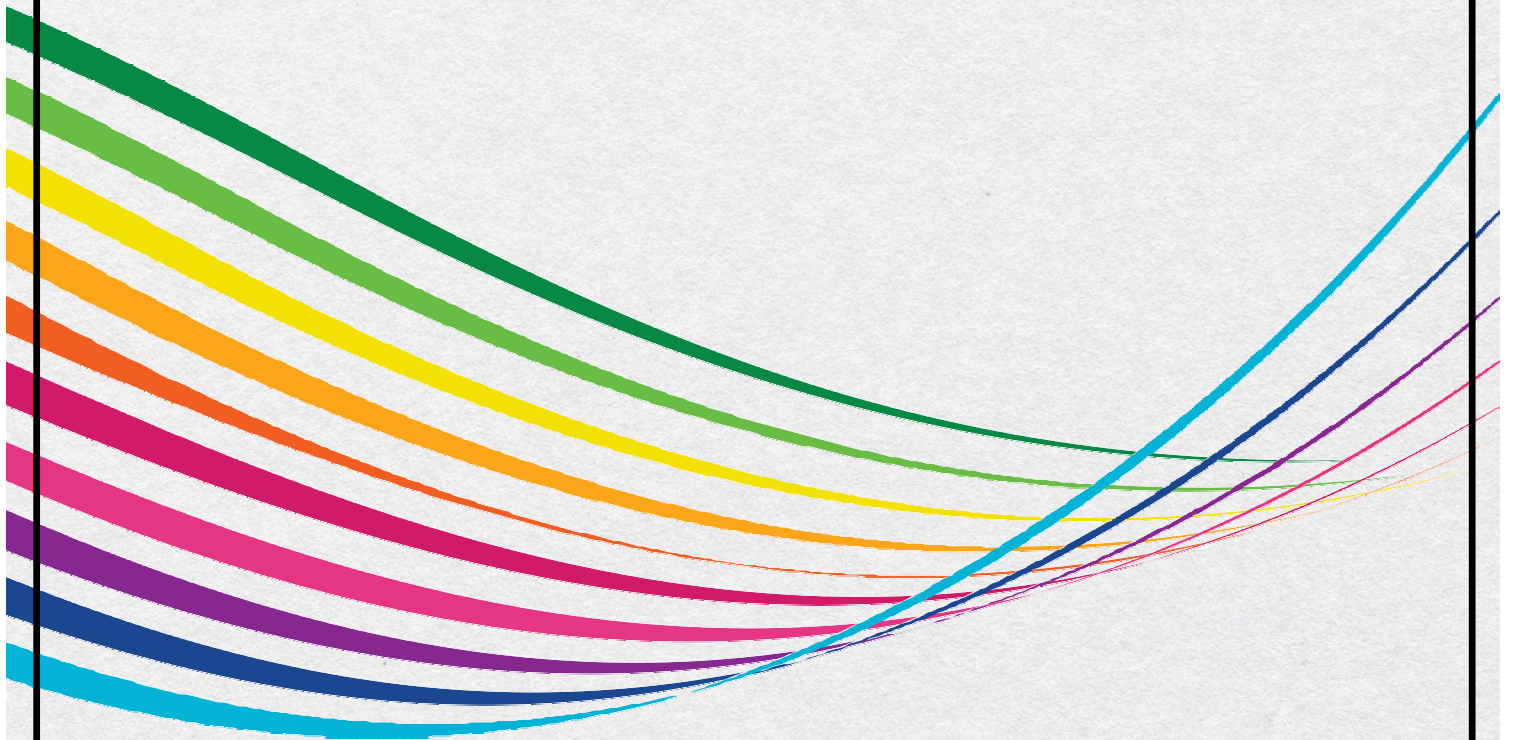


LGBTI AND POLITICS

Advocacy Brief



Introduction

LGBTI in politics is an understated topic generally, and in Kosovo specifically. A topic that is hardly even mentioned in the agendas of the politicians in general and especially when it comes to regulation, promotion and advocacy of the rights of the citizen without discrimination based on the law. However, the recent debate on same-sex marriages has triggered politicians and public officials in shamelessly targeting lesbian, gay, bisexual, transgender and intersex (LGBTI) people for political gain, fueling prejudice and hate. In doing so, public officials – sometimes at the highest level – are failing in their duty to promote equal dignity and human rights for all.

Particular progress has been made in Kosovo in just a decade. Laws have been passed in protecting LGBTI people from discrimination; hate speech and hate crimes; promising steps by the government have been taken to offer protection for same-sex relationships; and the right to legal gender recognition has been strongly asserted by courts and soon to be addressed with appropriate legal provisions. Overall, public attitudes towards LGBTI people have noticeably improved and visibility of LGBTI people has increased.

However, the progress of the past years coupled with persisting homo/transphobia in our society have now provided fertile ground for exploitation by opportunistic and anti-human rights political movements. Therefore, this trend for political manipulation of homo/transphobia in Kosovo must be tackled without further delay.

Ignoring LGBTI people for political gain

When politicians engage in discussions about LGBTI rights, especially in the midst of an electoral campaign, is usually accompanied with awkwardness and distress. There is an evident fear that speaking about LGBTI right or people would lead to being perceived as being or associated with “one of them” and eventually lose electoral support. In the recent local elections, the running candidates refrained from the use of hate speech against LGBTI people during election campaigns. However, the needs of LGBTI voters were completely neglected by the majority political parties and their campaign programs. Their programs were highly focused on infrastructure and urban planning, and less focused on matters of social welfare and/or social equity and human rights. In general, the vulnerable and marginalized groups, including LGBTI people, did not receive the desired attention. The table below illustrates inclusion of LGBTI issues by the candidates running for the Municipality of Prishtina. The table is a snapshot of the content of their electoral programs and their speech during the electoral campaigns for 2021 local elections.

Indicators	Candidates				
	<u>Arben Vitia</u> <u>Levizja</u> <u>Vetevendosje</u>	<u>Avni Çakmaku</u> <u>Fjala</u>	<u>Perparim Rama</u> <u>Lidhja</u> <u>Demokratike e</u> <u>Kosoves</u>	<u>Uran Ismajli</u> <u>Partia</u> <u>Demokratike e</u> <u>Kosoves</u>	<u>Daut Haradinaj</u> <u>Aleanca per</u> <u>Ardhmerine</u> <u>e Kosoves</u>
Mentioning of LGBTI issues or people in the public address/speeches	No public statements related to LGBTI issues.	Several cases of deliberate incitement of hate speech against LGBTI community. ¹	Publicly declared support towards LGBTI issues. ²	No public statements related to LGBTI issues.	No public statements related to LGBTI issues.
Political programs included LGBTI rights and/or addressed issues	No inclusion of LGBTI issues in electoral program. ³	No inclusion of LGBTI issues in electoral program.	Support to establishment of a shelter and support LGBTI persons in general.	No inclusion of LGBTI in electoral program. ⁴	Section on LGBTI+, indicating clear support of LGBTI and respect for LGBTI symbols, IDA T, etc. ⁵

In comparison to Prishtina, LGBTI life in Kosovo is “very underground”. Prishtina already has a gay club and gay pride parades and marches are organized annually. Local NGOs working with LGBTI community are based in Prishtina and LGBTI people from different cities navigate to live in Prishtina. Hence, it was expected that the candidates running for mayors of Prishtina, running in 2021 local elections, would take all this into consideration and offer more inclusive electoral programs. However, as it can be seen from the table 1, only 2 out of 3 candidates had these considerations.

Regretfully, national elections in February 2021, LGBTI issues were even more neglected by the political parties. Hence, this due to this negligence, mainly due to the fear of losing popularity among their base, has provided fertile ground for exploitation by opportunistic and anti-human rights political movements. Therefore, this trend for political negligence of LGBTI issues in Kosovo must be tackled without further delay and political parties need to undertake a structural reform and offer more inclusive programs.

¹ Insajderi, Avni Çakmaku: Nëse femija im do t'i takonte komunitetit LGBTI – Do ta lëcisja, available at: <https://insajderi.com/avni-cakmaku-nese-femija-im-do-ti-takonte-komunitetit-lgbti-do-ta-lecisja/>.

² Facebook post of the 2021 Electoral Campaign activity, Perparim Rama meets with representatives of CSGD, available at: <https://www.facebook.com/perparimrama2021/posts/172773578333972>.

³ Electoral program of Arber Vitia, Local Elections 2021, available at: <https://www.vetevendosje.org/wp-content/uploads/2018/12/Prog-AV144-2021-FINAL.pdf>.

⁴ Electoral program of Uran Ismajli, Local Elections 2021, available at: https://media1-prd-eu1.onlinefiles.info/4f68c284/a0a080f4/018b6a49/411ae1bf/media/document/1430/ui-programi_30a02fec.pdf?fbclid=IwAR1fipAX7_SiDy6397-rPU6c14JSRWp7RNT2x5PsI28tPmr9IV2wOL15U.

⁵ Electoral program of Daut Haradinaj, Local Elections 2021, available at: <https://www.facebook.com/1558607637525692/posts/4250596558326773/?d=n>.

Stigmatization of LGBTI people for political

The discussions on the same-sex marriage held recently in the Kosovo Assembly represents a worrying rise in intolerance of LGBTI people in Kosovo. It is evident that some politicians are instrumentalizing existing societal prejudices and verbally attacking LGBTI people to achieve political objectives for their own benefit. Condemning LGBTI minorities has become a tactic applied by ultra-conservative, nationalist and “religious” politicians posing as defenders of so-called “traditional values” to strengthen their base and gain. In addition to mobilizing certain categories of voters, the exploitation of societal homo/transphobia can be a convenient way to divert public attention away from more pressing social issues and rising inequalities and broader attacks under way on human rights and democracy.

The provision that triggered the immense debate among the members of the Kosovo Assembly article 1138, paragraph 2, of the draft Civil Code, which states that *“Registered civil unions between persons of the same sex are allowed. Conditions and procedures are regulated by a special law”*. Homophobia triumphed in the Assembly of Kosovo. Labinote Demi-Murtezi, a ruling party representative, said that “she only sees it as expectable the marriage of persons of opposite sex. Any connection outside of this combination is considered depravity and moral degeneration,” Others claimed that this single legal provision, if enacted, would destroy their families. There were those who were posing as defenders of culture and “traditional values”.

Intolerance and prejudice clearly clouded the clear understanding of the issue. Firstly, the above-mentioned provision of the Draft Civil Code refers to **registered civil unions and not marriage**. Additionally, it indicates that the registered civil unions shall be further regulated by a special law. Secondly, as pointed out by the civil society organizations at local and international level, as well as other actors, the proposed provision does not offer a mechanism through which same-sex couples can fully enjoy their right to family and private life. Furthermore, the proposed provision has been considered as unlawfully interfering with the rights guaranteed with by the Kosovo Constitution and other international standards applicable to Kosovo.

It is evident that the members of the Kosovo Assembly have been influenced by the public statement made by the religious communities in Kosovo urging lawmakers not to legalize same-sex marriage.⁶ Legal, factual and logical misinformation contained in the statements of the religious communities, have been present in the discourse of some of the members of the Assembly. It is evident that they are led by the opinion of the masses, rather than the values enshrined in the Kosovo Constitution. In a modern society, individual rights and freedoms are non-negotiable and they are protected and promoted by interest groups and human rights defenders, respected by society, and guaranteed by the Constitution and legal framework of that state. Hence, the legislators need to take side of modern societies and precisely because of this alignment our state has listed a large number of fundamental rights and freedoms of its citizens. The right to marry and to found a family is a guaranteed right of every citizen of Kosovo⁷ and it should be provided to all citizens without discrimination.⁸

This is because Kosovo is a secular, democratic, liberal state and focuses on the citizen and not on the social group, which is very clearly written in its preamble: *“Committed to the creation of a state of **free citizens that will guarantee the rights of every citizen, civil freedoms and equality of all citizens before the law**”*

⁶ Joint Statement by the Kosovo Religious Community, 23 February 2022, available at: <https://www.facebook.com/birk2015/posts/4886865344683463>.

⁷ Article 37, The Constitution of the Republic of Kosovo, https://kryeministri.rks-gov.net/wp-content/uploads/2018/03/Kushtetuta.e.Republikes.se_Kosoves-2.pdf.

⁸ Article 24, *Ibid*.

The debate over whether or not to regulate same-sex marriage is a debate that has been going on for decades. Clashes usually take place between conservatives and liberals, with the idea of conservatives protecting society from “destruction”, “disappearance”, etc. This unreasonable fear is easily identified as homophobia and that is dangerous for the development of societies in which the individual is at the center because it can lead to conflict, denigration and even physical violence. It is also worth noting that in all democracies where this debate has been opened, in the end it has resulted in the regulation of this marriage within the legislation of that state.

Harmful impact on LGBTI people gain

Targeting LGBTI people for political gain is a costly strategy which harms the lives and well-being of those affected and undermines social cohesion in general. When public officials and elected politicians employ intolerant rhetoric, this signals to others that they too can engage in hateful actions with impunity. The discussion around the same-sex marriages in the Kosovo Assembly triggered harassment of LGBTI people and activists on social media. This can contribute to the rise of everyday acts of violence.

Toxic rhetoric targeting LGBTI people also hampers their ability to fully participate in all aspects of life, including political and public life, and to have full access to education, health care and employment. This can lead to many LGBTI people being shunned by members of their own communities or seeking to leave the country altogether. This hostile atmosphere can drive LGBTI people back into the closet, in a clear affront to their human dignity and right to live in freedom and safety. A climate of hatred promoted by public officials can also have a huge impact on LGBTI people’s mental health.

Kosovo has adopted and advanced legal framework protecting the LGBTI people from hate speech and discrimination. The European Court of Human Rights had clearly stated that the hate speech against LGBTI people is not protected by freedom of expression, and neither is it by freedom of belief. On the other hand, members of the Kosovo Parliament are proudly voicing anti-LGBTI positions. Their political parties and public representatives have not distanced themselves from them. This is clearly a sign of dismantlement of existing LGBTI rights or positive policies, for example it can obstruct the positive steps undertaken with regard to legal gender recognition.

Standing up for a minority group’s human rights may not always be popular with one’s political base. But we need politicians who are not afraid to lead by example.

Recommendations - Towards political will for inclusion

This trend for political manipulation of homo/transphobia in Kosovo must be tackled without further delay. The following recommendations need to be addressed:

- Political parties and politicians should not ignore the existence of LGBTI community and their underlying issues. They need to address LGBTI issues through well thought and need based programs.
- In line with European Commission against Racism and Intolerance's General Policy Recommendation on combating hate speech⁹, we urge political parties, Kosovo Assembly and the Government of Kosovo to take measures to ensure that politicians refrain from making derogatory comments about LGBTI people.
- Political parties and parliaments should adopt codes of ethics that prohibit and punish homophobic and transphobic hate speech.
- Public representatives should systematically condemn homophobic and transphobic speech. There must be no impunity for particularly serious cases of incitement to hatred and violence by politicians.
- In addition to refraining from spreading hate, political leaders should take positive steps to foster a culture of equal treatment and equality. As highlighted in Recommendation of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation and gender identity, "public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of LGBTI people".¹⁰

Kosovo is at a crossroads in the protection and inclusion of LGBTI people. By standing up for LGBTI people, we defend the equal human dignity of all, protect our societies' wellbeing and the strength of our precious human rights system. Targeting,condemning or ignoring one group can ultimately negatively affect us all.

⁹ European Commission against Racism and Intolerance, 'General Policy Recommendation N°15 on Combating hate Speech', 8 December 2016, available at: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.15>.

¹⁰ Council of Europe, Committee of Ministers, 'Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, 31 March 2010, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a.



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