

From Conditionality to Persuasion? Europeanization and  
the Rights of Sexual Minorities in Postaccession Poland

Conor O'Dwyer

*Abstract:*

This paper analyzes the gay and lesbian rights movement in Poland to probe the limits of europeanization in postcommunist EU member-states. Shortly after Poland's EU accession, the rights of gays and lesbians to organize, to exercise free speech, and to participate in public life became highly visible and contentious political issues. The controversy culminated in bans on Gay Pride Parades and public attacks on "homosexual propaganda" by government politicians, despite censures from the European Parliament. These developments raise questions about the EU's capacity to foster norms of tolerance and non-discrimination now that accession has weakened the tool of conditionality. Drawing on interviews conducted with LGBT activists and political elites in Warsaw in summer 2007, I use this breach of EU non-discrimination norms to explore the dynamics of europeanization in a postaccession world, placing particular emphasis on the possibility of a policy of europeanization through persuasion.

*Key Words:* European Union, Poland, europeanization, sexual minorities, external incentives, social learning

Work in progress. Please do not cite or circulate without the author's permission. Comments welcome! (codwyer@ufl.edu)

From 2004 to 2007, the European Union expanded to include postcommunist states whose legacies of single-party rule, command economy, and weak civil society posed unprecedented challenges to their integration. As many have argued, the accession process helped these states overcome, or at least forced them to confront, these troublesome political and economic legacies as they emulated EU norms (Vachudova 2005; Kelley 2004; Ekiert, Kubik, and Vachudova 2007). Yet the emerging literature on such “europeanization” – that is, the adoption of European standards, norms, and practices by the new members-states – is ripe for further probing on two grounds. The first comprises the social and political cultural dimensions of europeanization, which have largely escaped attention as scholars focused instead on institutional and policy change (Schimmelfennig and Sedelmeier 2005). As the challenges posed by social and cultural codes in some postcommunist member-states to core EU norms have become clearer, this blindspot is harder to ignore. Second, the fact of accession has greatly weakened what was arguably the chief instrument of europeanization in the preaccession period, conditionality. The question then arises, what alternative instruments can propel europeanization in postaccession, postcommunist Europe?

This paper addresses both questions through a study of the rights and political participation of sexual minorities in Poland. As a theory-building case study, respect for this minority’s rights recommends itself for various reasons. First, it touches closely on cultural and social norms in the new member-states that conflict with a clear, legally codified EU norm, that of nondiscrimination and equal political participation.<sup>1</sup> Second, because the status of gays and lesbians only really became politicized *after* accession, it is ideal for looking at the postaccession dynamics of europeanization. Last, it deserves

our attention because it has received less scrutiny than other issues of minority rights, such as ethnic minority rights (Kelley 2004; Vachudova 2007). Drawing on interviews conducted in Warsaw in summer 2007 with gay-rights activists, NGO officials, political party affiliates, academic experts, and representatives of European-level<sup>2</sup> institutions,<sup>3</sup> this research asks: can the field of sexual politics be said to be “europeanizing” in postcommunist member-states? What does this issue reveal about the different mechanisms by which europeanization might occur in the postaccession period, as the previously one-sided relationship between the EU-core and the postcommunist states becomes more balanced and more complex?

Extant scholarship has emphasized two mechanisms by which europeanization occurs: external incentives and social learning (Schimmelfennig and Sedelmeier 2005). The external incentives model emphasizes conditionality. By contrast, the social learning model argues that norm adoption occurs when target states are persuaded of the appropriateness of those norms. This persuasion occurs through deliberation that includes non-state actors, both domestic and transnational. These networks of activists and political elites pressure national governments to adopt EU norms. While, before accession, external incentives dominated the transfer of such norms to postcommunist applicant states, there are two reasons to reconsider the potential of the social-learning model. First, the task of fostering EU norms that infringe on domestic cultural norms will rely heavily on persuasion, deliberation, and engagement with domestic political actors, even if coupled with external incentives. Second, gauging the efficacy of social-learning strategies is particularly crucial now, after accession, because, as noted earlier, the leverage of external incentives has become much weaker. Though external incentives

remain helpful for explaining the causes and the timing of antigay politics in Poland and other new member-states, they provide less insight into the character of current gay-rights politics, the organization of the nascent gay-rights movements, and the capacity for European-level institutions to influence both.

My analysis draws heavily on a relatively small set of open-ended elite interviews with gay-rights activists, politicians, issue experts, and representatives from NGOs and European-level institutions working in this area. Though not a random sample, my interviews include perspectives from both sides of Poland's gay-rights debate. This ethnographic approach recommends itself because of both the underdevelopment of political science research in this area and the nature of the social learning model itself. Gauging the factors intrinsic to this model – the communication of ideas and practices across borders, feelings of issue ownership, and the attitudes of actors in transnational movements – requires examining the attitudes of activists and elites themselves as well as probing the strength of their organizational networks. This is best accomplished through intensive elite interviews and analysis of primary materials. Poland makes a useful case study because it stands out among the postcommunist member states in the intensity of controversy surrounding sexual minorities' rights, yet it also has a nascent gay-rights movement with which European-level institutions can engage.<sup>4</sup>

Previewing the interview analysis, I find that EU membership has helped bring gay rights into the national political discussion, even if often in an ugly form. This discussion was not enjoined as a result of the efforts of European-level institutions in partnership with Polish groups. Rather it was sparked by open challenges to EU nondiscrimination norms by state officials after Poland secured membership. The

interviews suggest that membership has done little so far to strengthen the LGBT minority's political voice because the EU has not effectively supported social learning. Though opinions vary on the strength of Poland's gay-rights movement, most respondents agreed that it remains a domestically organized movement, with only tenuous linkages to EU and related institutions. While one should be careful about generalizing from this one case, these conclusions suggest the need for more active support of social learning by EU institutions – as well as a less optimistic prognosis about the capacity of European integration to overcome some of the deeper differences between “old” and “new” Europe.

The next section describes the paper's theoretical framework, sketching out the social learning model. The third section situates the country context by describing the recent history of homosexuality in Polish politics. I then present the interviews in order to assess the efficacy of both external incentives and social learning in this area to date. The conclusion considers the wider implications, as well as limits, of this analysis of antigay politics in Poland.

## **II. A Theoretical Perspective: From External Incentives to Social Learning?**

Scholarship on EU accession tends to emphasize two mechanisms by which European norms and rules influence domestic politics in the new entrants from postcommunist Europe.<sup>5</sup> One camp has argued that external incentives are the motor of europeanization, with the likelihood of norm adoption depending on the norm's clarity, the size of the reward for adoption, the norm's credibility, and on the number of veto players in domestic politics (Schimmelfennig and Sedelmeier 2005: 12-17). A second

camp argues that europeanization occurs when states are persuaded of the appropriateness of EU norms (Schimmelfennig and Sedelmeier 2005: 19-20). This argument stresses the processes by which states come to be persuaded of the legitimacy of EU rules. They may be so persuaded by European-level institutions, domestic actors, or transnational networks comprised of the two. Social learning is most likely when (1) target states see the EU states as a valid “aspiration group”; (2) when domestic norms in a given issue area are either absent or have lost their legitimacy; and (3) when EU norms have “resonance” with existing domestic norms (20). Regarding nondiscrimination toward sexual minorities, it is easy to see why europeanization may stall in a country like Poland, where sexual norms are strongly influenced by the Catholic Church.

Yet, while factors such as resonance may seem fixed and beyond the reach of political and social actors to change, it would be a mistake to see the social learning model as an explanation for stasis. As the name suggests, this model emphasizes learning – that is, updating beliefs and practices in the light of new information and deliberation. By opening arenas for deliberation over EU norms and by developing transnational networks that include domestic actors, European-level institutions can increase the perception of “ownership” of the norm. Bringing domestic groups into a European network empowers them in the domestic public discourse. Not only can this transnational network serve as a channel for funding and other material support, it helps legitimate these groups in the eyes of otherwise neutral or indifferent domestic interest groups. Much of such network building is spontaneous and self-generating, but supranational institutions can through their action (or inaction) have a significant impact. Environmental policy is one example

where European-level institutions helped build a transnational network that then successfully lobbied national governments on behalf of EU environmental norms (Andonova 2005).

While the external incentives and social learning models are complementary in theory, the practice of EU enlargement emphasized external incentives, especially before accession. Scholars noted the unprecedented stringency of conditionality, the Commission's tight monitoring of the applicants, the credible promise of membership's rewards, and so on (Kelley 2004; Vachudova 2005; Grabbe 2003). Social learning played, at best, a supporting role. In her study of ethnic minority policies, for example, Kelley argues that "membership conditionality by the EU and occasionally by the CE [Council of Europe] motivated most policy decisions, but normative pressure often guided them" (2004: 4).<sup>6</sup> The priority is clear: faced with domestic opposition, normative pressure must be accompanied by conditionality.

But if the asymmetrical power relations before accession led scholars to emphasize external incentives, the situation after accession highlights the shortcomings of relying on incentives alone. Membership has been attained, and no reward of comparable magnitude replaces it. Accession also changes other factors emphasized in the external incentives model. The credibility of the nondiscrimination norm declined since it depends on the monitoring capacity of European-level institutions. With accession, monitoring moved from the European Commission – a centralized bureaucracy with considerable information-gathering resources, including delegations in each applicant state -- to the European Parliament, which has no such systematic, on-the-ground monitoring capacity. Moreover, as the least developed of the EU's central

institutions, the Parliament's censure carries little weight – as noted repeatedly in the interviews. The weakening leverage of external incentives suggests that europeanization will increasingly occur through other mechanisms, with social learning being the most prominent, theoretically developed alternative in the literature.

But can EU institutions reorient their relationship with postcommunist countries, bolstering core norms through social learning, or persuasion, rather than external incentives? Doing so will require building links to domestic groups, both in civil society and politics. In many areas, the difficult changes were made before accession, but in others, like nondiscrimination toward sexual minorities, europeanization gaps are only now becoming apparent. These gaps do not stem from the absence of a clear EU norm: nondiscrimination has a firm legal basis and has been articulated by the Commission, the European Parliament, as well as the European Court of Justice (O'Dwyer and Schwartz 2008). Nor is it the case that Polish society is united in opposing homosexuality, or that there is no Polish LGBT movement for EU institutions to build links with. There is, however, a real question about the EU's capacity to build these links.

### **III. Historical Context: Gay Rights in Poland**

As a political issue, gay rights first rose to wide visibility in Poland just after EU accession in May 2004. Within months, the rights of sexual minorities to participate in public life and to express themselves came under a barrage of rhetorical, administrative, and sometimes physical attacks (O'Dwyer and Schwartz 2008; Gruszczyńska 2006b; Amnesty International 2006). Pride parades were banned in Warsaw, Poznan, and Cracow. Government politicians attacked homosexuality publicly; the Warsaw ban was



executed by then mayor, now president, Lech Kaczyński of the Law and Justice party (PiS). Behind the backlash, established patterns of discrimination of employment, housing, and health care continued (Abramowicz 2007). At the same time, during this period Polish gay-rights activists started to organize in a more concerted way than ever before.

Two relatively new political parties, Law and Justice and the League of Polish Families (LPR), led the campaign against “homosexual propaganda.” LPR was the most extreme, taking concrete actions against sexual minorities where it could and making intimidating proposals where it could not. As Minister of Education, LPR leader Roman Giertych banned schools from using a Council of Europe manual on tolerance that included a section on homosexuality, fired an education official who had distributed the handbook, and threatened teachers who used the manual with the same fate. The LPR proposed legislation banning gay teachers and reinstating the death penalty for “murderer-pedophiles,” a thinly veiled reference (Wróblewski 2006). As I was informed in interviews, such proposals, though legally dubious, were intimidating, especially in rural schools. These incidents and the escalation of antigay rhetoric among government politicians soon emerged as a source of tension in Poland’s relations with the EU. The European Parliament twice censured Poland in 2006, noting “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, [and] violent demonstrations by homophobic groups.”

In autumn 2007, the government of PiS and LPR fell after a corruption scandal. In the next elections, LPR failed to win the minimum threshold for representation in parliament. While this removed the most stridently antigay party and shunted PiS to the opposition, PiS actually increased its voteshare to become the second strongest party in parliament, and it still controls the presidency. This issue still aggravates Poland–EU relations. Opposition by PiS is threatening Poland’s ratification of the Lisbon Treaty. President Kaczyński has charged that since the treaty does not exempt Poland from the EU’s Charter of Fundamental Rights it could pave the way for homosexual marriage in Poland (“Poland” 2008).

#### **IV. The Interviews**

In May–June 2007, I conducted 28 elite interviews in Warsaw to gauge social learning regarding EU nondiscrimination norms toward sexual minorities. My interviews comprised two classes of respondents. The first consisted of 9 activists and members of NGOs and social groups working on LGBT issues. Members of political parties and social groups, policy experts, state officials, and officials from international organizations such as the European Commission and the Council of Europe comprised the second, more general category of political elites (n=19). The first group were happy to be interviewed on record, whereas most in the second group preferred anonymity. The general political elites category included respondents both sympathetic to and critical of LGBT issues. Because of international criticism, it was harder to arrange interviews with the LGBT movement’s critics, though I did interview members of PiS, the All-Poland Youth (LPR’s youth wing),<sup>7</sup> and a Catholic priest.

Given the small size of the Polish LGBT movement and the caution that many feel about publicizing their orientation, mine was not a random sample. As is typical when interviewing elite populations that are difficult to sample, I used a snowball sampling technique, taking advantage of the network of Polish activists to select the interviews. During my fieldwork, Warsaw hosted its fifth Pride parade. Attesting to the controversial nature of the parade, social conservative groups held a counter-demonstration, the Parade For Life and Family (*Parada Życia i Rodziny*), the following day. That both parades occurred during my fieldwork facilitated contacting respondents and prompted them to reflect on the status of sexual minorities in Poland.

To gain the fullest, most unfiltered perspectives of the respondents, the interview questions were open-ended. After the interviews, I coded the responses in order to facilitate comparison among activists and political elites and to summarize the interviews overall. The questions, coding categories, and distribution of responses are listed in Table 1 below. Since this is not a random sample, I do not report confidence intervals. In order to use the interviews to full advantage, I also present extended quotations from the interviews.

[TABLE 1 HERE]

The interview questions were designed to gauge the influence of both external incentives and social learning on this issue. Questions 1 and 2 assess the importance of external incentives after accession. The first asks about the direct influence of European-

level institutions in shaping Polish policies toward sexual minorities. The second assesses whether the respondents connected the timing of accession with politicians' behavior: did the end of conditionality embolden politicians to employ a more openly homophobic rhetoric?

The rest of the questions are designed to measure the elements highlighted in the social learning model. Question 3 assesses the degree to which a domestic network of activists, NGOs, academics, and others has developed around LGBT issues in Poland. Such a network is a precondition for social learning, providing European-level institutions a Polish partner with which to engage. Question 4 then asks to what extent the European institutions have built links to this network of Polish activists, through funding and regularized contacts. The final element in social learning-led europeanization is whether the emergence of a transnational network sparks public deliberation, thereby fostering a sense of "issue ownership." This is the hardest element of the social learning model to tap through elite interviews. Questions 5 and 6 are intended to illuminate this element of the domestic political scene. How important is the issue of gay rights? Do political parties have clearly distinguishable positions on it?<sup>8</sup> Presumably, parties only differentiate themselves on issues they consider important. Of course, a still more telling indication of social learning would be if some parties develop positive stances on the "gay question." The most informative responses to Questions 5 and 6 are those provided by elites outside of the LGBT movement. Rights-activists can be expected to agree that this issue is important and to carefully consider where the various parties stand, even if through informed guesswork.

### *The Weakness of External Incentives*

Does the intuition that external incentives have weakened after accession match the perception of actors on the ground? The pessimistic assessment of the EU's capacity to exercise influence on this issue is notable in the LGBT activists' responses to Question 1. Not a single activist felt that the EU had "a lot of influence" in this area, and among the categories "some influence" and "not much influence," most fell into the latter. Strikingly, the second group (general political elites) offered an equally, if not more, skeptical assessment of the EU's direct leverage (see Table 1).

Among the activists, Tomasz Basiuk presented one of the more optimistic assessments of the EU's direct institutional leverage, and even that assessment was qualified. He noted that before accession the EU had successfully pressured Poland to amend its labor code to prohibit discrimination on the basis of sexual orientation, but he also noted that it was unclear whether the labor code's antidiscrimination measures were being implemented.<sup>9</sup> For Basiuk, the EU's main impact comes through the indirect effects of integration, "through expanded horizons for Poles, through travel, study, [and] work...This is the mechanism for change; not legal solutions. With the exception of this one change in the Labor Code, legal solutions have not really appeared."

In another interview, conducted jointly with Robert Biedron and Jolanta Abramowicz of the NGO "Campaign Against Homophobia" (*Kampania Przeciw Homofobii*), the question of the influence of European-level institutions on this issue sparked an informative exchange:

Biedron: What kind of influence does the EU have [on discrimination against sexual minorities]?

Abramowicz: They have some influence, you know, because it's the only influence we have [in this NGO]!

Biedron: They don't have any tools.

Abramowicz: They have economic tools.

Biedron: As a matter of fact, they will not be willing to use them...I think in the EU, we still need to work on the tools that will be more effective in protecting human rights in general...They only secure rights for employment, but what about the other spheres? We have a lot of cases in Poland of hate speech, of physical and psychological abuse, in the health system, and many, many other cases, which are not being protected...So, for me personally, from my point of the view, the EU is completely impotent in this area.

Abramowicz's more positive assessment of the EU's leverage was, however, qualified, as revealed by her rejoinder to Biedron: "I think that people still believe the EU has some impact. Maybe they will discover that the EU doesn't have or doesn't want to use these drastic tools. Then they will be much more, let's say, free in their expression, their hate speech."

The theme of monitoring and criticism by the European Parliament was one that surfaced across the interviews, usually in a negative light. As Szymon Niemiec, the founder of Warsaw's Equality Parade, said, "Our government and our parliament don't care about the EU. The European Parliament sent a letter to the Polish parliament saying, stop homophobia in Poland...The answer of the Polish parliament was, 'We don't care.'" Another activist, Yga Kostrzewa, echoed this sentiment: "The European Parliament has criticized us twice now for homophobia. Our politicians said, 'They are attacking our country...They don't attack our way of thinking, they attack Poland.'"

In light of statements such as these, it would seem too generous to credit the EU for the Polish LGBT movement's strides in terms of organization and visibility. As one activist put it, "I don't believe that I have an EU umbrella over me. It doesn't make me feel any more courageous when I walk out on the streets. I didn't believe it back then, and I believe it even less now, since Poland joined the EU." Agnieszka Graff, a feminist

activist with close links to the LGBT movement noted: “We all believed that the EU would solve this issue...that the EU would have this enormous influence that we call ‘civilizing.’ What never occurred to us was that it would have the reverse effect because of the cultural resistance to the EU.”

Political elites were, if anything, even more open about the challenge antigay discrimination posed to EU norms. According to an official involved with the accession process, “It is not just my opinion, but the accession would be impossible with such policies, such statements, such problems [as today] in the area of human rights.” Yet, in this and other officials’ opinion, European-level institutions had shown little resolve: “The Commission is very, very diplomatic. There is no system of being a watchdog or a system of monitoring democratic standards in the new member-states. When you are in, you are in, and the line is not to interfere in internal policy.” Another respondent speculated that the Commission’s diplomatic approach was motivated by the desire not to complicate negotiations over the Lisbon treaty. The unsuccessful precedent in using political leverage against Austria’s Haider in 2000 also came up as an explanation for the Commission’s restraint.

While the European Parliament’s resolutions were familiar to all, their effectiveness was questioned. As one official said, “I think this has no effect...[T]here is a lot in the Polish media regarding the weakening of Poland’s international position, and that the [Kaczyński] twins are not the best for Poland’s international image, and that Mr. Giertych [LPR Education Minister] is doing a lot of damage... But there are no consequences.” A political advisor to PiS told me that the Polish media’s bias casts doubt on its reporting: “Because of the history of our media, I couldn’t evaluate what is

important to the people of Holland or Britain regarding the situation of homosexuals in Poland.” The perception that European-level institutions are unable or unwilling to exert influence on this issue weakens those Polish officials seeking a more tolerant political sphere. “We cannot actually say out loud, ‘No one should be discriminated against,’” a respondent from a state agency told me. “Well we say this, but our voice is drowned out. We don’t have enough strength to say this out loud.”

Forming a pair with Question 1, Question 2 assessed external incentives by looking at the timing of Polish politicians’ antigay turn, as exemplified by the banning of Pride parades beginning in 2004 and the escalation of rhetoric about “homosexual propaganda.” I asked whether this timing was coincidental or whether it was linked to the end of preaccession monitoring and conditionality. In their responses, the activists provided a similarly negative assessment of external incentives: all but one saw the timing of antigay politics as linked to the end of preaccession conditionality, and fully half saw the timing as “closely linked.” The overall trend among the elites’ responses was less clear, reflecting the lower response rate to that question.<sup>10</sup>

The activist respondents agreed that antigay politics had only risen to prominence around the time of accession. Many saw Lech Kaczyński’s ban of the 2004 Pride parade as the watershed event. Szymon Niemiec, who organized the first Polish parade in 2001, noted:

For [the first] three years it [the parade] was no problem. In fact, the media didn’t write about it; they treated it like some curious little situation... In 2003, Lech Kaczyński signed the papers for the parade without comment. In 2004, when they [PiS] started to make their election campaign for parliament, he banned the Parade for the first time... This was the time when the All-Polish Youth and other nationalists started to react against it. And 2004 was the first year in which the media started talking about gay rights as a political issue.



Some respondents suggested that before the referendum on EU accession, the left and the right had agreed not to mention homosexuality publicly. This deal – that the left would not push for tolerance and the right would not jeopardize the referendum by raising the issue – explained the absence of debate on homosexuality before accession.

Not everyone believed that the timing of the controversy depended only on the EU, however. Some activists acknowledged the role of accession but stressed the growing organization and visibility of the movement before then. Basiuk, Kostrzewa, and Strębska, for example, emphasized the role of the domestically initiated public awareness campaign “Let them see us” in 2003, which posted billboards throughout Poland depicting same-sex couples. Some respondents in the elites category also suggested deeper factors at work, such as the internet and the rise of low-cost airlines. The most conservative elite respondents resisted the suggestion that accession explained the timing of the debate.

### *A Social Learning Deficit*

If both activists and political elites perceive a weakened role for external incentives, what did the interviews reveal about the viability of social learning as an alternative for closing europeanization gaps in this area? The rest of the interview questions evaluate the robustness of the elements articulated in the social learning model. As the responses below suggest, while some of the basic requisites for social learning are present – in particular, the presence of a domestic LGBT movement – very significant hurdles remain.

Questions 3 and 4 present a two-part picture of social learning model at the level of the Polish LGBT movement's organization. For Question 3, most respondents in both categories judged that an at least somewhat defined LGBT movement has developed, even if a consensus about its goals is lacking. Notably, LGBT activists are more skeptical of the movement's strength than those outside of it (see Table 1). Though there is a basis for European institutions to transnationalize the network through regularized contacts and targeted funding, the activists' answers to Question 4 indicate that such transnationalization has been partial at best. Most activists took the even more pessimistic view that there was no meaningful transnational network linking EU and Polish activists to speak of. Interestingly, the second category of respondents, which included officials within European-level organizations and Polish state agencies, answered this question more positively. Whatever the true level of EU engagement with Poland's LGBT movement, the disjunction between each group's perceptions of that relationship suggests a social learning deficit.

The interview transcripts illustrate these points. One official summarized the prevailing view among the elites surveyed with this description of the Polish LGBT movement: "This is a significant group here, very well organized, with international contacts." Less sanguinely, activists described a growing movement, but one with a need for better organization and more consensus about goals. Ferens provided the most optimistic appraisal, listing a host of groups working toward similar goals – from lesbian performance artists to the Equality Foundation for organizing the Pride parade to Lambda Warszawa's social service provision. She also noted the growing number of queer studies academic conferences. Ferens was careful, however, to distinguish the Polish

movement from the more organized US and British movements in the 1970-80s. In Basiuk's more critical estimation, the Polish movement is in stasis after failing to achieve a law on civil unions under the SLD government of 2001-2005: "Since then, there is no political goal that one could point to. We've become part of the oppositional movement in Poland, pro-democracy and anti-PiS."

Many activists used the term "movement" itself with reservation. They described a fragmented network of likeminded individuals with meager financial resources operating in a hostile institutional environment: "It is a very scattered movement...and I don't know if I could legitimately speak about the goals." There are rifts over strategy among the movement's academics and non-academics, support organizations and public awareness organizations, as well as internal rifts within the organizations themselves. One activist expressed impatience with the academic wing of the movement: "They are making conferences and talking only to each other because no one else can understand what they are talking about...If you want to make this subject easier for society and even for LGBT people, you should talk to them in a different language." To take another example, Szymon Niemiec, founder of Warsaw's Equality Parade, later split with the parade's other organizers over a disagreement about political goals. Besides Niemiec, other activists differed on whether Pride parades were helping or hurting the cause. Some leaders of the NGO Campaign Against Homophobia, themselves among the most well-known Polish activists, wondered aloud whether the parades did more to polarize society than to promote tolerance.

The organizational shortcomings of the domestic movement suggest an opportunity for European-level institutions to step in, to provide legitimacy through

affiliation, to more systematically link Polish groups to transnational advocacy networks, and, very importantly, to improve their financial resources. This is just the kind of boost that, according to Vachudova, EU institutions provided to the fragmented opposition groups in Slovakia under Vladimír Mečiar, helping them overcome organizational deficits to build an effective opposition (2005). Conferring legitimacy, organizational resources, and financial support to the extant domestic network will be necessary if there is to be meaningful public deliberation on these issues in Poland. When asked whether any such developments are evident, activists and general elites again offered different views (see Table 1, Question 4).

Activists described their links with transnational networks as ad hoc. Some credited the emergence of gay rights as a political issue in Poland to a primarily domestic public awareness campaign called “Let Them See Us.” Ferens and Graff claimed that the most important link with an outside group has been (and remains) with the Polish feminist movement. According to Ferens, “To me, the EU accession was just a milestone. It had nothing to do with my own dynamics of getting involved [in the LGBT movement]. And the people that I do political activity with, I think, also would say that it wasn’t a key factor.” The interviews also suggested that the founding impulse for the Pride parades did not come from international sources, contrary to the view of many Polish conservatives. One conservative respondent affiliated with PiS declared, for example, that half of the participants in Polish Pride parades were internationals. The activists did not entirely discount the participation of foreign supporters, but the links seemed ad hoc. As one activist described the parades’ foreign participants, “To be honest

they always say the same thing, 'Be equal, and so on.' But they underline that human rights are the fundamental thing in the EU.”

As far as financial support, the interviews portrayed a primarily self-financing, volunteer-based movement. While LGBT groups have benefited from some international financial support, that support is uncoordinated and, in the case of EU support, strongly constrained by the lack of cooperation from domestic government agencies. Sharing her experience, Ferens observed, “I’ve tried to apply for funding...and I’ve come away with almost nothing, so I’m skeptical about the degree of commitment of the EU...It doesn’t mean that there’s not something available...but it’s not accessible to small folks like myself.” Abramowicz judged that the financial situation of NGOs had deteriorated dramatically after EU accession, which meant that the Polish government became a necessary partner for Polish NGOs looking for EU financing. Since the PiS-led government (2005-07) had a hostile view of LGBT groups, they often refused to channel EU funding to them, even after criticism by the Commission. Sylwia Strębska, another activist, expressed similar ambivalence, noting that, though some NGOs were funded through Commission funds, other NGOs with Commission funding refused to include LGBT groups. Strębska cited examples of government obstruction such as Education Minister Roman Giertych’s (LPR) opposition to education programs promoting tolerance, calling them “homosexual propaganda.”

Echoing these sentiments, the political elites interviewed suggested that the EU’s financial capacity to nurture transnational networks and educational channels on this issue was severely constrained. Decisions about whom to fund are largely in the hands of the Polish governmental authorities, which at the national level have been intransigent on

LGBT issues. Regional governments constitute another funding possibility, though the respondents did not mention any examples. One of the most enlightening interviews about the constraints faced by European-level institutions in supporting LGBT groups was with a Polish official dealing with nondiscrimination policy generally. Seeking to counter the Polish government's negative press, the official reported that, even under the conservative leadership of PiS and LPR, the office made relatively large grants to LGBT groups. The official admitted, however, that the office could not openly sponsor them and was under constant pressure from the LPR Education Minister: the office's work was described as "under the table." In this official's telling, the government's stated policies and the actual practices of the state were quite different, but the respondent also emphasized that the state's work is "very hard" as a result.

Finally, Questions 5 and 6 provide a rough assessment of the extent to which the antigay discrimination has entered the public debate: can one see different party positions on this issue? How important is the issue in the public's mind compared with other issues? Affirmative answers to these questions would indicate that some level of public deliberation is occurring and suggest the potential for social learning over time, as the debate deepens and positions are defined.

Regarding issue importance (Question 5), the interviews provided mixed results for both activists and elites. As expected, most activists saw this issue as important in Polish politics, but an almost equal number saw it as only somewhat important (see Table 1). Basiuk typified the latter group, stating that homosexuality is only a somewhat important political question. Respondents who saw this an issue of primary importance for Polish society emphasized its resonance with human rights and democratization.

Dominika Ferens mentioned the repercussions of a police crackdown on the 2005 Equality March in Poznań, which, by reminding voters of Solidarity's protests, became a democratic litmus test for candidates in that year's elections. Others also noted the use of this issue in elections. Graff argued, "It's useful to think of homophobia as part of the idea of toughness. I think that's what really got them [PiS and LPR] the votes [in 2005]. It's a kind of general image of 'We are tough; we crack down on crime'...In 2005 you could no longer be openly misogynistic in the way possible a few years earlier, but you could be openly homophobic." Political advisors to PiS and Civic Platform also claimed that this issue mattered because of its resonance with national sovereignty and liberalism.

Question 6, which asked respondents to distinguish between Polish political parties on LGBT issues, revealed a stark difference between activists and political elites. Whereas all of the activists could distinguish among the parties' positions, most elites said that there were no large differences – that is, outside of LPR.<sup>11</sup> If, in the eyes of some activists, the differences among the right parties were not perhaps so great, all saw differences between the right and the left (postcommunists) on this issue. As Ferens observed, "For Platforma Obywatelska, this is a really problematic issue because they feel they should be more European, more liberal, and open-minded, but they know it won't get them any votes in this country...[But] the left is really riding this horse right now." In contrast, elites downplayed differences among the major center-right parties PiS and Civic Platform (PO) and questioned the commitment of left parties such as Union of the Democratic Left (SLD). One conservative respondent told me that supporters of Equality Parades are on the extreme of Polish politics and are a very small group. Most dramatically, I was told, "There are no sides on this issue. Poland is a conservative

country full stop. All the parties are conservative, and they have to differ on something else.” If this is the view of non-activists, then it suggests little public deliberation and the persistence of what Basiuk termed “the regime of silence” around homosexuality in Poland.

## **V. Conclusion**

Though a core EU norm, nondiscrimination toward sexual minorities has emerged as a hotly contested issue in the domestic politics of an enlarged EU. It is compelling not just because of the issues of individual freedom involved but also because it offers a window into the changed dynamics of the postaccession period, when the EU’s tools of conditionality are much weaker than they were before accession. It is all the more compelling in Poland because it calls into question the consensus view of the country as one of the leaders of postcommunist democratization. Though other aspects Poland’s record are exemplary, signs of illiberalism are evident here. I have used this issue to peer into the dynamics of europeanization and assess whether alternate means of European-level influence – particularly, social learning – can fill the gap left by external incentives. Because this topic is under-researched by political scientists and because of the difficulties of measuring social learning, I have employed an ethnographic approach, using open-ended interviews with activists and political elites.

To summarize, two larger points emerge from these interviews: first, that external incentives have much less power to europeanize this issue and, second, that the EU has yet to develop instruments of social learning to compensate for the weakened leverage of external incentives. Yet while the analysis has highlighted important constraints on the



capacity of European-level institutions to foster social learning – for example, the limits imposed by the institutional dynamics of the funding process – it remains unclear whether the shortcomings of social learning to date stem from inherent weaknesses in this europeanization mechanism or whether, instead, they reflect a lack of effort on the part of the EU and its affiliated institutions to engage with this issue.

Important questions remain. How much can one generalize from a one-country study? Further research should include other similar cases among postcommunist member-states: Latvia, Romania, Croatia, and Estonia (ILGA-Europe 2006: 44-45). Second, does this issue give an unduly negative impression of europeanization in postcommunist member-states? Though it is a hard case, it is not the only indication of these states' new willingness to go their own way now that they are EU members. Consider the return of populists to power in Slovakia, the willingness of some governments to experiment with flat tax systems and other deregulatory policies criticized by Western European countries as “social dumping,” the controversy over the Iraq war, and the ongoing debate over the Lisbon Treaty.

Finally one might ask whether it is fair to expect that these countries adopt EU norms on issues of such cultural significance as this one. Could we ever really expect europeanization to change the politics of this issue? As seductive as this rationalization might appear, the EU has already demonstrated a willingness and capacity to liberalize issues bound up with national identity and culture. The obvious example is citizenship policy, particularly in the Baltic states (Kelley 2004), but that task was accomplished through the application of hard conditionality. Can a primarily social learning strategy

yield similar results on issues that touch deeply on cultural or national identity? That seems less certain.

**Word count: 8,213**

**22 July 2008**

**Address for Correspondence:** Department of Political Science, University of Florida  
234 Anderson Hall, P.O. Box 117325, Gainesville, FL 32611-7325; email:  
codwyer@ufl.edu

**Notes:**

---

<sup>1</sup> Discrimination based on sexual orientation is banned under Article 13 of the Amsterdam Treaty, a 2000 directive on employment, and the European Charter of Fundamental Rights. Protection of minorities also constituted one of the three fundamental obligations under the 1993 Copenhagen Criteria for accession.

<sup>2</sup> I use the term “European-level” to include institutions that are formally part of the European Union and those, which though formally separate, work closely with the EU to propagate and monitor core EU norms. In the area of minority rights, the latter include, most notably, the Council of Europe and the European Court of Human Rights.

<sup>3</sup> The interviews are listed with the references.

---

<sup>4</sup> Other countries showing this trend include Latvia, Romania, Croatia, and Estonia (ILGA-Europe 2006: 44-45).

<sup>5</sup> A third possible avenue for europeanization is through the courts, which can protect minority rights in democracies and which, in the case of the EU, have been active in establishing norms (Stone Sweet 2004). The European Court of Human Rights, though not technically an EU institution, is starting to become active regarding the rights of sexual minorities, ruling in 2007 that the banning of Warsaw's Pride Parade (*Parada Równości*) in 2004 and 2005 was illegal. The disadvantages of court-led europeanization are, first, that it is *post hoc* and case-by-case, requiring time, legal resources, and willing domestic litigants. Second, as respondents in my interviews often noted, on controversial issues like gay rights, populists can portray courts as undemocratic so that nondiscrimination becomes at best a legal norm with weak political legitimacy and weak implementation.

<sup>6</sup> "Normative pressure" is Kelley's term for social learning; she defines it as persuasion of the rightness of norm adoption without explicit conditionality (2004: 3).

<sup>7</sup> Founded in the interwar period, the All-Poland Youth (*Młodzież Wszechpolska*) was reestablished in 1989 by Roman Giertych (LPR). It gained notoriety for demonstrating against, and sometimes attacking, Pride Parades.

---

<sup>8</sup> In constructing these two questions, I focused on PiS, not mentioning LPR in Question 5 and excluding it from Question 6. My reasoning was that LPR focuses so strongly on homosexuality that including it would make the questions less sensitive as indicators for the other parties on the political spectrum.

<sup>9</sup> A recent investigation by journalist Tomasz Kwaśniewski (2007) into working conditions for gay and lesbian teachers in Polish schools suggests very incomplete implementation.

<sup>10</sup> This lower response rate reflected the fact that most of these respondents paid less attention to the development of the gay-rights issue over time than the activists category.

<sup>11</sup> See note 8.

## **Interview List**

### *Activists:*

Marta Abramowicz, Campaign Against Homophobia

Tomasz Basiuk, academic and activist, editorial board member of *Inter Alia*

Robert Biedron, Campaign Against Homophobia

Dominika Ferens, academic and activist, editorial board member of *Inter Alia*

Agnieszka Graff, academic and activist

Yga Kostrzewa, Lambda Warszawa

Szymon Niemiec, activist, formerly of the Equality Foundation

Adam Ostolski, activist, Green Party

Sylvia Strębska, Lambda Warszawa

*Political elites spoke under condition of non-attribution. These interviews were conducted with people from the following institutions and groups:*

Civic Platform Party (PO)

Council of Europe

Democratic Left Alliance Party (SLD)

European Commission

Instytut Spraw Publicznych, public policy think tank

Law and Justice Party (PiS)

Ministry of Labor (Poland)

*Młodzież Wszechpolska*

Conference of the Polish Episcopate of the Catholic Church

Warsaw University

## References

- Abramowicz, M. (ed.) (2007) *Situation of Bisexual and Homosexual Persons in Poland: 2005 and 2006 Report*, Warsaw: Campaign Against Homophobia and Lambda Warszawa.
- Amnesty International (2006) 'Lesbian, gay, bisexual and transgender rights in Poland and Latvia,' [web.amnesty.org/library/Index/ENGEUR010192006?open&of=ENG-375](http://web.amnesty.org/library/Index/ENGEUR010192006?open&of=ENG-375).
- Andonova, L.B. (2005) 'The europeanization of environmental policy in Central and Eastern Europe', in F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Cornell: Cornell University Press, pp. 135-155.
- Bell, M. (2001) 'The European Union – a new source of rights for citizens in the accession countries?', in ILGA-Europe, *Equality for Lesbians and Gay Men. A Relevant Issue in the EU Accession Process*, Brussels: ILGA-Europe, pp. 80-89.
- 'Commotion Over EP Resolution', *Warsaw Voice*, 28 June 2006.
- Ekiert, G., J. Kubik and M. Vachudova (2007) 'Democracy in the post-communist world: an unending quest?', *East European Politics and Societies* 21(7): 7-30.
- Grabbe, H. (2003) 'Europeanization goes East: power and uncertainty in the EU accession process', in K. Featherstone and C. Radaelli (eds.), *The Politics of Europeanization*, Oxford: Oxford University Press.
- Gruszczyńska, A. (2006a) 'Living La Vida Internet. Some Notes on the Cyberization of the Polish LGBT community', in R. Kuhar and J. Takacs (eds.) *Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe*, Ljubljana: Peace Institute.
- , (2006b) 'A march to remember: women organizing against homophobia in Poland', Master's thesis, Department of Gender Studies, Central European University.
- ILGA-Europe. (2006) *Prides against Prejudice. A toolkit for pride organising in a hostile environment*, Brussels: ILGA-Europe.
- Kelley, J. (2004) *Ethnic Politics in Europe: The Power of Norms and Incentives*, Princeton: Princeton University Press.
- Klesse, C. (2006) 'Beyond visibility, rights, and citizenship: critical notes on sexual politics in the European Union,' *interAlia* 1(1).
- Kwaśniewski, T. (2007) 'Gej i lesbijka uczą dzieci twoje', *Gazeta Wyborcza*, 25 March.
- O'Dwyer, C. and K. Schwartz (2008) 'Minority rights After EU enlargement: a comparison of antigay politics in Poland and Latvia', Manuscript, January.

‘Poland could face EU treaty vote’, *BBC News*, 18 March, 2008.  
(<http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/7303045.stm>).

Schimmelfennig, F. and U. Sedelmeier (2005) ‘Introduction: Conceptualizing the Europeanization of Central and Eastern Europe’, in F. Schimmelfennig and U. Sedelmeier (eds.), *The Europeanization of Central and Eastern Europe*, Cornell: Cornell University Press, pp. 1-28.

Stone Sweet, A. (2004) *The Judicial Construction of Europe*, Oxford: Oxford University Press.

Vachudova, M. (2005) *Europe Undivided: Democracy, Leverage, and Integration After Communism*, Oxford: Oxford University Press.

Wróblewski, B. (2006) ‘Polscy politycy chcą szukać wsparcia w Europie dla kary śmierci’, *Gazeta Wyborcza*, July 27.

**Table 1: Interview Coding Questions and Overview of Responses**

Question	LGBT Activists		General Political Elites		Total	
	<i>% of Respondents</i>	<i>Number of Respondents</i>	<i>% of Respondents</i>	<i>Number of Respondents</i>	<i>% of Respondents</i>	<i>Number of Respondents</i>
1. How much influence do European-level institutions have, in your opinion, to shape Polish politics and policy on the issue of sexual minorities' rights?						
• A lot of influence.	0%	0	0%	0	0%	0
• Some influence.	33%	3	11%	2	18%	5
• Not much influence.	67%	6	68%	13	68%	19
• No answer or don't know.	0%	0	21%	4	14%	4
2. It is my impression that the issue of sexual minorities' rights only became visible in the public debate around 2003-2004. What, in your opinion, explains the timing of this issue's emergence? Do you see any connection here with Poland's accession to the EU?						
• The timing of the debate is closely linked to EU accession.	44%	4	21%	4	29%	8
• The timing of the debate is linked to EU accession, but that's not the main reason.	44%	4	0%	0	14%	4
• The timing is coincidental.	11%	1	16%	3	14%	4
• No answer or don't know.	0%	0	63%	12	43%	12
3. How well defined is the LGBT movement in Poland in terms of organization and the clarity of its goals?						
• Not very well defined movement and no clear goals.	33%	3	0%	0	11%	3
• Somewhat defined movement; some goals, but little consensus about them.	45%	4	0%	0	14%	4
• Well defined movement with clear, shared goals.	11%	1	37%	7	29%	8
• No answer or don't know.	11%	1	63%	12	46%	13



**Table 1 (continued): Interview Coding Questions and Overview of Responses**

Question	LGBT Activists		General Political Elites		Total	
	<i>% of Respondents</i>	<i>Number of Respondents</i>	<i>% of Respondents</i>	<i>Number of Respondents</i>	<i>% of Respondents</i>	<i>Number of Respondents</i>
4. How would you describe the EU's relationship with Poland's LGBT movement?						
• The EU serves as a locus for a transnational organizational network of rights activists through both funding and regularized contacts.	0%	0	16%	3	11%	3
• The EU serves as a source of international contacts for Polish rights activists, but the network is ad hoc and funding is limited.	33%	3	16%	3	21%	6
• There is no meaningful transnational network linking Polish and EU activists in the area of gay rights.	67%	6	11%	2	29%	8
• No answer or don't know.	0%	0	58%	11	39%	11
5. How important is the issue of sexual minorities' rights in Polish party politics? How important, for example, was this issue to the appeal of a socially conservative party like PiS in the 2005 parliamentary elections?						
• Important.	56%	5	32%	6	39%	11
• Somewhat important.	33%	3	11%	2	18%	5
• Not very important.	0%	0	37%	7	25%	7
• No answer or don't know.	11%	1	21%	4	18%	5
6. Do you see distinctions among Poland's political parties in terms of their stance toward gay rights, aside from LPR?						
• Yes, parties take different stances on gay-rights.	89%	8	26%	5	46%	13
• No, I see no significant differences among the parties on gay rights.	0%	0	42%	8	29%	8
• No answer or don't know.	11%	1	32%	6	25%	7