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Does the EU help or hinder gay-rights movements in post-communist Europe? The case of Poland

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Gay rights would seem an area of politics largely untouched by the changes wrought by Eastern Europe's democratic transitions and accession to the European Union (EU). Against the conventional wisdom, this paper argues that the broader picture in the region is actually one of increasing rights and better-organised, more influential gay-rights movements and that these developments were catalysed by EU accession. It also argues, however, that the dominant theoretical perspective on accession's effect on domestic politics, Europeanisation theory, cannot account for this outcome. Using a close study of Poland, I suggest that social movement theory – with its emphasis on political opportunity structure, framing, and polarisation – provides a better account of how gay rights have developed as a political issue since the fall of communism.

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Many of the most important advances for gay and lesbian rights have been imported from the West, *without* local gay and lesbian participation. The effect may be admirable, but the means reduce the mobilization. For lesbian and gay activism, Europe can be more an addiction than a model. (Long 1999, pp. 254–255)

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1. Introduction

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At first glance, gay rights would seem an area of political life largely untouched by the otherwise deep changes wrought by Eastern Europe's democratic transition and integration into the European Union (EU).¹ We read, for example, of the unconstitutional bans of Pride parades in Poland in 2004 and 2005, the violent attacks on parades in Hungary in 2007 and Serbia in 2010, and Lithuania's laws against 'homosexual propaganda' in schools, which were passed despite international condemnation (ILGA-Europe 2010, pp. 12–13). Even in the seemingly tolerant Czech Republic, the president articulated his opposition to 'homosexuality' and defended the use of the word 'deviants' to describe LGBT people (Mladá fronta dnes 2011). Given examples such as these, it is easy to conclude that deeply rooted taboos about homosexuality – which predated but were then amplified under communist rule – still hold unquestioned sway and that gay rights remain off limits in the public sphere. If one considers the rhetoric

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and inclinations of 'homosexuality's' greatest opponents, one might fix the blame not just on old taboos, but also on the EU's role in inflaming them. Go to observe the counter-protestors at a Gay Pride event anywhere in the region and you will find placards denouncing 'Euro-Sodom' and cultural imperialism from Brussels.

Against the background of such developments, this paper makes the argument, first, that the broader picture in the region is actually one of increasing rights and better-organised, more influential gay-rights movements. Second, I argue that the opening examples are not only indicators of this broader change, but in fact also helping to drive it. I illustrate this argument by analysing the case of Poland, which is in the process of unexpectedly rapid empowerment of the gay-rights movement – even if the legal environment has been slower to change. Poland is a critically instructive case because it is, for reasons to be discussed below, an inhospitable social and political environment for gay-rights movements. This argument about the link between political contention and social movement change is useful not only because it helps us to better understand developments on the ground in an important area of democratic development, but also because it reorients our analytical perspective from the increasingly hegemonic – at least for this region – framework of Europeanisation theory.

Why are the EU and Europeanisation theory natural starting points for explaining democratic development in Eastern Europe? First, to the extent that gay rights are seen through the prism of strengthening liberal democracy, it is natural to search for analogues in the work of scholars such as Vachudova (2005) and Kelley (2004), both of whom argue that EU accession eased majority–minority conflict in the accession states. In both cases, though, the focus was on rights of ethnic minority groups. Second, if we take the scholarship on conditionality and social learning – that is, the Europeanisation school – we find strong evidence from other areas of post-communist politics that EU leverage and the 'EU model' have profoundly reshaped institutions and policy-making in the region (Grabbe 2003, Jacoby 2004, Kelley 2004, Schimmelfennig and Sedelmeier 2005, Vachudova 2005). The EU and associated institutions such as the Council of Europe have promoted non-discrimination norms in post-communist states. Non-discrimination against minority groups, with LGBT people explicitly included, is a core norm enshrined in EU labour law and a requirement for accession. Additionally, EU integration brings domestic rights activists into contact and collaboration with West European rights organisations in a way not possible before. These transnational linkages, it is argued, increase not only the domestic groups' organisational resources but also their knowledge and self-confidence.

Yet there are two reasons to question the power of the Europeanisation approach in the field of gay rights. The first reason is theoretical: Europeanisation theory is ill-equipped to deal with post-accession political change, especially backlash against EU norms. On controversial issues such as gay rights, there is a very real possibility that the EU provokes political backlash and, thereby, rights retrenchment as it seeks to impose 'foreign' norms. Even in the absence of backlash, EU pressures may prove counterproductive if, as the epigraph suggests, they undermine domestic gay-rights movements by substituting for organisation. The second reason is empirical: a review of the experience of gay-rights groups on the ground suggests that the EU's influence is far from straightforward. The first effect of EU accession in many new member states was not greater acceptance and greater policy influence for rights groups but quite the opposite, a major political backlash and threat to rights (Buzogány 2008, O'Dwyer 2010, O'Dwyer and Schwartz 2010). Additionally, in Poland at least, the lion's share of the movement's organisational development has occurred since 2005, that is, after accession.

Thus, the central question of this paper: does the EU help or hinder gay-rights movements in post-communist Europe? I argue that EU accession has, in fact, helped gay-rights movements in the new member states, though not for the reasons that standard theorising about EU influence in post-communist Europe would predict. While the EU has pressured new member states to adopt

legal protections that they would not have otherwise ratified, these very successes provoked political backlashes that, at least temporarily, worsened the political situation of LGBT groups. Paradoxically, these very setbacks have, from the vantage point of the present, created stronger, better-organised rights movements.

To both highlight the shortcomings of extant theoretical frameworks of how EU accession affects domestic politics in new member states and form new theoretical hypotheses about this process, I use a case study tracing the development and organisation of gay-rights activism in Poland from the early 1990s to the present. Poland is a ‘difficult case’ as far as gay rights in post-communist Europe are concerned. According to a cross-national comparison of legal rights for lesbians, gays, and bisexuals by the European branch of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe) in 2010, Poland scored at the same level as Latvia, Armenia, and Azerbaijan and just one point above Moldova and Belarus.² In Poland, the extension of gay rights is hindered by a constellation of domestic factors: the post-communist legacy, with its twin impediments of weak civil society and a history of state repression, as well as an influential and politically active Catholic church. Yet, as a recent entrant into the EU, Poland has also had to confront pressure from West European member states, with their generally more liberal stances on this issue. Poland constitutes, therefore, a revealing study of the confluence of international and domestic forces moulding nascent gay-rights movements in post-communist Europe. This research design, close process-tracing in a single case, imposes obvious limits on the findings’ generalisability, but my primary goal here is theory-building with the hope of enlarging the country sample for broader testing later.

2. The Europeanisation school and its shortcomings

In this section, I ask first how have scholars theorised the influence of the EU and, second, does this theorisation do justice to the range of phenomena of gay-rights politics in the region? Against Europeanisation theory’s expectations, I would argue that the EU has influenced movement development, but more through the unintended consequences of backlash than through the mechanisms of conditionality and social learning.

Europeanisation is a broad concept, defined by Radaelli (2003, p. 30) to include

[p]rocesses of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies.

By virtue of its scope and the precedent of applying it to ethnic minority rights (Kelley 2004, Vachudova 2005, Sasse 2008), the Europeanisation framework would at least promise to explain the success (or failure) of groups lobbying for gay rights in the region. First, from the beginning of the accession process, the EU made respect for minority rights, including sexual minorities, a requirement for membership. The concept of minority rights was broadly applicable, from equal treatment of organised interests in a pluralist political system to individual freedom from discrimination in the public sphere and market place. Second, without exception, nascent gay-rights organisations across the region have come to frame their demands within the model of EU norms promoting diversity and non-discrimination. Equally importantly, the opponents of gay rights also framed the debate in EU terms – though, obviously, they construed the language of EU norms as a threat to national identity. Thus, gay rights in Eastern Europe have the flavour of a European project, for better and for worse.

Especially in application to the post-communist applicant and member states, Europeanisation theory has focused on two mechanisms, conditionality ('external incentives') and social learning.³ Conditionality is perhaps the EU's most powerful form of leverage, linking membership to compliance with EU legal norms. Scholars have argued that the leverage of conditionality depends on the clarity of EU norms and their credibility, the magnitude of the reward for compliance, and the number of domestic veto players (Schimmelfennig and Sedelmeier 2005, pp. 12–17). The most directly relevant EU norm regarding sexual orientation during the first wave of accession was Directive 2000/78, which forbade discrimination on the basis of sexual orientation in the labour market and which needed to be transposed into all applicants' labour codes. Yet, even as consensus was emerging among scholars that in the *pre-accession* period conditionality offered leverage even in controversial areas, this same scholarship anticipated that conditionality's leverage would weaken sharply after accession (Epstein and Sedelmeier 2008, p. 796, Vachudova 2008, Dimitrova 2010). Furthermore, scholars predicted that post-accession Europeanisation would be weakest regarding norms associated with political conditionality, that is, those based on 'democratic principles, human rights, and minority rights' (Epstein and Sedelmeier 2008, p. 798, cf. Sasse 2008).

The second Europeanisation mechanism, social learning, describes a process whereby both applicant and member states are persuaded of the appropriateness of EU norms. This occurs, first, through the participation of national-level policy-makers and other political elites in EU networks and, second, through the activity of transnational networks of domestic and European actors, who exert pressure on national governments and endorse European norms in the domestic discourse. By fostering deliberation and by developing transnational networks that include domestic actors, European institutions can increase the perception of 'norm ownership'. Not only can this network serve as a channel for financial support, but it also helps legitimate these groups among otherwise indifferent domestic groups (Schimmelfennig and Sedelmeier 2005, p. 18). Social learning is most effective where EU norms 'resonate' with domestic ones or where 'domestic rules are absent or have become delegitimated'. Conversely, adoption is less likely if EU norms conflict with 'domestic rules that enjoy high and consensual domestic legitimacy, perhaps as symbols of the national political culture' (Schimmelfennig and Sedelmeier 2005, pp. 19–20).⁴ Unlike conditionality, the effectiveness of social learning does not drop off after an EU applicant becomes an EU member; in theory at least, social learning, which is a sociological process of norm persuasion, 'should become more consolidated and thus more apparent post-accession' (Sasse 2008, p. 846). In practice, however, empirical evidence of social learning's impact has been limited (Dimitrova 2010, p. 140).

Though Europeanisation scholars recognised that the fact of accession would alter the dynamics of both external incentives and social learning, the field is still searching for a theoretical framework to understand EU influence in the post-accession period. Sasse (2010), for example, conceptualises rights politics after accession in terms of 'whether the EU created a certain *momentum* in the pre-accession period through sustained rhetoric and involvement with domestic actors, which carries over into the post-accession period' (p. 843, emphasis added). The word 'momentum' is telling, implying that post-accession dynamics are a kind of residue of what came before. Yet as issues such as gay rights – which gained visibility primarily *after* accession but which are seen through an EU lens – make clear, we need a theoretical framework that can identify and accommodate causal factors and political logics that emerge *out of* the accession process and that continue to exercise influence after states become EU members.⁵

In the case of gay-rights groups, I argue that neither conditionality nor social learning offered strong support to activist groups in Poland, either before or after accession. First, while countries that acceded to the EU recently or that are currently applying for membership generally have better legal frameworks for LGBT people, Poland confirms scholars' fears about external

incentives after accession. External incentives have failed to achieve any appreciable results since prompting a change to Poland's labour code before accession. Gay-rights groups' efforts to expand antidiscrimination provisions beyond the labour code have fallen flat, and EU conditionality pressure has not helped them. Puzzlingly, at least from the conditionality perspective, the greatest growth in the organisation and influence of Poland's gay-rights movement – including its increasing engagement with political and legal change – has occurred *after* Poland joined the EU, as I will show in the paper's case study. External incentives are best adapted to explaining legal change, not the behaviour of political elites and society at large, both of which are encompassed by Radaelli's definition of Europeanisation; yet, after accession, external incentives offer little explanatory traction even vis-a-vis legal change. Nor can the Polish movement's growth plausibly be attributed to social learning, which, as noted above, posits that norm change is unlikely when EU norms clash directly with domestic ones. Given the political role of the Polish Catholic church and the common identification of Polishness with Catholicism, EU norms regarding homosexuality clearly clash with domestic ones (O'Dwyer 2010). On the contrary, against the social learning argument, I contend that the conflict between EU norms and entrenched social customs has catalysed the movement.

To better understand how transnational and domestic forces interact to shape the politics of gay rights in post-communist Europe, I propose a move away from the standard Europeanisation model. I drop its social learning model of normative change, recognising that, rather than blocking such change, conflict often catalyses it. Conditionality, a central driver in the Europeanisation model, does figure prominently in my argument. Clearly, EU conditionality shapes how gay rights are perceived in the political arena and how activists and opponents organise, but the Europeanisation school has mischaracterised the nature of conditionality's impact, especially after accession. I reconceptualise how conditionality shapes political outcomes by drawing on the insights of social movement theory's political process model, as the next section explains.

3. A 'political process' approach to gay rights in Poland

I now outline an alternative theoretical framework to better explain the timing and phases of development of gay rights in Poland. Though I believe that this model could be applied comparatively throughout the region, my intention here is to focus on one case to build theory and probe its plausibility. My starting intuition is that this development – marked as it is by cycles of mobilisation and counter-mobilisation and punctuated by periods of intense polarisation – is best conceived through the lens of social movement theory. Therefore, I draw on the 'political process model' developed by McAdams (1982) and others (e.g. Piven and Cloward 1979, Tarrow 1998) to analyse contexts as various as the American civil rights movement and the women's movement in post-communist Russia (Sperling 1999). Following this model, I use three key analytical concepts: political opportunity structure, issue framing, and the activist network (Sperling 1999, p. 44). I now describe each of these along with the methodology and data for employing them in the Polish case study.

The case study is based on fieldwork in Warsaw over four trips between 2007 and 2011 and concentrates on three main sources.⁶ First, I conducted four waves of in-depth, semi-structured interviews with rights activists; representatives of NGOs and political parties; Polish state officials; representatives of European agencies such as the EU delegation, the Council of Europe, Helsinki Rights Watch, and ILGA-Europe; and Polish academics and policy experts. In many cases, I was able to re-interview the same respondents over time, allowing me to capture the changing dynamics of gay-rights politics. In all, the fieldwork comprised over 60 interviews, but the case study here focuses on the 15 respondents, mainly activists, listed in Appendix 1.⁷ Second, I undertook participant observation of activist-organised public events, most notably the Warsaw

Equality March in 2007 and 2009, the EuroPride festival in Warsaw in 2010, an LGBT-themed art exhibition at the Warsaw National Gallery in 2010,⁸ and a political rally for registered partnerships at the Polish parliament in July 2011. During these events, groups such as Campaign Against Homophobia, the Equality Foundation, and Lambda Warszawa organised discussion forums, presentations, and debates on LGBT issues in Poland and Europe. Third, I gathered expert analyses and public reports and, through research in the archives of Campaign Against Homophobia (KPH), articles from the Polish press.

The key analytical insight from social movement theory is to consider EU conditionality as defining the political opportunity structure in which rights advocates and opponents mobilise. I place special emphasis on the effect of political polarisation both on how social movement goals are framed and on how activist networks develop. I argue, in sharp contrast to the social learning model, that polarisation strengthens activist networks: first, they become denser as activists mobilise against a common threat; and, second, they become broader as the media spotlight draws the attention of potential allies outside the movement. Issue framing – or the process by which individuals form ‘shared meanings and definitions’ of their situation – is also critical to movement development, enabling the translation of individual grievances into collective action (McAdam *et al.* 1996, p. 5). Social movement theorists have long realised that key stages in movement development are often matched by shifts in how activists frame issues, including ‘framing contests’ between activists and opponents (McAdam *et al.* 1996, p. 17).

Some adaptation is necessary in applying the political process model to post-communist gay-rights movements, as the next subsections discuss. The first of these grounds my conceptualisation of EU conditionality in terms of political opportunity structure. The second describes how EU accession shifted the framing of homosexuality in Poland from one of charity, HIV/AIDS, and Catholic teaching to one of rights and antidiscrimination. The third develops a framework for conceptualising and measuring the robustness of activist networks that fits both the issue of gay rights and the context of post-communist civil society.

3.1 *Political opportunity structure*

The environment in which the gay-rights movement has developed in Poland – and in the rest of the region – is defined by two overarching and, from the perspective of gay-rights politics worldwide, idiosyncratic features: the communist legacy and the pressures of European integration. I conceptualise them as constituting the political opportunity structure for rights activists. The communist legacy is a relatively fixed feature of the political opportunity structure and is, from the perspective of gay rights, unmitigatedly negative. As the epigraph suggests, the pressures of EU integration, on the other hand, are more disputed among analysts and activists alike. Though analysts might reasonably debate whether these pressures help or hinder the rights movement, both sides would agree that they are of fundamental importance in domestic debates about gay rights. Unlike the communist legacy, EU pressures have varied widely over the course of the last two decades, and these shifts have been momentous for movement development.

My analysis accords closely with Sperling’s (1999) suggestion that applying social movement theory to post-communist contexts requires conceptualising the opportunity structure in terms of economic, cultural, and political legacies of communism (pp. 43–51). We find many similarities between her description of the opportunity structure faced by the Russian women’s movement and the Polish gay-rights movement, at least in its early stages, especially the general aversion to joining organisations and the lack of financial resources. As a legacy of communist rule, civil society is demobilised, with citizens showing little appetite to join associations and a tendency to strongly distrust all things political (Howard 2003). Rather than commit time to organisations and affiliations in the public sphere, the typical person cultivated private, often

familial – hence closed – networks. This tendency is still quite noticeable: LGBT people often prefer to develop their own ‘underground’ networks, clubs, and so on rather than publicly fight for acceptance. Many would prefer that activists *not* draw attention to gay rights, reasoning that making public claims will upset these tacit accommodations with society at large. Although, of course, fear of reprisal also motivates such behaviour, this distrust of open politics resonates with communism’s legacy for civil society.

Communism’s other legacy was that of repressing homosexuality. Some states, such as the Soviet Union and Romania, criminalised homosexuality. In others, repression took the form of discriminatory state practices and harsh social taboos. As one illustration, though homosexuality was never criminalised in Poland, the secret police allegedly used the threat of disclosing sexual orientation as a means of blackmailing and recruiting informants. From 1985 to 1988, the Polish secret police pursued an extensive crackdown on gay men, the so-called Operation Hyacinth, which implicated some 11,000 people (Gruszczynska 2009, p. 31).

As powerful as it is, the communist legacy is not the only contextual factor shaping the political opportunity structure. The other is EU conditionality, through which the Commission has attempted to shape the politics of homosexuality in post-communist countries. Yet rather than analyse this change through the conventional Europeanisation lenses of external incentives and social learning, I propose that we conceptualise the EU’s influence in terms of how its intervention, real or threatened, shapes the landscape of domestic politics in which social movements – both for and against gay rights – mobilise and pursue their goals. This perspective does not ignore conditionality; rather, it reconceptualises it.⁹

Befitting the political process perspective, I analyse the influence of the EU in processual terms (cf. Sasse 2008, p. 845). I divide the movement’s post-communist history into three periods: 1989–1997, 1998–2004, and 2004–2011. This periodisation maps the three analytically distinct phases in the new member states’ relationship with the EU. In the first period, this relationship was more aspirational than concrete, best summed up as the intention to ‘return to Europe’; how and when this return would occur and what actual changes it would entail were vague both in the applicant states and in Brussels. In the second period, the accession process became formalised and began to entail real adjustments on the part of applicants such as Poland. Where the will for such adjustments was weak, the Commission used the power of conditionality to force them. Finally, in the post-accession period, Poland is an EU member, and the power of conditionality has largely evaporated. The three periods differ, in short, in terms of the climate for political action faced both by the movement and by its opponents on the political right, with important consequences for the strength and organisation of each. Because the accession process took place in waves of countries, this periodisation could be applied to any of the eight post-communist countries in the first wave of EU expansion.

3.2 Framing

Seen from the span of the past two decades, a monumental shift is apparent in how issues relating to homosexuality are framed in the Polish public discourse. Drawing on my fieldwork and the available secondary literature – especially Owczarzak (2009) and Gruszczynska (2009) – I discern two overarching frames, which I call the ‘morality/charity’ and ‘political rights’ frames.¹⁰ I describe them here and, in the following case study, trace them over time. Social movement scholars have employed a vast array of methodologies for discerning social frames and charting how they change.¹¹ I focus on political actors – that is, activists, politicians, and political elites – as they seek to inform and involve the broader public around the issues faced by LGBT people. Therefore, my focus is on the kinds of organisations and groups that form, their goals, activities, and rhetorical strategies in communicating politically. I do not attempt ‘to

provide a big-picture understanding of the whole political framing process', which would also entail capturing both how the media shape political communication around homosexuality and how mass public attitudes are formed (Matthes 2012, p. 253). I do not undertake a comprehensive study of the Polish media; nor do I delve into public opinion data.

The morality/charity frame was predominant in the 1990s in Poland. In this frame, homosexuality was seen in terms of moral failing and individual weakness, reflecting both the teaching of the Polish Catholic church and communist-era social taboos.¹² As Owczarzak (2009) shows, the spread of the HIV/AIDS epidemic to Poland only reinforced this framing. Portrayed as sufferer-sinners, LGBT people were at the same time unworthy of tolerance and fitting objects of Christian charity, especially the HIV/AIDS sufferers. (Obviously, within this framing there was space for different balances of intolerance and charity.) From the perspective of LGBT people, this framing provided no basis for conceiving of homosexuality in terms of political claims. Additionally, since it tended to equate Polish national identity with the Church, at a symbolic level this framing excluded LGBT people from full membership in the national community and only further justified intolerance.

As European integration exposed Poles to EU norms of antidiscrimination and minority rights, it opened up space for an alternative 'political rights' framing of homosexuality and set the stage for a 'framing contest'. Polish activists quickly seized on this framing, both in organising the movement and in formulating its goals. The 'political rights' framing challenged the 'morality/charity' one, first by challenging the Church's authority to govern sexuality and second by positing LGBT people as a minority group with the right to make political claims – as opposed to individuals making bad moral choices. The political claims included non-discrimination, equal protection under the law, and the right to lobby for public policy, for example, registered partnerships, adoption rights, and protections from hate speech. Whereas the morality/charity framing was associated with Polishness, the political rights one was associated with Europeanness, as rights advocates frequently invoked European norms and the example of neighbours (cf. Kuhar 2011).

3.3 The activist network

Given the importance of polarisation in my analysis, I conceptualise the activist network in terms of two opposing elements: gay-rights advocates and opponents. The former consists of self-help groups, support-service providers, NGOs, and grass-roots supporters, such as those who march in Pride Parades. The latter consists of political parties and grass-roots groups with antigay messages (e.g. the League of Polish Families (LPR) and All-Poland Youth) and the media groups that sponsor them (e.g. Radio Maryja). I also include the Polish Catholic Church hierarchy and certain of its charity organisations in this category.

Regarding network robustness, I focus on the following attributes: network density, the degree of coordination among activist groups, and the capacity of these groups to engage in political lobbying. *Density* captures the number of groups active. A growth in density implies an increase in the breadth of the overall movement and its ability to cover the manifold policy and practical concerns related to gay rights, from provision of support services to legal assistance in bringing court cases. *Coordination among groups* describes a continuum with two end points. At one end point, we can imagine organisations that disagree about goals, compete over funding, and do not cooperate on broader projects. At the other end point, we can imagine a movement composed of groups that manage all of these things. The *capacity to engage in political lobbying* requires that gay-advocacy groups be willing to label their activities as political, even in a broad sense of the word. While this may seem a banal criterion, in fact, many groups objected to labelling their activities as political, especially in the 1990s. Instead, they described themselves as

support groups or as charities. At the other end of the spectrum, we find groups that politically lobby for gay rights in sophisticated ways, including drafting legislation; bringing court cases; and fielding candidates in elections. By the end of the period analysed here, there were Polish groups able to accomplish the latter.

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4. The development of a gay-rights movement in Poland

I now turn to a description of how the gay-rights movement has developed in Poland from the early 1990s to the present using the periodisation outlined above. The narrative weaves together the various analytical strands of the political process model: political opportunity structure, issue framing, and the network of activists – among both rights advocates and opponents.

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4.1 1989–1997: an invisible and inchoate movement

The *political opportunity structure* during this period was defined by the emergence of political pluralism after the fall of communism and the *absence* of binding EU conditionality. In Poland, the early 1990s witnessed the explosion of new forms of associations, from political parties to interest organisations to social groups. The other important opening from the perspective of LGBT people was the end of state censorship, which made possible personal ads and magazines for the first time in memory. These were profound changes in people's personal lives. Yet, though formal barriers had come down, less formal barriers remained. Social taboos against homosexuality remained strong even by post-communist standards. Aside from a few brave exceptions, individuals feared making their sexual orientation public. Identifying with, not to mention actually joining, a gay-rights group was risky to someone fearing the consequences of coming out, and this problem hobbled organisation-building.

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The *framing* of homosexuality in the public discourse was marked by two features: lack of political salience and the discourse of HIV/AIDS. Regarding salience, homosexuality was simply not a political topic for most of the 1990s. Social taboo prevented open discussion. The hegemony of this taboo – termed the 'regime of silence' by one respondent – is thrown into even sharper relief when one considers the Polish Church's political agenda during this period. At its behest, abortion was banned in 1993, religious instruction in schools reinstated in 1991, a mandate that radio and television respect 'Christian values' adopted in 1992, and a Concordat with Rome signed by the government in 1997 (Ramet 2006). During this period in which the Church put its stamp on a wide range of social issues, it apparently saw little need to engage with gay rights. They were not a threat.

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To the extent that homosexuality did emerge as a topic in the public discourse during the 1990s, it did so in the form of the HIV/AIDS epidemic, which had claimed its first cases in Poland in the late 1980s (Owczarzak 2009). Here again Church teaching provided the frame, in which any conception of LGBT as people with rights was conspicuous in its absence. The Church's appeals to minister to AIDS patients characterised them as sufferers deserving help while avoiding discussion about the mode of transmission (Owczarzak 2009, p. 434). In a sign of their weakness, even the nascent gay-rights groups adopted this framing. These activists 'saw championing the importance of a Christian ethic as a primary way to win... [the public's] support' (Owczarzak 2009, p. 433).

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The *network of activism* in this period was, on both sides, of low density, uncoordinated, and self-consciously apolitical (Kliszczynski 2001, p. 166, Owczarzak 2009). The network of groups working in what might broadly be defined as LGBT issues was very small and, to avoid public controversy, inconspicuous. The first legally registered group, The Association of Lambda Groups (*Stowarzyszenie Grup Lambda*), appeared in 1990. It was an umbrella group comprising

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locally based and largely informal groups. From the beginning, the emphasis on self-help, HIV/AIDS, and apoliticism was evident; Lambda's statute announced its mission as 'increasing tolerance towards homosexuality, creating positive consciousness of homosexual men and women, propagating safer sex and cooperating with public institutions regarding HIV/AIDS prevention' (Adamska 1998, p. 26, cited in Gruszczynska 2009, p. 33). As Gruszczynska (2009) writes, 'For the most part, the activists of The Association of Lambda Groups were against public activism, claiming that increased visibility might be harmful to homosexual persons by attracting unwanted attention and fuelling violence' (p. 33).

Initially, activism was focused around an NGO called MONAR (Youth Movement against Drug Addiction),¹³ which was actually a network of treatment centres for drug addiction established in the 1970s (Owczarzak 2009). Because of the link between intravenous drug use and HIV, MONAR began to include gays with the disease within its purview of service activities in 1990. In her study of this period, Owczarzak (2009) notes only one other group of activists, 'Plus', which housed five HIV-positive people in a private house in Warsaw (p. 429). Besides this limited service provision, the only other activists mentioned in Owczarzak's (2009) study were not groups, but single individuals attempting to disseminate information about how HIV is spread (p. 435).

The network of antigay activists looked similar in structure. Local, informal, and apolitical, they emerged in opposition to the MONAR centres. Though the latter had been operating quietly for years as drug-rehabilitation centres, the inclusion of AIDS patients sparked protests in the neighbourhoods where they were located. From 1990 through 1992, there were public protests demanding that the centres be shut down, and in a number of cases, violence and attempted arson occurred. The kinds of placards on display at such demonstrations would not have been out of place in those from the 2000s, reading, for example, 'Faggots out!' (Owczarzak 2009, p. 429). Despite the similar rhetoric, antigay mobilisation in this period was local, uncoordinated, and lacked ties to political parties, in contrast to later waves of mobilisation.

Another significant difference from the antigay mobilisation of the 2000s was the response of Church-affiliated groups. As noted above, the Church began to engage with the AIDS epidemic in the early 1990s, though on its own terms. In the controversy over the MONAR centres, the Church took the position that it is a Christian duty to care for the sick, including AIDS patients. A Polish priest, Arkadiusz Nowak, took the lead in promoting Church-run palliative centres, and his efforts led to the creation of a state-run National AIDS Center in 1993. Thus, the fledgling network of HIV/AIDS services soon came to be dominated by the Church and, in cooperation with the Church, the state. As Owczarzak (2009) writes, 'The National AIDS Center remains the main coordinating organization for HIV prevention efforts and care for people living with AIDS at the national, regional, local levels' (p. 436).

Absent a favourable political opportunity structure and hamstrung by the tendency to frame its goals apolitically, the gay-rights movement was falling into decline in the late 1990s. By 1997, the Association of Lambda Groups was defunct, as the network of locally based, grass-roots chapters disappeared. My research uncovered only one national-level attempt at political lobbying in this period, during the discussions about rewriting the Polish Constitution. Rights advocates lobbied to include sexual orientation as one of the grounds of discrimination banned constitutionally – a minimal demand that proved unsuccessful (Kluszczynski 2001, p. 165). Following the movement's implosion, a new Warsaw-based group, Lambda Warszawa, was established in 1997. It was the only registered LGBT group in Poland until 2001 (Gruszczynska 2009, p. 34).

4.2 1998–2004: conditionality reframes the issue and sparks a backlash

In 1998, the European Parliament warned that it would block the accession of any country that 'through its legislation or policies violates the human rights of lesbians and gay men' (Bell

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2001, p. 88). Suddenly Poland's 'return to Europe' looked much less certain. Gay rights as political rights, especially the right to equal legal protection from discrimination in the market and the public sphere, were on the agenda as non-negotiable items. Against the framing of personal weakness and HIV prevention was counterposed one of European law and human rights. With this politically polarising framing of the issue, activist networks among both advocates and opponents began to thicken and broaden. What had been a local, informal, and low-density network on both sides started to become national, more institutionalised, and comprising a denser web of groups.

The year 1998 was the period that EU integration changed the *political opportunity structure* for gay-rights activists in Poland. While EU membership had been articulated as a goal as early as 1989, the EU opened accession negotiations with the first ECE countries in 1998, including Poland. From this point on, accession became a much more concrete policy process with specifically articulated rules, monitoring of progress, and admonitions about failures to reform, including failures regarding the LGBT minority. Building on earlier warnings, the European Parliament called on Poland to remove antigay provisions from its penal code in 2000 (Bell 2001, p. 88). As the European Commission screened Polish law, it determined that the Polish Constitution's protections were neither explicit nor strong enough, and it mandated changes to the labour code specifically. Though the parliament strongly resisted adding sexual orientation as an antidiscrimination provision to the labour code, it bowed to the Commission's pressure in the end.

The EU's use of conditionality with regard to the Constitution and labour code fundamentally reshaped the *framing* of gay rights in Polish politics. In place of the narrative about personal failing, HIV/AIDS, and Christian charity, the issue now was framed as a question of national identity. Homosexuality mapped very easily onto a broader debate about Polish identity – national, religious, and as a part of Europe – that polarised the political spectrum in the early 2000s, a debate between the so-called Poland A and Poland B (Zubrzycki 2006). Poland A was shorthand for the upwardly mobile, educated, usually urban Poles who took a more secular and cosmopolitan view of national identity. Poland B referred to the provincial, older, less-educated, church-going Poles who identified national identity with Catholicism. The EU became a mobilising tool for both sides. Gay-rights advocates claimed the legitimacy of EU norms; their political opponents from Poland B used the EU as a foil, painting it as a threat to traditional Polish values. As political discourse took on an increasingly nationalist tone, the EU's use of conditionality provoked defiant responses from Polish politicians on the right (Walicki 2000). This shift can be traced in the *development of activist networks*.

To focus first on the antigay network, the 2001 parliamentary elections saw the extinction of traditional 'liberal' parties such as the Freedom Union and Electoral Action Solidarity.¹⁴ As these more liberal parties exited politics, they were replaced by two newly established right-wing parties that took unprecedentedly nationalist and Eurosceptic positions. The first of these, Law and Justice (PiS), was led by the mayor of Warsaw, Lech Kaczyński, who cemented his reputation as a defender of the national faith by banning Pride Parades in Warsaw. The second, LPR, espoused a 'Poland for the Poles' ideology so extreme that most observers classified it as a radical-right party (Pankowski 2010). Opposition to 'homosexuality' was a central plank in LPR's platform. In 2001, PiS and LPR took 9.5% and 7.9% of the votes, respectively, just a few points less than the largest right party, Civic Platform (PO). Both parties' nationalist appeals portrayed EU accession – and the host of associated economic, political, and antidiscrimination reforms – as an elite project supported by a network of *ex-nomenklatura* of dubious Polishness. Both hearkened back to the programme of interwar Poland's illiberal demagogue Roman Dmowski, who espoused a xenophobic vision of an ethnically pure, Catholic Poland (Walicki 2000). PiS called for a 'moral revolution' to establish a Fourth Republic, which would break with the so-called Third Republic established in 1989. LPR's link to interwar

illiberalism was even more direct. Its leader and founder, Roman Giertych, is the grandson of one of Dmowski's close associates.

The electoral success of LPR and PiS was made possible by the broader organisation of a societal-level network of groups with antigay orientation and national scale. Most notable among these were the All-Poland Youth (*Młodzież Wszechpolska*) and Radio Maryja. The All-Poland Youth, founded by LPR's Giertych, took its name from an anti-Semitic organisation established by Dmowski in the 1930s; it promoted a fundamentalist version of Catholicism in its post-communist incarnation and was a key organiser of anti-Pride demonstrations. Radio Maryja is a hugely influential radio and television network, one of the largest in Poland. It is run by a Catholic priest, Father Rydzyk, and has its strongest appeal among rural and elderly voters. Both organisations provided crucial campaign support to LPR and PiS, which as newly established parties lacked a strong campaign network.

In their ideology and their rhetoric, both the All-Poland Youth and Radio Maryja represented a significant shift from the Catholic groups that had been active on gay issues up to this point, groups such as Father Arkadiusz's ministry to HIV/AIDS patients. As homosexuality widened from being about the HIV/AIDS epidemic to an issue of rights, the Church found it harder to reconcile with ideas of Christian charity. Neither Radio Maryja nor the All-Poland Youth spoke for the mainstream Church, and while many of the clergy doubtless sympathised with them, the Church hierarchy found the aggressive, exclusionary rhetoric of these groups an embarrassment. Moreover, the Church hierarchy was constrained on this issue because it supported EU entry and feared jeopardising the 2003 public referendum on membership (Ramet 2006). Thus, while the political polarisation of gay rights nationalised and broadened the antigay activist network, the mainstream Church was not as engaged as one might have expected.

Turning now to the network of gay-rights activists, the changes to the political opportunity structure and framing in this period had the effect of spurring the establishment of a new wave of organisations, which were more visible, political in their demands, and, in one notable case, professional in their organisation. These new groups drew on a much broader target audience, not one limited to HIV/AIDS prevention. In a significant departure from the previous period, some of these groups sought to draw attention to gay issues by provoking controversy.

The first overtly political group, KPH, was established in 2001 as an NGO aiming in its own words to promote

Public discussion on gay and lesbian issues and increased social representation for all sexual minorities, as well as, most importantly, political lobbying that would lead to introducing the concept of same-sex partnerships.¹⁵

From its inception, KPH cultivated links to international, especially EU-level, networks, notably that of ILGA-Europe but also the European Commission and European Parliament. In comparison to earlier rights groups, KPH was considerably more institutionalised and professional. It was able to secure funding grants from the EU, the Open Society Institute, and others. Through such funding, it was able to rent office space in Warsaw and to hire several permanent staff. This funding also enabled KPH to produce and publish a number of reports monitoring the situation of LGBT people in Poland, documenting discrimination, analysing the press, and bringing the antigay rhetoric of politicians to the attention of international observers.¹⁶ Through this monitoring, KPH became an important source of information to the European Commission about the weaknesses of Poland's minorities policies during the accession negotiations.

If KPH was primarily based on the model of a professionalised lobbying NGO, this period also saw the emergence of more grass-roots groups aimed at consciousness-raising and public visibility. The first of these was the ILGCN-Poland, which organised Poland's first Gay Pride

parade in 2001 in Warsaw.¹⁷ The 2001 parade was a small, Warsaw-based affair of about 300 participants. Over the next 2 years, however, the parade grew in size (to as much as 3000 participants in 2003) and reach, attracting participants from across Poland (Gruszczynska 2009, p. 36). The second notable public campaign during this period was organised by KPH under the name 'Let Them See Us' (*Niech nas zobaczą*). It consisted of photographs of same-sex Polish couples displayed on billboards across the country. Denounced by critics as a series of 'depravations and deviations', the campaign has been credited with bringing homosexuality into the public sphere for the first time (Warkocki 2004 cited in Gruszczynska 2009, Gruszczynska 2009, p. 35).

To summarise, there was a fundamental realignment of the political opportunity structure in this period through EU conditionality, a radical reframing of homosexuality from a question of individual morality to one of European law and human rights, and a reorganisation of the activist networks both among gay-rights advocates and on the political right. The network of advocates became more visible, more political, and more professional. It still remained mostly Warsaw based, however. The network of opponents also changed. What had before been local, *ad hoc* protests against HIV/AIDS treatment centres now also became a wider, more political network of nationalist political parties. While these changes were evidently at the root of the growing political polarisation around homosexuality, this polarisation reached its zenith in the next stage, after Poland's membership was formalised in May 2004, as conditionality lost its edge. Though this period of intense EU pressure to change Polish labour law to address discrimination based on sexual orientation constituted undeniable progress, it also fuelled a populist political backlash from 2004 to 2007.

4.3 2004–2011: backlash, polarisation, and mobilisation

The greatest organisational development of the Polish gay-rights movement has been in 2004. Ironically, it appeared quite the opposite at first, that the movement was fighting for its existence. From 2005 to 2007, Poland experienced the most nationalistic, populist government since the fall of communism, key members of which made the so-called homosexual lobby their target. From the perspective of Europeanisation theories, these developments boded ill for the diffusion of EU norms and for the movement itself. From the perspective of the political process model adopted here, however, such moments of extreme polarisation can spur rapid organisational development by placing the movement's issue at the centre of political attention and by focusing activists on a clear goal. As this final section of the case study shows, this is exactly what happened in Poland. After enduring intense political attack from 2004 to 2007, the gay-rights movement emerged stronger than before. From 2007, gay-rights issues are no longer as visible in politics as before, but the movement has continued to lobby effectively using the organisational resources built up during its experience under siege.

Poland's entry into the EU on 1 May 2004 radically altered the *political opportunity structure* yet again, as the European Commission lost the legal leverage of conditionality. In interviews conducted in Warsaw in summer 2007, public officials noted that gay rights were now a domestic affair. Infractions against EU law could be brought before the courts, but as a *post hoc* and reactive approach, this constitutes weaker monitoring than during the accession phase. Public criticism of antigay policies, usually by the European Parliament, became the main, though not very effectual, source of leverage. For example, in January 2006, the European Parliament condemned

a series of worrying events . . . ranging from banning gay prides or equality marches to the use by leading politicians and religious leaders of inflammatory, hate or threatening language, police failing to provide adequate protection or even breaking up peaceful demonstrations, violent

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demonstrations by homophobic groups, and the introduction of changes to constitutions to explicitly prohibit same-sex unions.

While no member state was mentioned by name, Poland was clearly among the targets of concern. A second resolution in June 2006 specifically rebuked Poland for 'an increase in intolerance caused by racism, xenophobia, anti-Semitism, and homophobia'. Both resolutions provoked defiant responses, with the speaker of the parliament Marek Jurek (PiS) declaring that the resolutions 'promot[ed] an ideology of homosexual communities' ('Commotion', 2006). The Polish parliament then passed a resolution refuting the European Parliament's charges.

The clearest indication of the changed political opportunity structure is the absence of legal advances on gay rights in Poland since gaining membership. Since changing its labour code as a condition of accession in 2002, Poland has not enacted any new legal rights for LGBT people. Even by post-communist standards, Poland's rights framework is weak.¹⁸ Not only have successive Polish governments failed to broaden the scope of antidiscrimination policy since 2002, but the implementation of extant labour code provisions also did not meet EU standards until 2010.¹⁹ As a final indication of the bare-bones legal framework, one should recall that Poland is one of only two EU member states to have negotiated an opt-out of the European Charter of Human Rights as a condition for signing the Lisbon Treaty.²⁰ The opt-out was motivated by concerns about social values, including fears that the Charter would undermine the traditional conception of marriage.

As noted above, the *reframing* of homosexuality in terms of rights and European norms had been accomplished during the pre-accession stage. After accession, conservatives continued to frame gay rights as an affront to Polish nationalism and as an imposition by the EU. The gay-rights movement continued to portray gay rights as human rights and part of joining Europe, avoiding any appeals to Christian charity. What did change in this period was the level of polarisation, which reached unprecedented levels in the lead up to the parliamentary and presidential elections of 2005 and through the government that followed. These elections saw major gains for PiS, which expanded its vote share from 9.5% to 27%. Its leader Lech Kaczyński, who gained notoriety for banning the Warsaw Pride parade in May 2004, was elected president also in 2005. LPR, which took the most antigay line among the Polish parties, experienced a smaller electoral gain in these elections (from 7.9% to 8%), but it was invited to join the government coalition. Gay-rights advocates found themselves not only excluded from any policy influence, but also frequently to be a scapegoat for the more radical elements of the governing coalition.

LPR leader Roman Giertych was named Minister of Education. As Minister, he attempted to reshape the Polish school system around a nationalist and Catholic conception of the citizen (Pankowski 2001). Defending the youth from 'homosexual propaganda' played a central part in this project. Under Giertych's direction, the ministry fired an education official for distributing a Council of Europe primer on discrimination: it contained an entry on homophobia. The ministry also created an Internet filter for Polish schools, screening any references to homosexuality and blocking access to the sites of organisations such as KPH and the International Lesbian and Gay Association (Pankowski 2010, p. 182). As Minister of Education, Giertych openly conflicted with European-level institutions. For example, he proposed to a meeting of EU education ministers that they adopt a European 'Charter of the Rights of Nations' to include bans on 'homosexual propaganda' and abortion (Pankowski 2010, p. 182). PiS leader and then Prime Minister Jarosław Kaczyński defended Giertych's actions as Education Minister, saying

I assure you that if a man from the PiS were a Minister of Education, he would take the same direction as Giertych . . . I want to say it clearly, I am also against the promotion of homosexuality in school . . . I don't see any reason to support the fashion for promoting homosexuality. (Pankowski 2010, p. 182)

When, as mentioned earlier, the European Parliament criticised Poland for homophobia, anti-Semitism, and xenophobia in June 2006, PiS sponsored a furious counter-resolution in the Polish parliament, calling on the EP to safeguard ‘public morality’. It further stated that even using terms such as ‘homophobia’ was ‘an imposition of the language of the homosexual political movement on Europe’ and stood in conflict with ‘the whole of Europe’s Judeo-Christian moral heritage’ (Pankowski 2010, p. 189).

The polarisation of the political discourse and the intensification of organisational development that it sparked, especially on the part of gay-rights activists, were nowhere more evident than in the Pride parades. As noted earlier, these had been small, Warsaw-based, and relatively peaceful affairs in 2001, 2002, and 2003. Almost immediately after Poland’s official entry into the EU on 1 May 2004, this all changed, as the right to march was blocked by state offices and marchers came under physical attack by members of the All-Poland Youth and LPR sympathisers. Marchers were harassed with phrases such as ‘Gas the gays’ and ‘Lesbians and faggots are ideal citizens of the European Union’ (Gruszczynska 2009, pp. 38–40). Against these obstacles, Prides continued to be organised and spread to other Polish cities. In May 2004, the Cracow ‘March for Tolerance’ became the subject of a drawn-out political fight as local LPR members sought to block the parade; then, on the day of the parade, marchers were assaulted by members of the All-Poland Youth (Gruszczynska 2009, p. 37). Several weeks later, PiS leader and then mayor of Warsaw Lech Kaczyński banned the Warsaw parade, despite having allowed it in previous years. Kaczyński again banned the parade in 2005. A planned parade in Poznań in 2005 was also banned; when activists staged a peaceful protest anyway, police arrested 68 out of some 200 present (Gruszczynska 2009, p. 42).

This period of polarisation broadened and thickened the *activist network* while at the same time garnering public sympathy for gay rights. The images of police arresting peaceful protesters resonated for many observers outside the movement with the memory of Solidarity’s repression under martial law in 1980s. The movement’s capacity to stage Pride marches in multiple cities and in the face of administrative bans provides signs of the new level of organisation. The three major rights groups ILGCN-Poland, Lambda Warszawa, and KPH banded together to form the Equality Foundation (*Fundacja Równości*) and mount legal challenges against the parade bans.²¹ These challenges proved successful, as courts struck down bans in Poznań and Warsaw. Demonstrating the movement’s growing professionalisation, activists overturned the Warsaw ban in the European Court of Human Rights, establishing a binding legal precedent against future such bans in all of Europe.

KPH, the movement’s lobbying NGO, also saw considerable growth in this period. It nationalised its network, establishing branches in each of the country’s 16 regions. With the support of the EU, ILGA-Europe, the Open Society Institute, and others, KPH published sophisticated and detailed reports on the government’s policies and on the legal and social situation of LGBT people in the country. Where the government failed to live up to its EU obligations, as, for example, in the establishment of an independent antidiscrimination body, KPH lobbied persistently to the Commission for action. In addition to KPH, several new groups were established or became engaged with gay rights during this period. A new NGO, the Polish Society of Anti-Discrimination Law (*Polskie Towarzystwo Prawa Antydyskryminacyjnego*), was formed by activists from KPH’s legal team. A new political party, Greens 2004 (*Zieloni 2004*), was established with gay rights as one of its core issues. Though it has not gained representation in the national parliament, it has gained some seats in local and regional elections. This period also saw the appearance of a number of smaller, locally based LGBT groups, from students associations to discussion clubs.

In 2007, the Kaczyński government collapsed in a corruption scandal. New elections were called for in October 2007, elections which initiated the implosion of the far-right and ongoing marginalisation of antigay activists in Polish politics. The most dramatic result was the collapse

of LPR's electoral support, which tumbled from 8% in 2005 to 1.3%, far below the minimum threshold for parliamentary representation and, even more importantly, below the minimum for a party to receive state funding. Without funding, LPR has ceased to be a presence in Polish politics. Other extreme antigay groups such as the All-Poland Youth have also become much less visible. The new government was formed by the centre-right, pro-Europe PO party in coalition with the much smaller Polish Peasants' Party.

For the remaining parties of the right, PiS and PO, one lesson of the 2007 elections has been that antigay politics is not a winning electoral strategy (Vachudova 2008, p. 875). Although the 2007 elections saw PiS increase its vote share, the decisive victory for PO suggested the wisdom of hewing to a pro-Europe message. To be sure, PO did not take its pro-Europe platform as far as supporting gay rights; rather, it avoided saying anything at all about the issue. While PiS maintained its core emphasis on Polish nationalism and traditional values, it seems to have also taken this lesson to heart. In my interviews with activists since 2007, virtually all have noted the near absence now of the kind of antigay remarks that were so common earlier, even from more mainstream parties such as PiS.²²

Paradoxically, the dramatic weakening of antigay activism in Poland since 2007 has presented something of a challenge to the gay-rights movement, an observation made by many of my respondents. Without the polarising presence of LPR, gay rights have become less visible politically. However, since 2007, the network of gay-rights activists has continued to develop, building on the organisational efforts of the earlier periods. In comparative perspective, the Polish movement is now one of the best developed in the post-communist region. This becomes clear when it is compared with the far more diffuse and informal movement in the neighbouring Czech Republic, despite that country's significantly higher tolerance of homosexuality.²³ To close this section, I will present three indicators of how the activist network has continued to broaden and thicken since 2007.

First, in July 2010, the Equality Foundation successfully hosted the European-wide Pride event, EuroPride, the first time it had been held in a post-communist country. The event, which drew together thousands of activists and participants from across Europe, demonstrated the organisational capacity of the movement on an international level, but also within the inhospitable terrain of Polish politics. For example, the organisers were able to bring representatives of the Polish teacher's union and some state institutions as participants on public discussion panels. The generally supportive coverage in the mainstream media was also noteworthy. During the week of EuroPride events, Poland's biggest newspaper, *Gazeta Wyborcza* devoted a minimum of two solid pages per day dealing with the parade or topics related to homosexuality. On the day of the parade, the paper printed a special four-page insert in both Polish and English, which it distributed for free. One of *Gazeta Wyborcza*'s editors even joined the parade in drag, riding in the organisers' float and delivering a speech at the end (Pacewicz 2010).

Second, the summer of 2010 saw the opening of a major exhibition at the National Museum of Art entitled 'Ars Homo Erotica'. It is hard to overstate the significance of this exhibition, which selected and displayed art with gay and lesbian resonances from within the Warsaw museum's collection. As the *national* museum in the *capital* city, it is Poland's repository of canonical works celebrating the nation. Even more surprisingly, there was very little political outcry when the exhibition opened. The one exception was a PiS politician, Stanisław Pięta, who complained that 'The Director [of the National Museum] wants to turn a temple of art into a public toilet. The museum is financed from public money and cannot be a tool of demoralization in the hands of a marginal, isolated group'.²⁴ While such comments would have been completely commonplace under the Kaczyński government, they were limited to Pięta in 2010.²⁵

The third significant development within the last few years is the expansion of the movement's political lobbying efforts, which can now point to some demonstrable successes.

Whereas just a few years ago, gay-rights NGOs such as KPH were unable to find allies in the public sphere, they hosted a public conference on antidiscrimination policy with OPZZ, Poland's largest trade union, in 2010. The movement is also finding allies among political parties. In November 2010, Kristian Legierski, a long-time rights activist, was elected to the Warsaw City Council, becoming the first openly gay politician elected in Poland. Legierski was a founding member of the Polish Green Party, which has openly supported gay rights since its founding in 2004; in the 2010 race, Legierski and the other Green candidates ran on the ballot of the main centre-left party Democratic Left Alliance (SLD). Finally, the movement's political lobbying was augmented by the addition of a new group working to create legislation for registered partnerships, the Initiative for Registered Partnerships (*Grupa Inicjatywna ds. Związków Partnerskich*).²⁶ Established in June 2009, this group brings together representatives of the Green Party and three of Poland's largest LGBT groups, KPH, *Lambda Warszawa*, and *InnaStrona*. For 2 years, this group convened town-hall-style meetings throughout Poland to gather feedback on legislation for registered partnerships. In summer 2011, the group wrote draft legislation, which it then lobbied to bring to parliament for consideration. Surprising many, the Prime Minister promised to bring the proposal before parliament, and it is currently under review in a parliamentary subcommittee. Passage is still, of course, an open question; however, SLD has promised support for registered partnerships, and PO, in a departure from its strategy of ignoring LGBT issues, has stated that this is an important issue which needs to be discussed.

5. Conclusion

I have tried, using a case study of Poland, to assess the impact of EU accession on the development of gay-rights movements in post-communist Europe. In contrast to the dire impressions left by the Kaczyński government, I argue that the Polish gay-rights movement is increasingly better organised and the country's political discourse is becoming less homophobic. Both developments are closely related to EU accession, but not for the reasons commonly posited in the dominant scholarship on Europeanisation. While EU conditionality did bring some important legal changes before accession, as the 'external incentives' perspective would predict, it has achieved little since. Likewise, I find that the 'social learning' model presented by Europeanisation theory also offers little guidance because the evident gains by Poland's gay-rights movement in the last couple of years are the result not of persuasion but of conflict.

I suggest that these developments call for a more explicit political theory of the relationship between domestic actors and European pressures, a theory which focuses on how political backlashes provoked by international pressures can in fact strengthen rights groups. The key factors in my account are the political opportunity structure, issue framing, and political polarisation. Though it generates stomach-churning political spectacle, polarisation has the effect of making activist networks broader and denser. Because the default for gay rights after the fall of communism was issue invisibility, polarisation is also important because it raises the issue's salience in the broader public discourse. By reframing homosexuality in terms of national values versus EU norms and as a question of political rights rather than of personal morality, polarisation also tends to build movement allies among pro-Europe observers who would not otherwise engage with, or even be aware of, gay rights as a political issue. While the EU exercises little direct control over these developments, it determines the political opportunity structure, which in turn has closely tracked the movement's development over time.

This reading of the development of Poland's gay-rights movement offers a new perspective on how transnational actors such as the EU can foster rights norms in 'difficult cases'. Of course, the limits of generalising from one case demand that further research on a broader sample of post-

communist EU members be conducted. That said, Poland's experience suggests that fears of political backlash against international pressure are not only overstated but misunderstand the consequences of such backlash. Ultimately, it can strengthen rights advocacy among the new EU member states; thus, there is an important rationale to apply the full pressure of conditionality on applicants and new members to live up to their minority-rights obligations.

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Notes

1. To avoid excessive use of acronyms, I will use the 'gay rights' to include rights for the umbrella grouping of lesbian, gay, bisexual, and transgender (LGBT) people.
2. See http://www.ilga-europe.org/europe/publications/reports_and_other_materials/rainbow_europe_map_and_country_index_may_2010.
3. My characterisation of this theory centres on Sedelmeier and Schimmelfennig's 2005 volume *The Europeanization of Central and Eastern Europe* and a special issue of the *Journal of European Public Policy* (September 2008) that focused on post-accession Europeanisation. These collections remain the most comprehensive summaries of scholarship on 'Europeanisation East'.
4. In their alternative conceptualisation of Europeanisation mechanisms, Knill and Lehmkuhl (1999, pp. 3–4) sketch a process of cognitive change, or 'framing integration', that closely resembles social learning. Framing integration policies 'are designed to change the domestic political climate by stimulating and strengthening the overall support for European reform objectives ... [and providing] legitimacy and concepts to favour the acceptance of domestic compromise solutions'. As with social learning, framing integration is difficult when there is tension between domestic and EU norms.
5. As another example, Epstein and Sedelmeier's (2008) analysis of post-accession Europeanisation uses the conventional external incentives framework with no modification beyond considering which issue areas may still allow *acquis*-based leverage after a country gains membership.
6. Where available, the case study also draws on the extant secondary literature (e.g. Gruszczynska 2009, Owczarzak 2009, Binnie and Klesse 2011, Kuhar 2011, Holzacker 2012).
7. In another article, I present the 2007 wave of interviews in detail (O'Dwyer 2010).
8. For the catalogue, see Leszkowicz (2010).
9. There is some precedent within the Europeanisation literature for incorporating the political opportunity structure theoretically and for thinking about conditionality in broader terms. Knill and Lehmkuhl (1999, p. 4) argue that 'negative integration' – the removal of national trade barriers and regulatory policies – redistributes resources among domestic actors, thereby reshaping political opportunity structures. However, their argument does not go the further step of addressing how political opportunity structures change and what effects that has. A more relevant parallel for the argument here is Sasse's (2008) analysis of ethnic minority rights in the Baltics after succession. She begins from the insight that 'EU conditionality may appear as something fixed and constant but its chameleon-like characteristics can turn it into a dynamic process itself' (p. 843). The idea of process-tracing how conditionality evolves over time is strongly consonant with my approach here; the chief difference is that Sasse's ultimate concern remains compliance with conditionality, not with understanding its interaction with political opportunity structures.
10. Both Owczarzak and Gruszczynska's characterisations of framing are based on field interviews with activists. Owczarzak's characterisations are particularly valuable for my argument, as they cover the 1990s, that is, the 'morality/charity' period.
11. For a recent overview of this scholarship, see the March 2012 special issue of the *American Behavioral Scientist* – especially the contributions by de Vreese and Matthes (2012) – as well as Kuhar's (2011) analysis of the framing of same-sex partnership debates in Europe.

12. Holz hacker (2010) describes gay rights in Poland as ‘morality politics’. In contrast to my conceptualisation here, however, Holz hacker’s ‘morality politics’ includes political activism by rights advocates. With regard to Poland, this reflects his focus on the post-2000 period. A broader view of gay-rights issues in Poland reveals that an earlier generation of activism was avowedly apolitical in orientation; rejecting the ‘morality/charity’ framing was a key part of the move to more political goals.
- 815 13. In Polish, *Młodzieżowy Ruch na Rzecz Przeciwdziałania Narkomanii*.
14. The latter party was more liberal in name than in practice; nevertheless, it was considerably more moderate on national identity and the EU than PiS or LPR would be.
15. See http://www.kph.org.pl/images/stories/dokumenty/statut_kph.pdf, as cited in Gruszczynska (2009, p. 34).
16. See <http://world.kph.org.pl/index.php?lang=en&doc=page&id=9&title=publications>.
- 820 17. The acronym stands for the International Lesbian & Gay Culture Network – Poland.
18. See the ILGA-Europe rights index, http://www.ilga-europe.org/home/publications/reports_and_other_materials/rainbow_map_and_index_2011.
19. Until 2010, Poland lacked legislation establishing an independent state office for antidiscrimination policy. After years of criticism, the Commission had at last initiated legal proceedings against Poland with the European Court of Justice, which could have led to financial sanctions.
20. Britain, the other country to opt out, did so for economic reasons.
- 825 21. Since 2005, The Equality Foundation has organised Warsaw’s annual Equality Parade. It is also a member of the European Pride Organizations Association, which organises EuroPride.
22. The absence of this rhetoric represents progress, though it would be an exaggeration to say that Poland’s political discourse has become gay friendly. My respondents in research trips in 2009 and 2010 reported that PO was not so much tolerant as pragmatic, avoiding the topic of homosexuality altogether. My respondents interpreted this silence not as tacit approval, but rather as a strategy to not be drawn into statements that could be damaging either domestically or internationally.
- 830 23. There is no space here to compare the organisation of the Czech and Polish movements in detail, but two points of difference are revealing. First, while Warsaw has hosted Pride marches since 2001, Prague saw its first Pride march in 2011. Second, the Czech movement, as a political movement, effectively dissolved itself in 2006, when it was at the height of its organisational capacity and, almost immediately after its greatest legislative success, registered partnerships. Since that time, there has been no national-level Czech organisation engaged with lobbying for gay rights. In May 2011, an attempt to establish such an organisation, named PROUD, was made, but at the time of this writing, it remained primarily an Internet presence. By contrast, Poland’s KPH has been adding organisational capacity since its founding in 2001.
- 835 24. ‘Homo-erotic art exhibition causes storm in Warsaw’, *Polskie Radio dla Zagranicy* (10 June 2010) http://thenews.pl/culture/artykul133313_homo--erotic-art-exhibition-causes-storm-in-warsaw.html [Accessed 28 July 2010].
25. ‘Public Debate: Homosexuality and Social Change’ National Museum in Warsaw, 11 July 2010.
- 840 26. See <http://www.zwiazkipartnerskie.info/>.

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920 **Appendix 1. List of interviews (conducted in summer 2007, 2009, 2010, and 2011)**

Marta Abramowicz, KPH
 Tomasz Bączkowski, Equality Foundation
 Tomasz Basiuk, *inter alia*
 Robert Biedroń, KPH
 Adam Bodnar, Helsinki Foundation
 925 Greg Czarnecki, KPH
 Dominika Ferens, *inter alia*
 Agnieszka Graff, academic
 Anna Grodzka, Trans-Fuzja
 Yga Kostrzewa, Lambda Warszawa
 Szymon Niemiec, ILGCN-Poland
 930 Adam Ostolski, Greens 2004
 Krzysztof Smiszek, Polish Society of Anti-Discrimination Law
 Sylwia Strębska, Lambda Warszawa
 Monika Zima, Polish Society of Anti-Discrimination Law

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