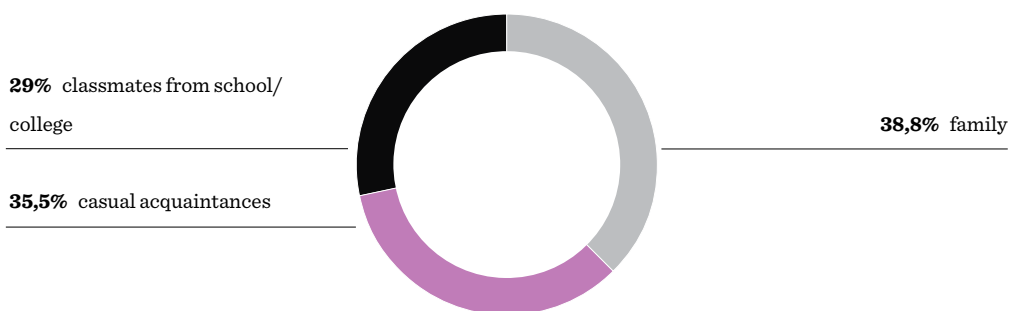
- *The initial argument, provoked by what the perpetrators thought to be the inappropriate color of my shirt, turned into a beating when two perpetrators, initially not feeling strong enough to threaten me, returned to the scene in a large group (I was waiting in line for cigarettes, so they had time to regroup.) The result: chipped teeth, face and body bruised from the kicks of one of the perpetrators.*
- *When I got into my parents' car, I was locked inside. After some time of driving home on a deserted road, my parents stopped the car, and then brutally beat me and tied me up. Later I was taken home and locked inside.*
- *I was leaving school and heading to the bus stop which is right next to it. Some guys were walking towards me, I didn't know them... when they got close to me I got punched in the face, then in the stomach and the incident was "crowned" with a knee kick to the head... no one reacted in spite of the fact that people were coming out of the school... only my friend ran over to me and brought me tissues... this incident was the "nicest" anyway... I don't keep "a diary of beatings."*
- *At first, they were calling me names and then they began throwing beer bottles at me; when one hit me in the back of my head and I fell down, I just heard one of them shout "let's finish him" and they started kicking me, that's all I remember because I woke up two weeks later in intensive care.*
- *I was severely beaten by my own mother when she found out that I have a girlfriend. My mother tore apart my room. In addition, I was kicked out of the house. I was not even 18 years old.*

Similarly to the previously described forms of violence, more than half of the perpetrators of beatings are strangers (58.7%). Aggressors familiar to the victims were usually family (38.8%), friends from school or college (35.5%) or casual acquaintances (29%). Most often, beatings occurred on the street (24%), in the park (9.3%), at railway stations and bus stops

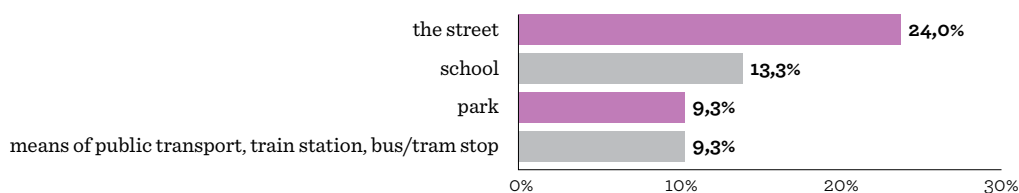


(9.3%) and in school (13.3%). In 74.7% of cases, the victim was certain that other people saw the situation, but help was provided in only 28% of cases.

**Fig. 18. Perpetrators of beatings (The percentages do not add up because in some cases the perpetrators belonged to several categories at the same time.) (n = 31)**



**Fig. 19. Location of beatings (n = 74)**



Four people have experienced physical violence with weapons. In three cases, the affected victims were men; the perpetrators were male in each case, and the weapon was a knife with which the assailants threatened or held to the victim's throat.

## Sexual violence

Physical violence of a sexual nature has been described in two categories: as *sexual harassment* and *rape and attempted rape*. Such forms of violence affected 35 people, representing 8.3% of respondents of the survey. Due to the small size of this group, we cannot unequivocally infer data about the sex of people experiencing sexual violence, but it is worth pointing out certain trends.

**Table 2. Number of people experiencing sexual violence, and the percentage of people of a particular gender relative to the entire group**

	SEXUAL HARASSMENT		RAPE AND ATTEMPTED RAPE	
	% TOTAL	QUANTITY	% TOTAL	QUANTITY
MEN	4,80%	13	2,20%	6
WOMEN	6,80%	10	3,40%	5
F/M	33,30%	1	-	-

In the sample, more men encountered sexual harassment and attempts of rape. However, if we express this number as a percentage, taking into account the proportion of men and women in the group, we can observe that women become victims of sexual violence more often – it affected a total of 10.2% of women compared to 7% of men filling out the questionnaire.

Four people have experienced physical violence with weapons. In three cases, the victims were men, the perpetrators were male in each case, and the weapon was a knife, with which the assailants threatened or which they held to the victim's throat.

- *I was sitting with my girlfriend on a wall outside the school, holding hands. Then some boys came running up and began throwing stones at us, hurling insults, then one of them showed his genitals.*
- *I was sitting on a bench with my partner in an embrace. Then five perpetrators came up to us. They called us names, pushed us, and brutally touched my crotch. They threatened they would severely beat us up. We were helpless. People passing by pretended they didn't see anything.*

*The next day, three of them were waiting for me in front of my building. The situation was very similar, it repeated from time to time over a month. I had to change my place of residence.*

- *I met my friend from elementary school when I was 18 years old, he knew that I liked him, before this incident we'd had sex; that day I ran into him by chance, he began to insult me, that he did it with me that day and said that he would treat me like I deserve to be treated, he knocked me over into the snow, took out his pocket knife, and pressed it to my throat, he told me to pull down my pants and raped me.*
- *Four skinheads attacked me, dragged me into a dark alley and wanted to rape me and when I screamed that I'm a lesbian, they began to beat and kick, put their knife to my throat and I gave in to them...*
- *I'm a lesbian, I told my parents about it, and ever since my father and my brother rape me because they want to make a normal woman out of me...*

It is worth noting the motives for rapes that emerge in the testimony of victims. They are so-called “corrective rapes,” at the source of which is the conviction of the perpetrators that as a result of rape, the woman’s sexual orientation will be changed to heterosexual. In other cases, the assailants use blackmail which involves profiting from sexual intercourse in exchange for not revealing the victim’s sexual orientation in public. Sexual harassment, on the other hand, performs the role of humiliating and debasing the victim (especially men), as well as intimidating by threatening further violence and forcing them into sexual intercourse.

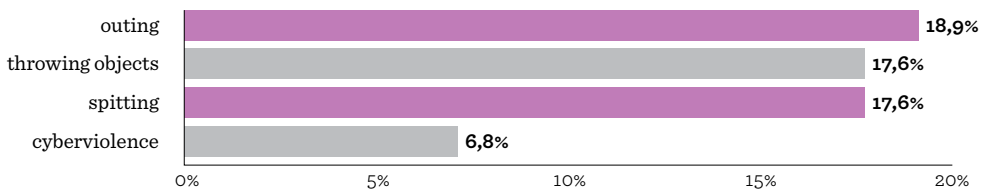
Most perpetrators of sexual harassment (54.2%) or rape and attempted rape (81.8%) are persons known to the victims. In 90.9% of cases they are male. Nearly one in three (30%) cases of sexual violence occur in school and in nearly half of the cases (47.4%) people inflicting the violence are classmates from school. The next categories of aggressors are friends and acquaintances (31.6%) and family (22.6%). Analysis of these categories should be approached with caution due to the small number of people in the group.

## **Other forms of violence**

People filling out the questionnaire had the opportunity to describe forms of experienced violence other than those specified in the questionnaire.

73 people, or 17.3% of all respondents, checked the box *other forms of violence* – 17% of all women and 16.7% of all men. Although the types of violence described by the respondents were very different, and some of them overlapped with the previously defined categories, it is possible to isolate new specific forms of incidents of violence. Of the 74 described forms of violence, 14 (18.9%) concern outing or threats of outing, or disclosure by the perpetrator of the victim's sexual orientation against his or her will. The goal of a person making such threats is to intimidate, discredit or extort (e.g., money or sex) his or her victim. The second new form of violence highlighted is spitting, which occurred 13 times (17.6%) in the incidents classified as *other forms of violence*. A violent behavior which repeated as frequently was throwing various objects (e.g. a bottle, stones, eggs, snow with ice, fireworks). It is also worth noting that the respondents encountered insults, humiliation and harassment by telephone, text messages and e-mail (cyberviolence) – of which five cases (6.8%) were recorded. ).

Fig. 20. Other forms of violence (n = 73)



Other descriptions of violence, although they were marked as *other forms of violence*, correspond to categories listed in the questionnaire: insults, threats, pushing, etc.

### Reporting violence to the police

Only in 9.7% of cases did the victims report violent situations that they experienced to the police, i.e., 41 incidents described in the data were reported. Comparing men and women, there were no statistically significant differences in the frequency of reporting cases to the police, but there is a tendency which allows us to posit that men are more likely to

report violence. This may result from the different types of violence to which women and men are exposed. The victims were more willing to report beatings and threats – more often affecting men – where incidents of verbal and sexual violence, which affected men and women to an equal degree, were reported to police least often. Table 3 shows the percentage of the cases of violence in a given category reported to the police relative to the frequency of occurrence in the sample. It should be noted that the most common form of violence does not mean frequent reporting of such violence to the police (e.g., it is most common to report vandalism and destruction of property, but these are sporadically found forms of violence).

**Table 3. Percentage of incidents reported to police by the different categories of violence**

FREQUENCY OF OCCURENCE	TYPE OF VIOLENCE	% REPORTED INCIDENTS
0,7%	armed assault	0,0%
5,7%	sexual harrassment	8,3%
92,9%	verbal taunts, verbal abuse, insults, humiliation	8,9%
2,6%	rape and attempted rape	9,1%
17,3%	other types	11,0%
25,1%	pushing, pulling, hitting, kicking	17,9%
19,4%	threats to use physical violence	18,3%
8,3%	threats to use other forms of violence	20,0%
17,7%	beating	25,3%
5,0%	vandalism, destruction of property	28,6%

Most people experiencing violence related to the sexual orientation attributed to them do not report it to the police. Respondents gave 388 reasons for failure to notify the police, which have been subjected to content analysis in order to find common elements. We isolated four main factors contributing to not informing the police about the experienced violence: the victim's beliefs about the attitudes of the police, lack of knowledge of the relevant formal and legal procedures and lack of faith in them, belit-

ting one's own sense of sustained harm and the feeling of pointlessness, shame and fear.

Respondents expressed their fears and doubts about the professionalism of police work and the reactions that they may encounter at the police station. Very often there appeared the fear of being ridiculed, of disclosing one's sexual orientation to the police, the assumption that the police will downplay the matter and the belief that the police are incompetent.

- *For the fear of homophobic mocking (verbal and those hard to describe in words; contemptuous glances) and trivialization of the case;*
- *I was afraid that they would laugh at me at the police station;*
- *They probably would have ignored me because I'm a minor, or because I'm not heterosexual, and this issue would be not be treated seriously;*
- *I can't imagine the police treating the matter seriously and wanting to capture the perpetrators, no act of physical violence occurred;*
- *Because the police wouldn't do shit ;/;*
- *The police would laugh in my face, please people, this is Poland after all, and it is obvious that 99% of police officers are homophobic;*
- *Fear of being ridiculed by the police, fear of disclosing my sexual orientation to the police, fear of retaliation for notifying the police.*

Another recurring set of reasons for the failure to report the crime to the police is associated with limited knowledge of the reporting procedures, doubts associated with these procedures and lack of faith in the formal and legal effectiveness of the prosecution of perpetrators. The victims wrote that they did not know about the possibility of reporting the incident to the police, and presumed that the act was harmless because there was no physical violence. Other important obstacles, in their opinion, were not knowing the perpetrators and the difficulty in identifying them, as well as their own weak credibility because of being a minor, lack of evidence or prior alcohol consumption. In addition, the victims were afraid of further escalation of violence as a result of the notification.

- *People I didn't know, no witnesses, no cameras, finding the perpetrators would be impossible, and even if they were identified I'd fear being beaten;*
- *First, I didn't feel the need, and second, I would've had even bigger problems;*
- *I don't think [the police] would have taken it seriously, no witnesses, too much fuss in the absence of physical harm;*
- *I would have spent my whole life at the police station;*

- *They have tons of such reports, so they wouldn't do anything;*
- *The problem is determining the identity of the attacker. Being under the influence of alcohol;*
- *I was not aware that you could.*

Some people do not see the point in taking any action and/or underestimated the violence which they experienced. Often, the victims made comments such as *what for?*, *it doesn't make any sense*, and they often downplayed the experienced incidents of violence and considered them harmless or common enough for one to get used to. People who have experienced violence from family members indicated a close relationship with the perpetrator as the reason why the police should not be involved in the matter.

- *Similar events happen too often;*
- *Too trivial a reason;*
- *It's just verbal taunts and there was no physical violence;*
- *This is not a suitable solution to the problem inherent in the mentality of the perpetrator;*
- *It did not offend me in any way, I approach such people with compassion;*
- *I do not feel that two bruises were sufficient reason;*
- *I ignored it;*
- *Nothing happened, just the fear;*
- *I'm probably used to such taunts;*
- *I can cope with such situations, I don't show that I take it to heart;*
- *Because it's easier to pretend that one does not hear;*
- *Digging any deeper would probably have done more psychological harm than good;*
- *They were my parents, they didn't do anything serious;*
- *After all, they're my family, to whom my feelings haven't changed.*

The last featured set of reasons for the lack of contact with law enforcement authorities is related to experiencing strong emotions and a fear of disclosing one's sexual orientation. Respondents wrote briefly: *I'm afraid, fear, shame, apprehension*. From their concise comments, we can infer a lack of self-confidence, a strong fear of social exposure, and of the possibility of experiencing more violence as well as blaming oneself.

- *I didn't know that I could sue my father because I was the one who was guilty of being gay;*
- *I'm ashamed of my sexual orientation;*
- *I'm ashamed because I live in a small town;*
- *Shame that I was born gay. It was better not to have been born;*
- *Fear, I live on the ground floor and I want to live a little bit more because I do not know how much time is left;*
- *I was 18 years old I was afraid of myself, not to mention the police, and I got it for being gay;*
- *It's embarrassing;*
- *Lack of courage;*
- *Because I was ashamed, so I quit school and I found peace.*



## The attitudes and needs of people experiencing violence

The case studies and descriptions of violence collected by the questionnaire, which were encountered by someone cooperating on the project Out and Safe (*Razem Bezpieczniej*), yield results that allow the creation of an outline analysis of the attitudes of people experiencing homophobic violence. We have three sources of data: questionnaires filled out by the respondents; reports of Campaign Against Homophobia hate crime victim counselors, who are in direct contact with the victims; and feedback on the research topic (messages and e-mails) that were sent by people invited to complete the questionnaire. All of this information creates a picture of the attitudes and needs of non-heterosexual people, which merits a description and reflection. It must first be noted that these conclusions, in contrast to the previous part of this report, are not a result of quantitative analysis. They are rather the result of collecting hundreds of accounts and statements of people experiencing violence on grounds of sexual orientation or who are particularly vulnerable to such violence, and it is an attempt to organize the observations gathered in this manner. It is also an expression of the integrity of the person conducting the study, who decides to share the broadest knowledge gained in the process of data collection.

The following outline of reactions to the problem of violence motivated by homophobia illustrates the diversity of attitudes and beliefs that prevail among LGBT people and can be valuable guidance for those who are planning activities focused around the theme of violence against the LGBT community. The phenomena recorded here, such as denial of the problem, downplaying the homophobia experienced and the mechanisms of cutting oneself off from one's own difficult experiences are a big challenge for awareness-raising and preventative measures on the issue. The second part of this text concerns the analysis of the needs of the victims of homophobic violence, and people awaiting expert support or intervention.

## Attitudes and beliefs about violence

During the promotion of the project, involving, among other things, sending private messages to the users of LGBT websites, sending mailings and posting information on LGBT social networking sites, we encountered various Internet users' reactions. One such reaction was an enthusiastic reception, and a declaration of support for the initiative to support people experiencing violence and to gather information about violent incidents. Such people were thankful for being informed about the questionnaire and the project and undertook to inform their friends about the study. Sometimes messages came with a description of their experience of homophobia, anger at the situation (*It was very nice of you to write. It's starting to get on my nerves how people treat us as perverts and mentally ill.*),<sup>65</sup> or to the contrary – despite the avowed lack of experience of violent situations based upon sexual orientation – the people writing pointed out that it is a big problem and they are happy that someone is getting to grips with it (*I'm glad that there are people who care about such things; I strongly support such actions because aggression against sexual minorities, intolerance, etc. is a serious problem in the contemporary world*).

An opposite reaction was expressing hostility and undermining the point of actions undertaken within the project Out and Safe of people who received information about it. Writers formed their own hypotheses about the origins of homophobia, which often reproduced homophobic discourse, or which may have been a manifestation of internalized homophobia of the respondent (*The main problem is not the aggression of others against us, but the fact that effeminate gays try to reach the media at all costs, thus tarnishing the image of homosexuals, because people are afraid of gays, because they think that all of them are unmanly and queer and that's not true. The problem lies not in society, but in gays, who often aren't able to behave according to their physical sex and social standards*). The issue of violence against non-heterosexual people is, in their opinion, insignificant or wrongly addressed (*What you are trying to do may one day end in a real pogrom.*) Those critical of the project gave their own solutions for changing the situation of non-heterosexual people, and those solutions

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<sup>65</sup> Italicized sentences are direct quotations which provide a selected illustration of the conclusions.

bore the traces of stereotypical thinking about gays or lesbians (*As far as I'm concerned, you should devote time to doing something towards changing the image of gay people in Poland, and not just running to the police with every little thing. More faggy parades = more hatred for people like us*). In their opinions and views, non-heterosexual people do not differ much from the rest of society, even when they partially participate in social activities or events of the LGBT community. Just like other people, they acquire stereotypes and norms about sexuality and socially desirable norms of behavior. For many people, the adoption and acceptance of these standards may be the condition for gaining the acceptance of their reference group: family, peers, work environment or subculture. According to them, demonstrating views against heterosexual norms (e.g., “effeminate” behavior in a man or talking openly about discrimination against non-heterosexual people) may be sufficient explanation and justification for homophobic violence. Actions seen as a rejection of the status quo and aiming to bring about social change are perceived as an attempt to destroy internalized (albeit oppressive) values, so they cause resistance and become challenged.

Another interesting reaction to the study was to declare a lack of experience of homophobic violence. Those who wrote to us did not undermine the existence of homophobia and the fact that other people may experience violence motivated by prejudice, but they stated that their environment is tolerant and they never met with such incidents (*Thank you for your message. I'm happy to say that I've never been a victim of violence based on sexual orientation*). These are important testimonies showing that being gay, lesbian or bisexual is not necessarily linked to the experience of violence based on sexual orientation. This phenomenon is particularly interesting when written by people who don't hide their sexual orientation (*I have never experienced any physical violence and the tolerance of my friends as well as strangers in my region, of people who know about me, surprises me; and I've had no problems so far, threats, insults, etc.*). This study focused primarily on people who were victims of violence and on the context of this violence. In light of the declared absence of violence, it is worthwhile to explore the situation of gays, lesbians and bisexuals who are free from violence motivated by hatred. A better understanding of the context of their functioning may contribute to the identification of “protective factors” against violent situations. Partial answers of how to avoid violence motivated by prejudice is provided by those people who write that they

do not meet with homophobia because they actively conceal their sexual orientation from the environment (*Well, fortunately I know how to hide it :) ; As for me, fortunately, I've never had any problems, because firstly I'm not entirely outed to everyone, and secondly in my case it doesn't show; I won't fill out the questionnaire because I've never directly experienced any aggression on account of the fact that I'm gay. It is probably also because I live all the time hiding my sexual orientation from the majority of society*). Hiding one's homo – or bisexuality often consists of censoring one's own speech in conversations about romantic relationships, private life and entertainment, constraining displays of affection for one's partner in public places and creating the appearance of being a heterosexual person. This constant self-control and hiding of certain elements of one's life can be tedious, but many people believe that this is a price worth paying in order not to experience violence based on homophobia. At the same time, it is worth noting that according to the accounts of other gays, lesbians and bisexuals, coming out is met with a warm reception and does not mean an automatic submission to discrimination and violence. This is a surprise for them, because current social norms produce in people the belief that living in harmony with one's non-heterosexual sexual orientation is a risk and must lead to dire consequences. The subject of this report is not to answer the question of whether it really is so, but we can certainly conclude that many non-heterosexual people share this belief and choose to live in hiding. Looking at the accounts of non-heterosexual people who do not hide their sexual orientation, one can hypothesize that people who declare the absence of homophobia in their communities are not able to correctly identify it and/or have become immune to its manifestations. This assumption is supported by the results which show the reasons for not reporting violence to the police (low awareness of violence) and by the fact that the victims belittle and downplay the experienced violence, which is described below.

A significant number of people filling out the questionnaire and replying by email to an invitation to participate in the study demonstrated an ambivalent attitude toward violence experienced by them. These people admitted that the violence actually took place, while in their descriptions of events one can find phrases that show complex mechanisms used to deal with homophobic incidents. In those descriptions, the significance of the act of violence on grounds of homophobia was in many ways un-

derestimated or downplayed by the victim or attention was directed to an aspect of the situation other than the violence. Some people stressed that they are immune and accustomed to homophobic incidents (*I'm not able to remember every "queer" or "fag." Besides, the verbal taunts do not get to me. Maybe it is not about anything really bad, because I'm accustomed to that; I seem not to give a damn, but in fact it's starting to irritate me:*). Another clearly emphasized element of speech is one's own competence and resourcefulness in coping with violence (*He was quickly made to shut up, but not everyone would be able to handle this situation and might simply end up in a psychologist's office from stress, because, as you know, not everyone's life gives them such a hard time to make them immune. I've never come across incidents which I couldn't handle; Homophobic people are too afraid of me to harass me*). Those convinced of their own resilience and competence in coping do not perceive homophobic violence as a real threat. Rather, they are proud of their abilities and do not expect more support. When it did come to violence which the victim did not cope with and the incident was significant, the affected person expressed a sense of relief and even joy and happiness that the situation did not end worse. Such statements are accompanied by the belief that since the event was not extremely drastic, it was not so severe (*Fortunately, I'm feeling fine except for the pain in my back [after a beating]; Fortunately, that was all they did [after a beating]; So far, nobody's felt like picking on me more intensely, lucky me*). Another way of dealing with experienced violence is vilifying and mocking the offenders (*primitive beings, neanderthals, stupid tracksuit wearers*). Looking at the language used by the respondents and the people who wrote personal messages about the study, one may notice the use of sarcasm and irony towards experienced violence (*She decided to throw a tantrum in front of them in the hope that the prodigal son would convert to the only true religion and forsake Satan's evil ways. Experiencing that deep love: being beaten in front of friends over one's whole body, being grabbed by the crotch, being called names...*). Verbal violence is defined as interesting slogans and the situation of vilification becomes an opportunity for a joke (*A boy walking with a girl called me a fag to impress her, which in a way pleased me as, compared to his style, I prefer being a fag :D*). Many descriptions are illustrated with emoticons symbolizing a smile or wink [ :) ;D]. In those descriptions, there is no clear rejection of the experienced incidents, and one can even infer their

acceptance and acclimatization while discarding the role of the victim. (*I am not writing about this as a victim of oppression crying out for help because I distance myself from it. I'm not building a monument from tears and I do not pity my own fate, the people who are harmed are those who allow it.*) This attitude seems to be particularly dangerous because it leads to acceptance of violence and indirect acquiescence to it.

The above described statements are reactions to the mere fact of conducting the project Out and Safe by the Campaign Against Homophobia and attitudes towards the noted and experienced violence motivated by homophobia. It can be inferred that there is a group of people who do not experience violence or do not notice it and that the victims, when faced with situations of abuse, activate many different forms of coping mechanisms. This mechanism may be connected not only with internalized homophobia, but also a certain normativization of homophobic violence. The phenomenon of normativization of violence consists in adopting an attitude that being exposed to homophobic behavior is natural and makes up an integral part of a non-heterosexual person's life in Poland. This leads to the attitudes, manifested in behaviors, which diminish the extent of one's own unpleasant experiences, treating them playfully and minimizing their importance. Fear of being stigmatized and of accepting the role of the victim results in the unwillingness to intervene, or even in blindness to discriminatory behaviors occurring around oneself. In an atmosphere of indifference and acquiescence to violence, the work of organizations providing help for victims and educating about the methods of preventing violence may prove to be particularly difficult.

### **The needs of people seeking help**

The last featured attitude toward the experience of violence is connected with strong reactions of fear and a sense of helplessness. Some of the people completing the questionnaire decided not to give detailed descriptions of situations in which they found themselves, only signaling their emotions with short statements. Such people reported experiencing shock, shame and confusion, and their language implied a lack of distance to the situation. What proved most helpful in understanding the experiences and needs of the group that could not cope with the violence were the accounts of hate crime victim counselors, to whom the victims who sought assistance turned.

The counselors were performing the function of providing the first psychological and legal support. Victims turned to them via e-mail and continued consultations in their chosen format: e-mail, telephone, face-to-face contact or instant messenger. In most cases, the victim contacted the counselor after completing an online questionnaire. There were also cases in which contact followed directly, omitting the questionnaire, which the victims never decided to fill out. In the period from September 2010 to April 2011, the counselors conducted approximately 100 consultations.

The first challenge in consultations, for both counselors and those contacting them, was the inability to define the needs of those seeking help. Those who wrote often did not know how to talk about the experienced violence and what expectations they may have in connection with the incident. A big difficulty for them was even to describe their own experiences, finding the right words and the ordering the events. The counselors were usually the first people listening to the needs and experiences of the victims, and even the first people with whom they openly talked about their non-heterosexual sexual orientation. From the counselors' accounts, one may infer that the questionnaire was a difficult tool to fill out for people who have experienced trauma as a result of homophobic violence (*This survey, it is too much of everything, it has some inhuman face, it cannot be filled out quickly*).

One of the first needs of people contacting the counselors was to talk about the suffered harm. The experiences of those affected were for themselves very important experiences which they wanted to share, having the freedom of expression and a listener obliged to listen. The existence of a counselor meant the victim had the guarantee that the other person is there to patiently listen to the testimony of experienced violence. Counselors described this as the fundamental "desire to talk it out," which stemmed from loneliness, alienation and a lack of support systems in their environment. Satisfying one's "need to unburden oneself" to the counselors could also result from the lack of trustworthy confidants in the victim's immediate vicinity or from a sense of security which online consultations offered. It is worth noting that so far no specialized system of support for people experiencing homophobic violence has been developed, and those who are victims do not have enough strength or courage to seek such assistance in the currently existing institutions. The appearance of the project Out and Safe and the function of the counselor created a space

where people affected by homophobic violence could, for the first time, safely articulate their needs and talk about their experiences.

Sometimes it happened that the victims attempted to establish a stronger **relationship** with the counselor. Building a relationship based on trust and a sense of security took place through discussions on subjects other than violence and encouraging counselors to share their own experiences. Learning of the non-heterosexual sexual orientation of the counselor and/or the fact that he or she also experienced violence allowed the victim to open up and start talking about the incident. Establishing a relationship through a point of reference for their own case created by the counselor was, for some people, a very helpful element in building trust in and credibility of the counselor.

An important element of the consultations for the victims was **gaining the acceptance** of the counselor. People expected that he or she will not be a judgmental or condemning listener, who would be capable of approaching the emotions and needs they experience with understanding and sensitivity. The counselors reported that it was important on their part to say directly to the victims of violence seeking approval (*you're OK to me, you've done nothing wrong, your emotions [shock, fear, dismay] are understandable*). These and similar words helped the victims free themselves from guilt and shame, and they also protected victims from reproaching themselves for exaggerating the violence. The counselor became a person to whom they could complain about the unjust and unfair treatment, show their helplessness and confusion without fear, knowing that they would not be rejected.

After establishing a relationship, obtaining acceptance and creating a space for conversation, the person seeking help would reveal the need to **understand and organize** their experiences. Irrespective of one's knowledge about the violence surrounding society, many people are convinced that "it will not happen to me," and the belief that "nothing happens without a reason" makes it easier to function in society. In the face of an encounter with injustice and prejudicial incidents, a value system based on faith in a just world and reasonableness of every situation, we face become challenged. Finding oneself in a situation of being a victim of undeserved violence and of the potential impunity of the offenders causes disorientation and the need to understand the phenomenon. The person granting support satisfied this need by naming the social mechanisms that



lead to violence, defining homophobia and violence motivated by homophobia and explaining the process of discrimination. It was particularly important for the victims to receive confirmation that they faced unjust actions for which they cannot take responsibility and which, although they can be somehow explained, remain unjustifiable.

For young people and people hiding their sexual orientation – those experiencing violence motivated by homophobia for the first time – facing violence sometimes had a dimension associated with discovering and creating their own identity as a non-heterosexual person and a social minority. Talking about violence, attempting to understand it and working through one's reactions to it, coupled with the realization of one's situation as a person exposed to homophobic violence, took on a self-diagnostic character for the victim.

The counselor assisted in the reduction of guilt and gave assurance that having a non-heterosexual sexual orientation does not mean being a worse and unworthy person. Some victims needed such a reflection and the assurance that they are not guilty of the violence, on the contrary, that they have the right to homosexual feelings. Sometimes the person writing to the counselors did not personally know any other gay person, felt alienated and had trouble accepting their non-heterosexual sexual orientation. Even a brief consultation with the counselor increased their self-confidence and showed that there are people in whom you can find support. In addition, the victims realized that they have allies – people and institutions ready to be on their side and to defend them when their rights are violated. The emerging reflection on one's own identity – of a gay, lesbian or bisexual – thanks to the consultation with the counselor took the form of self-acceptance and complete disagreement with the surrounding reality, which is full of violence (instead of vice versa). This process of defining one's place in society leads to the gradual empowerment of the non-heterosexual victims of violence, their proactive search for help in the future and their individual intervention in a situation of experiencing homophobia.

In summary, it can be concluded that the basic needs of people seeking help in connection with the experienced incidents of violence based on sexual orientation centered on finding a confidant to talk with about the incident, of reducing tension and of regaining control of the situation. These needs were pursued through the safe and accepting form of a dia-

logue, by organizing and naming the experienced incident and establishing that the causes of violence lie outside the person experiencing it, but that there are means of reacting and enforcing one's rights. People contacting the counselors decided not to report crimes to the police; it was enough for them that they received psychological support and information about which legal steps they can take to enforce their rights.

In consultations with the counselors the desire to satisfy one's psychological needs connected with the experienced violence dominated, but we can also distinguish several other needs. These are the formal and procedural factors which are important for the victims of violence and which provide information about the expectations from the counselors. Most applicants expected to have an attractive offer of assistance presented to them by the counselors, one that would include keeping the anonymity of the victim. Such assistance would consist of not only providing legal information, but of making a fast intervention for the victim. These expectations were self-contradictory and the actions which the counselor was supposed to carry out were vaguely described or unrealistic (from the counselors' accounts: *It would be best if I took a gun, drove there and killed the perpetrator, and then sent the thumb of the deceased as forensic evidence; Without any police, without any psychologists, and so that no one would find out. I was supposed to do it all by myself*). People applying for help wanted "someone to do something," while not disclosing their identity and not making any intervention without consulting with them.

The results of the study and analysis of statements and attitudes of abused non-heterosexual people experiencing violence indicate many challenges faced by organizations providing assistance to victims of crime. The social acceptance of homophobia translates into low awareness of one's own rights among non-heterosexual people, lack of effective mechanisms for helping the victims and insufficient training of the police for prosecuting people using homophobic violence. People experiencing violence have no information about support networks, which most often results from a lack in these networks of profiles for the victims of homophobic violence from hatred. In the first place, the victims mainly expect understanding and acceptance. The decision to direct the matter to the police must be preceded by support and a sense of safety in the immediate environment and by the certainty that it will be taken seriously by the law enforcement agencies. A lack of public campaigns aimed at increasing

public awareness of violence motivated by prejudice, a lack of information on specialized support centers and the passive role of state institutions create an atmosphere in which the victim feels lonely and lost.

People experiencing violence motivated by hatred experience it more intensely and they need twice as much time to deal with trauma than victims of “ordinary crimes.”<sup>66</sup> This situation can be changed through a professionalization of existing support centers by giving support specialists the relevant qualifications required in consultations with non-heterosexual people experiencing violence motivated by homophobia. The standards and procedures used in the western EU countries, in which the police actively educate minorities threatened by violence and offer them a support system that reflects the needs of particular groups, may be a model for Polish state institutions, particularly for the police.

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<sup>66</sup> *Hate Crimes Today: An Age-Old Foe In Modern Dress*, American Psychological Association, 1998.

# Summary and Comments

One of the main observations arising from the study is the large discrepancy between the experience of violence, and its full awareness and the victim's ability to react adequately. People experiencing violence motivated by homophobia use a variety of defense mechanisms that rationalize and order their own experience and, as a consequence, they forego any activities that would further "deal with the matter" (e.g., reporting the crime or getting psychological or legal help). Such methods of "coping" may give short-term benefits to the victim (pushing the problem away) but, in a broader context, when the victims avoid reporting the crime or don't reach out for help, it contributes to the institutional invisibility of homophobic violence. As a result, such attitudes may sanction the existing social oppression against non-heterosexual people. Causes of such a small number of completed questionnaires compared with the scale of the promotion of the project can also be found in a certain apathy and passivity in the face of violence. Responsibility for this state of affairs cannot, however, be placed on the people experiencing violence. Such attitudes are understandable if we take into account the social acceptance of homophobic behavior and the lack of proactive action on the part of aid institutions and law enforcement authorities.

People who decided to describe the violence they suffered were mainly young, gay people, more men than women. You can formulate two hypotheses explaining this phenomenon. First, the media, whose help we used to inform about the project, are more frequently used by young people. The second hypothesis is that it is young people, particularly men, who are more prone to violence. This may be due to the fact that young people more and more bravely and confidently function in society as gays, lesbians and bisexuals, including making decisions about coming out. At the same time, young people more often than older people, use the Internet and are more susceptible to the influence of LGBT media; they also participate in LGBT initiatives aimed at empowering this minority (strengthening their self-confidence and the sense of efficacy for social change). This allows young people to become more sensitive to homophobia and to identify bias-

motivated violence more aptly. In order to clarify the different number of men and women filling out the questionnaire, one should look at the forms of violence they experienced. Men more often meet with beatings and threats to use of physical violence, with what is universally and unquestionably recognized as violence. Women, on the other hand, experience seemingly subtler forms of violence, which is either downplayed (verbal abuse) or tabooed (sexual violence). This can cause the women affected by such violence to rarely identify those experiences exactly as violence or crime, and thus be less inclined to complete the questionnaire.

Only every tenth person decided to report the sustained violence to the police and did so only when there had been physical violence, punishable threats or destruction of property. These results are consistent with data presented in the report from 2007,<sup>67</sup> which states that 96.1% of people experiencing psychological violence do not report this fact to law enforcement authorities.

In half of the cases, the perpetrators are people known to the victims, mostly their peers (young men) known casually or from school. A separate major category of perpetrators consists of people closest to the victims: father, mother and other family members. Although some violent incidents take place in the presence of witnesses, the witnesses seldom decide on any reaction. Most of the violence takes place on the street and is committed by pedestrians, acquaintances from the neighborhood, or complete strangers. It is important to discuss the phenomenon of school violence, which requires a deeper analysis and reflection.

School was one of the most frequently mentioned places of the occurrence of violence. Peer violence in school is termed in English-language literature as bullying, and in the case of violence motivated by homophobia, homophobic bullying. The area of homophobic peer violence among school children is comprehensively studied in some EU countries, and the authorities take numerous preventative actions, which Poland unfortunately lacks. English-language studies show that over half of non-heterosexual male and female students in schools experience violence motivated by homophobia,<sup>68</sup> of which the verbal violence itself is experienced by as

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<sup>67</sup> *Sytuacja społeczna osób biseksualnych i homoseksualnych w Polsce. Raport za lata 2005 i 2006*, ed. Abramowicz M., Warszawa 2007.

<sup>68</sup> *The School Report The experience of young gay people in Britain's schools*, Stonewall, 2007,

many as 86%.<sup>69</sup> There are no data showing the scale of this phenomenon in Polish schools, but from the data in this report, one can assume that in Polish schools violence motivated by homophobia is widespread. Studies conducted in England show that the phenomenon of bullying is overlooked by the teachers. The observations of school staff about homophobia in schools are dramatically divergent from the experiences of male and female students. Leaving young people without support and care causes stress and the feeling of isolation, which – in turn – leads to absenteeism at school, depression, self-mutilation and suicide attempts.<sup>70</sup>

**Jan Świerszcz** – psychologist, anti-discrimination trainer and educator. He conducted classes in the Higher School of Social Psychology. He runs educational projects with a variety of groups, including children, young people, students, teachers and the police. His interests include shaping the development of teams and organizations, raising awareness of diversity and preparing people for work in a multicultural environment, developing positive attitudes towards LGBT people and preventing discrimination and gender stereotypes. Full-time collaborator and consultant for Foundation Forum for Social Diversity, Campaign Against Homophobia and Foundation Robinson Crusoe.

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Retrieved from: [http://www.stonewall.org.uk/at\\_school/education\\_resources/4121.asp](http://www.stonewall.org.uk/at_school/education_resources/4121.asp). *Attitudes towards lesbian, gay, bisexual and transgender young people. Results of research with young people in the Scottish borders*, LGBT Youth Scotland, 2007. *Lesbian, Gay and Bisexual Students in Post-Primary Schools: Guidance for Principals and School Leaders*, GLEN Gay & Lesbian Equality Network, <http://www.glen.ie/attachments/9ae49432-99f7-4ad7-8ecf-cb53fa4e82c1.PDF>

<sup>69</sup> The least frequently encountered verbal abuse happens in British schools (70%), followed by Irish (80%), most frequently in Scottish (86%). These are very high numbers, considering that in these countries anti-discrimination policy and education for equality is much more developed than in Poland. In the present Polish study, all people, 100% who met with violence in school, experienced verbal harassment, verbal abuse, insults or humiliation.

<sup>70</sup> Studies conducted in Ireland talk about 27% LGBT people engaged in self-mutilation and 18% LGBT people engaged in suicide attempts due to lack of adequate support and to a homophobic environment: *Supporting LGBT Lives: A Study of the Mental Health and Well-Being of Lesbian, Gay, Bisexual and Transgender People*, GLEN Gay & Lesbian Equality Network, 2009.

## RECOMMENDATIONS

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1. The introduction of effective legislation penalizing criminal offenses motivated by hatred against LGBT people, in accordance with the recommendations of the UN Human Rights Committee from 2004 and the UN Committee Against Torture from 2007, and the inclusion of recommendations from NGOs in the draft of the bill amending Art. 119, 256 and 257 of the Penal Code.
2. Intensifying the work on the “Law Enforcement Program for Combating Hate Crime,” which the Polish government initiated on October 24, 2006. A nationwide strategy should be developed to combat hate crimes with the active participation of social partners. The “Program” should include all – and not only – selected groups at risk of hate crimes, in accordance with the recommendations of the ODIHR.

3. Intensifying the training organized by the Ministry of Internal Affairs and Administration and the Ministry of Justice for judicial and law enforcement agencies, including the police and judges, on hate speech and hate crimes in accordance with the recommendations of the UN Human Rights Committee from 2004 and the UN Committee Against Torture from 2007.
4. Establishing an integrated, nationwide system of monitoring hate crimes motivated by homo-, bi- and transphobia.
5. The creation of a nationwide observatory: an independent center monitoring violence motivated by various discriminatory premises.
6. Development and implementation by the Ministry of Education of a national program against violence and hatred in schools.
7. Support by the government and local administration and by international organizations (including the Council of Europe and the European Union) of a cooperative network and coalition working to prevent hate speech and hate crimes.





*I was attacked by a drunken man, about 40 years old, who had problems identifying my sex; he started calling me names and hit me in the face.*

*At first, they were calling me names and then they began throwing beer bottles at me; when one hit me in the back of my head and I fell down, I just heard one of them shout “let’s finish him” and they started kicking me, that’s all I remember because I woke up two weeks later in intensive care.*

*I was severely beaten and then kicked out of the house by my own mother when she found out that I had a girlfriend. I was not even 18 years old.*

*I’m a lesbian, I told my parents about it, and ever since my father and my brother rape me because they want to make a normal woman out of me...*

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### About this Report

Violence motivated by homophobia. The 2011 report is the first report that comprehensively discusses the broader issues of violence motivated by homophobia. It is the result of work undertaken through the project Out and Safe. The report contains the results of studies conducted in 2010 and 2011 and a number of texts relating to the issue of hate crimes based on homophobia.

### About the Project

Out and Safe is a project carried out by the Campaign Against Homophobia and co-financed by the Foundation for Remembrance, Responsibility and Future. The objectives of the project are to build a network of support for people affected by homophobic violence and to conduct studies showing the specificity of this phenomenon.

For more information see: [www.bezpieczniej.kph.org.pl](http://www.bezpieczniej.kph.org.pl)

### About the Campaign Against Homophobia

Campaign Against Homophobia (KPH) is a nationwide nonprofit public-benefit organization that deals with countering intolerance and discrimination against homosexual, bisexual, and transgender people.

