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Joining the European Union – A Prospect for the LGBT[1]?

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[1] Lesbians, Gays, Bisexuals and Transsexuals

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Preface

In the motivation for the awarding of the 2012 Nobel Peace Prize to the European Union it states that the organization has "contributed to the advancement of peace and reconciliation, democracy and human rights in Europe [for over six decades]" (Nobleprize.org). In its 2014 *Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity*, the European Committee on Civil Liberties, Justice and Home Affairs extends the concept of human rights to include "the rights of persons belonging to minorities" and defines that "the EU aims to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;" (Lunacek 4).

The issue of sexual orientation is relatively new in the fight to protect human rights the world over and it is the focus of this paper. As a student of International Relations and as a gay man, I wanted to examine the relationship between international politics and gay rights[2] and found the European Union as a good place to start due to its achievements in promoting human rights in Europe. I decided to closely study Ian Manners' theory of "Normative Power Europe" and see if I can apply it in the context of the promotion of gay rights in EU member states. I want to examine if we could consider the EU as a normative power, in the context of gay rights in EU member states.

In the first section of this paper I introduce Manners' theory of "Normative Power Europe," along with added scholarly comments and explanations. As Molly Cochran puts

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[2] "Gay-rights" is an umbrella concept that includes rights for Lesbians, Gays (homosexuals), Trans (people whose sex and gender identity do not align) and Intersex (people who cannot be distinctly identified as male or female). This paper explores the rights of LGB only since the issue of the Trans and Intersex community is more complex and it deserves its own attention. Since I quote from different scholars and indexes that do include the entire range of LGBT, I use both "gay" and "LGBT" as referring to the same community.

it, "[N]ormative IR theory takes as its subject matter the criteria ethical judgment in world politics and seeks shared principles for extended moral inclusion and social reconstruction in international practice" (Cochran, 1999; Manners, 2006: 117). Manners adds, "Normative means to affirm how things should be; to judge or direct human conduct; and to seek inclusion and reconstruction in international practice" (2006: 118).

The following section thoroughly reviews a 2013 study made by a University of Florida Associate Professor, Conor O'dwyer, who examines "gay-rights and political homophobia in post-communist Europe" and asks if there is an 'EU effect'?" (2013: 103). O'dwyer's thesis is the basis and inspiration for my research and it is closely explored since it contributes to the understanding of the issue of gay rights in the European Union. I see my paper as a continuum of O'dwyer's wish to examine this topic.

The empirical sections review two parallel trends that show the promotion or demotion of gay rights in Europe. First, the system of European councils and zones such as the European Parliament, the Council of Europe, the Secretary General and the Court of Justice and their work in regards to gay rights. Second, member states reviews that focus on 13 member states. Since examining every single one of the 28 EU member states would require a more thorough research than I seek to perform here, I decided to only explore the newest member states that joined in 2004, 2007 and 2013. Moreover, since every EU member state is required to at least amend its labor code in favor of gay rights, as I explain later, I decided to examine member states only post accession in order to show if and how they promote gay rights on their own will rather than as conditionality.

Similarly to O'dwyer's research, I use mostly data collected by the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (hereafter: ILGA-Europe) from 422 organizations in 45 European countries (rainbow-europe.org). ILGA-Europe issues an annual review and index based on the overview of the social climate for LGBT[3] people in each of the 49 European countries from the year prior to the review. ILGA-Europe ranks European countries on a scale between 0% (gross violations of human rights, discrimination) and 100% (full equality) on the basis of laws and policies that have a direct impact on LGBTI's human rights under six categories: equality and non-discrimination; family; bias motivated speech/violence; legal gender recognition; freedom of assembly, association and expression; and asylum (Ibid.).

Finally, I compare the trends I present and examine the relationship between them. I conclude it is difficult to ascertain the EU is a normative power in the context of LGBT rights but leave space for further research in the epilogue section, which also looks at the moral question of being a normative power in the relation to an issue that is still considered controversial by many.

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[3] see footnote number 2

Normative Power Europe

The concept of "Normative Power Europe" was first introduced in a Copenhagen Research Institute paper entitled "Normative Power Europe: A Contradiction in Terms?" by Ian Manners[4]. The idea that the European Union's role in the international community has an ideational impact that represent normative power (2002: 238) has become a "popular...way of assessing the EU's position in the international community" (Keene, 2012: 1). According to this thesis, the EU "promotes a series of normative principles that are generally acknowledged...to be universally applicable" (Manners, 2008: 46).

Surveying the European Union Law, Manners suggests the normative basis of the EU stands on 'core' and 'minor' norms that comprise the *acquis communautaire* and *acquis politique* (2002: 242). There are five core norms, namely peace, liberty, democracy, the rule of law and respect for human rights and fundamental freedoms. The three latter norms are more recent and came to be as a result of the importance to "distinguish democratic Western Europe from communist eastern Europe" (2002: 243). Manners also mentions social solidarity, anti-discrimination, sustainable development and good governance as the minor norms that contribute to the normative basis of the EU (Ibid.). Explaining the anti-discrimination norm, which is the most relevant to this paper, Manners suggests it arose from "progressive social legislation and the concerns regarding racism and persecution of minorities" (Ibid.).

Manners refers to the European Union as a synergy that is created by the expansion of the norms he identifies and he later suggests six factors that contribute to

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[4] Due to technicalities, I use the same paper published in 2002 in the Journal of Common Market Studies (see Bibliography).

the diffusion of EU norms and help to establish it as a normative power (2002: 244). Among the factors of contagion, informational diffusion, procedural diffusion, transference, overt diffusion and cultural filter, Manners introduces "the 'carrot and stickism' of financial rewards and economic sanctions" (2002: 245). Keene expands that to "the desire of other states to gain economic benefits... even through acquiring membership of the Union," which "acts as a powerful incentive for them to accept the values for which [the EU] stands" (2012: 3).

In order to give empirical evidence to his thesis, Manners uses a case study of the EU's international pursuit of the abolition of the death penalty and draws attention to the effect of its policy on international actors such as the USA and China. His case study demonstrates how EU abolitionist policy is diffused using "procedural membership conditions, informational common strategies and the overt role of EU delegations" (2002: 252). Concluding his thesis, Manners suggest we understand the concept of "Normative Power Europe" with an ontological quality – the EU *conceptualized* as a "changer of norms" in the international community; with a positivist quantity – the EU *acts* to change norms; and with a normative quality – the EU *should* act to extend its norms (Ibid; emphases in origin).

In "Social Status, Social Closure and the Idea of Europe as a 'Normative Power'," Edward Keene sets out to challenge Manners' thesis and wants us to think critically of the term "normative power." He mentions a speech given by David Miliband where the latter refers to the EU as a "'model power': a club that countries want to join; an actor that can persuade countries to play by its own rules, and set global standards; a role model that others follow" (2012: 2). Contrary to Manners' claim that distinguishes

between civilian power as "the ability to *use* civilian instruments," and normative power as "the ability to *shape* conceptions of normal," Keene suggests, "one could *use* civilian instruments to *shape* conceptions of what is normal" (Manners, 2002: 240; Keene, 2012: 3, emphases in origin). As I will show later, in the context of gay rights, the EU certainly attempts to do as Keene suggests, using civilian means to shape normative concepts.

Gay Rights and Political Homophobia in Post-communist Europe

In his article, "Gay Rights and Political Homophobia in Post-communist Europe: is there an 'EU effect'?" Conor O'dwyer examines whether we can testify to the existence of an EU effect on post-communist states in regards to the acceptance of gay rights. According to O'dwyer, communism left a "profoundly destructive legacy" in the context of gay rights, along with a history of repression by the state, societal homophobia and a generally weak civil society (2013: 103). He claims that although global trends help to promote gay rights, the EU has its own influence, especially with the pressure it puts on candidate states that have to improve gay rights records in order to become members. Notwithstanding, O'dwyer claims the EU pressure may also lead to a political backlash that hurts gay rights in said countries. O'dwyer lays the basis to understand general attitudes towards gay rights in post-communist Europe, and that I explore further later in this paper.

O'dwyer asks whether member states with a history or legacy of homophobia have gay rights, and does the broader political sphere react in a homophobic way to these rights. In order to answer these questions, he first examines the post-communist region as a whole, and then focuses on Poland as a study case (2013: 104). He claims studies show

empirical evidence that both the communist legacy and the condition to join the EU affect the politics of gay rights. Notwithstanding, other factors, such as different levels of social tolerance and political culture legacies, might affect individual countries in different ways. Hence, O'dwyer's methodology is to compare gay rights in post-communist countries in different stages of accession to the EU. That allows him to show that recently joined member states and states that were applying at the time of his research, have higher levels of gay rights than those further from accession.

O'dwyer distinguishes between three concepts in regards to gay rights: "legal rights," meaning the official practice of gay rights, for example same-sex marriage and the freedom of assembly in the context of Pride Parades[5]; "societal homophobia," meaning society's attitudes towards gay people within its broader cultural context (affected by religion and historical legacies); and "political homophobia," that is the use of gay rights in the context of political action. He nevertheless highlights that some countries may have advanced legal gay rights notwithstanding a homophobic society, due to exogenous pressures (such as accession to the EU) (2013: 106).

O'dwyer's research is based on ILGA-Europe's index that specifies the legal and social status of the LGBT community in 49 European states. The index includes not only informative explanations on each European state, but also gives each state a score on the basis of its legislation and practice of gay rights. The index indicates a clear divide between West and East Europe with post-communist countries scoring poorly in terms of legal gay-rights in comparison to the rest of Europe. (2013: 108).

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[5] An annual event that takes place in various countries around the world and celebrates the culture of the LGBT community. It is often times a platform for demonstrations regarding gay rights.

According to O'dwyer, when it comes to gay rights, communism left a habit of distrust for politics and its derivatives, which leads people to prefer not to participate in the public sphere. Moreover, it is still clear that LGBT communities in post-communist countries prefer to develop individual and hidden gatherings, rather than fight publicly for social acceptance (Ibid.). More profoundly, communism left immense homophobia with some countries, like Romania and the Soviet Union criminalizing homosexuality (although others, like Poland, left it legal). Nevertheless, O'dwyer claims LGBT people suffered discrimination and repression from state authorities and society alike (Ibid).

Theorizing what O'dwyer refers to as the "EU effect," he suggests that when it comes to gay rights, the EU has the potential to influence post-communist countries as powerfully as communism has. Reviewing scholarship on EU's influence on post-communist countries, he mentions two Europeanization processes that influence applicant and member states "towards greater tolerance of and institutional protections for LGBT people" (2013: 109). The first mechanism of conditionality is "perhaps the EU's most powerful form of leverage, linking membership to compliance with EU legal norms," as O'dwyer asserts (Ibid). Indeed, Directive 2000/78 is the most relevant to my subject since it requires that applicant states include sexual orientation within the list of discriminatory labor practices in their labor codes (Ibid.).

A second mechanism of Europeanization is a constructivist one, whereby both applicant and member states are "persuaded of the appropriateness of EU norms" (Ibid.). Termed "social learning," this mechanism happens when policy makers and political elites participate in EU networks and through the activity of both domestic and European transnational networks they pressure governments to adopt European norms in their

domestic political discourse. Unlike conditionality, social learning continues to be effective post accession and it even becomes more robust since the process of norm persuasion is a slower one than the change of legislation (Ibid.).

O'dwyer shows empirical proof to the improvement of legal frameworks regarding sexual orientation in post-communist countries, caused by the European Union. Starting out with the notion that the promise of membership is an effective device to promote EU norms, O'dwyer expects to witness compliance among countries near accession and better gay rights among member states that joined in 2004 or 2007. He constructs his own index of "proximity to the EU," in which he divides post-communist countries to four groups: members[6], candidates and potential candidates[7], participants in the "European Neighborhood Policy" (ENP)[8] and Outsiders[9] (2013: 124).

He finds that the relationship between societal homophobia and gay rights, as well as the relationship between national religious tradition and gay rights in post-communist countries are much weaker than in Western Europe (2013: 110). By comparing average scores on ILGA-Europe's index according to proximity to the EU, he claims there is in fact a proximity effect. He also suggests that better gay rights in the aforementioned states actually reflect deeper structural differences in the region such as historical differences in socioeconomic developments and political culture (2013: 112). Finally, he adds religion and society's general attitude towards homosexuality as two other factors for consideration.

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[6] Estonia, Lithuania, Poland, Czech Republic, Slovakia, Hungary, Slovenia, Romania and Bulgaria

[7] Serbia, Montenegro, Bosnia and Herzegovina, Albania, Macedonia and Croatia (currently a member)

[8] Which offers deeper integration without EU commitment to membership; Includes Armenia, Azerbaijan, Georgia, Moldova, the Ukraine

[9] Russia and Belarus

In order to determine levels of homophobia in post-communist countries, O'dwyer examines public opinion polls from the World Value Survey (WVS) [10] in what he terms "Societal Homophobia" (2013: 112). He asserts that the region shows variations in people's stances, as exemplified by the comparison between the secular Czech Republic who ranks the highest, followed by Slovakia, a rather surprising outcome considering it is a predominantly Catholic society (2013: 113). Next, O'dwyer juxtaposes WVS's results with the ILGA-Europe's index. He finds for example, that Romania matches the Czech republic on the latter's index, but is at the bottom of the former's in terms of tolerance. He claims that happens thanks to accession, claiming Romania went "beyond the minimum level of compliance in terms of antidiscrimination legislation" (2013: 114). By contrast, the Czech Republic, which is less known for homophobic state policies, was slower than Romania to adopt a broad antidiscrimination legislation (Ibid.).

In order to explain this more broadly, O'dwyer combines the two indexes and shows a clear difference between the two parts of Europe: in the West – the less homophobic the society, the stronger the legal framework for gay rights (Ibid.). Contrary to that, in post-communist Europe there is no relationship between societal homophobia and gay rights (2013: 115). O'dwyer suggests that this happens due to pressure exerted by the EU, as well as the example of the EU, which drive homophobic societies to adopt more rights for LGBT. Thus countries that score low on the WVS poll, such as Romania and Croatia, score as well as less homophobic countries such as the Czech Republic and Slovenia on the ILGA-Europe index (Ibid).

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[10] Respondents are asked to place themselves on a scale between 1 – indicating homosexuality is never justified and 10 – indicating homosexuality is always justified (2013: 113).

Finally, O'dwyer examines the possibility of a religious effect but he mentions it as a caveat only, emphasizing the relationship between religion and homophobia is more complex than mere examples of the Church's homophobic stances. To explain this complexity in a nut shell: Croatia for example is considered as Catholic as Poland, and like in Poland, national identity overlaps with religion; nevertheless, Croatia scores much higher on the ILGA-Europe index. Comparing the two countries "seem[s] to support the "EU effect" argument, as Croatia is not yet a member of the EU and, arguably, needs to do more to demonstrate its fitness for membership"[11] (2013: 116).

In this respect, O'dwyer draws two conclusions. The first is that there is a clear relationship between religious tradition and gay rights: Protestant countries of West Europe have better legal frameworks for LGBT than other religious countries. In post-communist Europe however, the differences in gay rights across religious traditions are small so consequently, the relationship between religion and gay rights is weak. The second conclusion is that to a certain extent, gay rights on average are more developed in Catholic countries than Protestant ones and more in Muslim countries than Orthodox ones (2013: 116-7).

When comparing countries of the same religion but at different removes from EU membership, O'dwyer shows evidence, at least among Orthodox countries, that the process of EU accession gives leverage to gay rights over religion. He links his conclusions to the communist legacy, claiming secularization weakened the influence of the church, while the persecution of homosexuality left a tradition of fewer gay rights (2013: 117).

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[11] At the time of O'dwyer's research Croatia was not yet an EU member.

Promoting LGBT Rights in Europe – Who and How?

After reviewing the concept of "Normative Power Europe" and looking at O'dwyer's research on the EU effect on post-communist states, I would like to examine whether we can attest to empirical evidence that would show a positive change in the states that joined the EU most recently – in 2004, 2007 and 2013. Since all member states amend their labor code as a condition to join the EU, I find it more important to examine them post-accession in order to see if they still promote gay rights after joining the EU. In order to do that, I use a similar method to that of O'dwyer's; I collected data from the ILGA-Europe indexes for the 13 most recent member states from 2012, 2013 and 2014. Then, for the member states whose data is available on the WVS for 2010-2014, I checked the same polling data O'dwyer does, which shows the level of acceptance of homosexuality. Eventually, I checked what is the trend in each member state in the past three years, on the basis of ILGA-Europe's scores.

To answer my research question we must first look at the EU's work to promote LGBT rights. In its annual reviews of the human rights situation of LGBT people in Europe, ILGA-Europe highlights key developments and trends, as well as institutional reviews that include the Council of Europe, the European Union, and the Organization for Security and Cooperation in Europe. If the EU is indeed a normative power in the context of gay rights; that is, if it has the ability to influence its member states to the extent that they all follow the same norms, we would see a positive trend towards the acceptance of gay rights on both the organizational level and the member state level.

Looking at the organizational level of the EU from 2012 to 2014, we see a generally positive trend in the promotion of gay rights in member states and among states outside the union, including candidate states and others such as Russia and the Ukraine. For example, The Council of Europe is proactive every year in its work to monitor the human rights situation of LGBT people. It continually observes hate crimes and raises awareness to LGBT rights in bodies like the European Parliament and Committee of Ministers, which include 47 European states. In 2012 for example, it established an LGBT unit that ran a two-year program to assist member states in implementing the Committee of Ministers' *Recommendation on Combating Sexual Orientation or Gender Identity Discrimination* (CM/Rec(2010)5)[12]. (2013 Review: 27; 2014 Review: 21).

Alongside the work of The Council of Europe, its commissioner, Mr. Nils Muižnieks stated in 2012, "The lives of millions of lesbian, gay, bisexual, trans and intersex persons are still burdened by widespread prejudice, stigmatization and in some cases even violence. Many of them are treated as second-class human beings. This situation is unbearable in today's Europe" (2013 Review: 29). The commissioner continued his work throughout 2013 and 2014, urging all European countries to recognize LGBT people in national laws (2014 Review; 22) Additionally, the European Commission against Racism and Intolerance (ECRI) started monitoring homophobic and transphobic hate crimes for the first time in all European states. More broadly, the European Parliament adopted a resolution on the fight against homophobia in Europe and condemned proposed or adopted laws banning 'homosexual propaganda' in Hungary, Latvia, Russia, Ukraine, and Moldova (2014 Review: 36).

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[12] ILGA-Europe reports Albania, Italy, Latvia, Montenegro, Poland and Serbia participated in 2012 and 2013 (2013 Review: 29; 2014 Review: 21)

In 2013, Europe witnessed contrasts between member states widen as Western states adopted more gay rights whereas Central and Eastern European member states started experiencing withdrawal. The aforementioned European organizations however, continued their work to promote LGBT rights, including the Secretary General, the Parliamentary Assembly, the Committee of Ministers, and the Court of Justice who all argued for higher standards in gay rights (2014 Review: 20). Their work includes monitoring the implementation of gay rights, issuing reports on discrimination of LGBT people, holding discussions and hearings in regards to gay rights, adopting resolutions and declarations on the treatment of LGBT in specific member states (2014 Review: 22).

Focusing on the European Union in 2013, we learn it made significant achievements in its adoption of new legislation to better the life of LGBT people. To exemplify, the EU adopted a directive that requires member states to assess if asylum seekers need "special procedural guarantees" based on "gender, sexual orientation, [or] gender identity" (2014 Review: 25). It also held a conference regarding homophobic bullying in schools with the participation of policy makers at both the European and national level as well as teacher organizations and LGBT rights organizations (Ibid).

A Court of Justice ruling worth noting was issued in regards to employment in Romania, where a football club was required to prove it did not discriminate on homophobic basis, after its owner had made a homophobic remark (Ibid). It is important because it shows the extent to which an EU organization would go to when interfering with internal affairs in order to protect gay rights. Also important are guidelines adopted by the Council of the European Union to "promote and protect the enjoyment of all human rights by LGBT" (2014 Review: 26). Contrary to a previous non-binding toolkit,

these guidelines are binding; they instruct EU diplomats to work towards eliminating discrimination and to promote equality, to fight violence against LGBT and support human rights defenders (Ibid.). Finally, the European Parliament and Council of the EU agreed to fund actions and organizations that support LGBT rights (Ibid.).

ILGA-Europe looks at 2014 as marking promotion, support and detailed implementation of the standards that were laid down by the above-mentioned European and EU organizations in 2012 and 2013. In the Council of Europe, the work mostly reveals the continuing adoption of proposals, statements, and recommendations in favor of gay rights. To take Hungary as an example, the Commissioner for Human Rights welcomed progress made in the fight against discrimination of LGBT but in the same report expressed concern from attempts in Hungary to introduce legislation criminalizing the "promotion" of homosexuality (2015 Review: 23).

In the European Union, ILGA-Europe points to commitments made to intensify actions for LGBT equality. Among the many declarations of different Commissioners of the European Parliament in regards to gay rights, the adoption of a report requesting an EU *roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity* stands out. Requested from the European Commission and adopted by a majority of members, the European Parliament report asks for a comprehensive EU policy covering eleven areas including non-discrimination; citizenship; families and freedom of movement; freedom of assembly and expression; hate speech and crime; asylum and others (2015 Review: 26; Lunacek 2013).

Lastly, at the end of 2014 the Italian Presidency of the Council of the EU held a first-of-its-kind conference on "Tackling Sexual Orientation and Gender Identity Discrimination: Next Steps in EU and Member State Policy Making" for the first time. Together with the EU Agency for Fundamental Rights (FRA) and the General Secretariat of the Council, the conference hosted over 400 decision makers, experts, professionals and practitioners from across the Union. Conclusions from the conference regard legislation, policies and practices in favor of LGBT on both the European Union level and member state level (Conference Conclusions 2014).

Despite the positive trend we see in the EU and other European organizations in the field of LGBT rights, the trend in the 13 member states that joined the EU most recently is not as positive. The figure in the next section shows rankings granted for each member state by ILGA-Europe, based on "how the laws and policies of each country impact on the lives of LGBT people" (country ranking 2015). Most obviously, the trend in most member states is static, if not negative. Out of 13 countries, the only two that show actual progress from year to year are Malta (joined 2004) and Croatia (joined 2013). Positively, all countries show improvements from 2012 to 2013, even if 2014 marks smaller changes. In the next section I will provide a short review that will explain the status of LGBT in each member state.

Member States Reviews

In the figure drawn below I have organized the last 13 member states to join the European Union, according to time of accession from 2004 (on the far left) to 2007 and 2013 (on the far right). In this section I review six of these countries as a sample of the general trend in LGBT rights. I pair member states in the following fashion – Hungary and Poland, whose scores both deteriorate over the years; Romania and Bulgaria, both accessioned in 2007; and lastly, Malta and Croatia who both present a remarkable improvement in their legislation and implementation of LGBT rights.
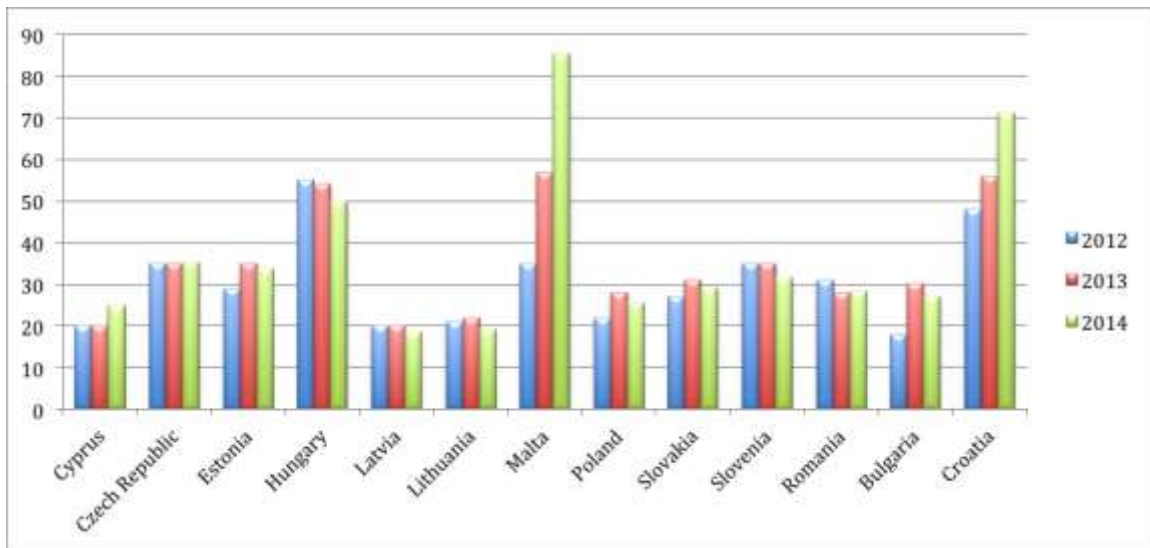

Figure 1: ILGA-Europe scores in the 13 newest EU state members, organized by time of accession (source: Rainbow Europe Map and Country Index 2013; European Countries Order 2014; Country Ranking 2015)

In Hungary, 2012 brought a new constitution into force, which was amended four times in two years in a way that could be used to restrict LGBT people. The constitution does not include sexual orientation in the list of prohibited grounds of discrimination and it also defines marriage as an exclusive union between a man and a woman. ILGA-

Europe recognizes positive actions in Hungary, such as the inclusion of explicit reference to sexual orientation and gender identity in legislation, as well as activities made by the Hungarian Ombudsman and Equal Treatment Authority to protect the rights of LGBT. However, it does not take regressive legislative proposals against LGBT lightly, even when these proposals are defeated in Parliament. ILGA-Europe draws mostly negative conclusions and defines the legal and policy landscape in 2014 Hungary as "rather restrictive – if not hostile – to LGBT" (2013 Review: 113; 2014 Review: 84; 2015 Review: 85).

The case of Poland is mixed, an assessment made by both O'dwyer and ILGA-Europe. Although the first decade of the 2000's saw some changes for the better for LGBT (O'dwyer, 2012: 120-2), the current decade seems less hospitable. While in 2012, several proposals to protect LGBT and to introduce same-sex marriage were rejected in the Polish Parliament, 2013 marked a steady rise in acceptance of LGBT people. It seems as though different polls draw different conclusions but although public opinion rejects hate speech (2014 Review: 131), most people in Poland find homosexuality to be unacceptable or unjustifiable (2015: 129; WVS Wave 6: 2010-2014).

Ostensibly, Poland's decrease in score on the ILGA-Europe index is based on its recurring failures in adopting a same-sex marriage legislation that is proposed time and again, but never adopted. ILGA-Europe's 2015 review indicates the LGBT community of Poland is "growing[ly] frustrated" with the fact that no civil partnership proposal passed in 2014, after 2013 saw more than one attempt to that effect (2015 Review: 127; 2014 Review: 131). Finally, in the case of Poland it is important to note the Catholic Church as a leader of public opinion. Along with conservative politicians, the Church has been

leading a ceaseless battle against gay rights, not only in past years but also ever since the 2000's (2015 Review: 127; O'dwyer, 2012: 118-9).

Romania joined the EU in 2007 and as O'dwyer claim, it "went far beyond the minimum level of compliance in terms of antidiscrimination legislation" (2012: 114). However, it seems as though Romania did not register any further legislation in the years to follow and in 2013 proposals were even made (but nevertheless rejected) to amend the constitution and omit sexual orientation from grounds protected by antidiscrimination (2014 Review: 134). At the same time, reports indicate the risk of violence or discrimination against LGBT is still considered high (2013 Review: 181; 2014 Review: 132), which corresponds with the fact that according to the WVS, 65.2% of Romanians polled in 2012 referred to homosexuality as "never justifiable" (WVS Wave 6, 2010-2014)[13].

WVS   World Values Survey Wave 6: 2010-2014

| | | Country Code | |
Justifiable: Homosexuality	TOTAL	Poland	Romania
Never justifiable	56.3	42.5	65.2
2	5.0	5.9	4.5
3	3.9	5.1	3.1
4	2.4	3.3	1.7
5	9.5	12.2	7.7
6	2.6	3.6	2.0
7	2.3	3.1	1.8
8	2.4	3.5	1.7
9	1.5	1.6	1.4
Always justifiable	5.3	8.9	2.9
No answer	0.8	0.7	0.8
Don't know	8.1	9.6	7.1
(N)	(2,469)	(966)	(1,503)
Mean	2.77	3.55	2.27
Standard Deviation	2.77	3.10	2.41
Base mean	(2,250)	(867)	(1,383)

Figure 2: World Values Survey Wave 6: 2010-2014

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[13] WVS polling results are available at http://www.worldvaluessurvey.org/WVSOnline.jsp [accessed 1 October 2015]

Like Romania, Bulgaria joined the EU in 2007 but five years later it shows a worse legal framework for LGBT. Homophobia, discrimination and violence towards LGBT are widespread, as reported in the ILGA-Europe reviews from 2013-2015. Stances against the LGBT community are expressed on government and Church levels, and polling results every year show public opinion is as intolerant. Nonetheless, Bulgaria's score on ILGA-Europe's index increases from 2012 to 2013 thanks to police action and cooperation with the Sofia municipality and Pride Parade organizers (2013 Review: 67; 2014 Review: 50; 2015 Review: 54).

Finally, among the 13 member states that have joined the EU most recently, Malta and Croatia made the most profound changes in their legislation and acceptance of LGBT rights and they are the only member states that show a positive trend as years pass. To exemplify, Equality Ministers from Croatia and Malta are the only ones from the 13 newest member states that signed a call for the European Commission to work towards a comprehensive EU Policy for LGBT equality (2014 Review: 26).

As figure 1 above shows, the LGBT situation in Malta in 2012 is similar to other states such as the Czech Republic and Slovenia but the next two years mark a significant leap in legislation. Although Malta enhanced protection on the grounds of sexual orientation in 2012, it did not recognize equality in fields of partnership and parenting and suffered bias motivated speech and violence. However, 2012 marked an increase of 13% in support of marriage equality (from 2007 to 2012) but still, an introduction of an

actual law to promote marriage equality met more than a 50% opposition in the public (2013 Review: 150).

In 2013, it was political change that brought Malta to advance so profoundly in its promotion of gay rights, both in law and policy. In legislation, the government supported an amendment to the constitution to include sexual orientation as protected from discrimination and submitted a Civil Unions Bill – both were adopted in 2014, hence the leap in score in 2014, as seen in figure 1. Malta's Civil Unions Bill enables both same-sex couples to enter a union that includes all rights available under marriage, including adoption. The latter was even supported by part of the opposition and the Church (albeit some criticism on the issue of adoption) (2014 Review: 114; 2015 Review: 111).

Joining the EU just two years ago, Croatia is the last member state and like Malta, it has seen notable steps that improved the lives of LGBT. It was a ten-year accession process that enabled the advancement of LGBT rights, especially in regards to non-discrimination, political support and police protection (2014 Review: 135). In the issue of same-sex marriage, despite a referendum to amend the constitution and specify that marriage is a union between a man and a woman in 2013, the government now allows same-sex couples to register as partners and receive similar rights to married couples (except for adoption rights) (2014 Review: 135; 2015 Review: 55). It is important to note that despite the negative outcome of the referendum, it nonetheless evoked a "highly divisive and polarized debate [on] all levels of society," which showed an all-time high support from public, media and political figures (2014 Review: 135).

After reviewing European and EU organizations promoting LGBT rights, and six EU member states showing different trends between 2012 and 2014, we can examine whether the EU has a normative power in regards to LGBT rights, or not. We saw a positive trend on the organizational level, but mixed trend on the level of member states, mostly negative. In the conclusions section I will draw a comparison between the two trends and see how they correspond in order to show the nature of the EU's effect on these member states.

Conclusions

In the section on the EU's effect on its member states I ask if it has the ability to influence them to such an extent that they will all follow the same norms. I explain that in order to see that, we should be able to witness a positive trend towards the acceptance of LGBT rights on two levels – the organizational level of the EU and the member state level. There is little doubt that on the organizational level the trend is positive. From the Council of Europe and the European Parliamentary Assembly, through the Committee of Ministers and the Court of Justice; from the level of the Secretary General to the level of individual commissioners, it seems the commitment to promote LGBT rights in all of the EU member state and all over Europe is serious and profound.

We find examples where the EU requires its member states to protect LGBT asylum seekers while it pursues fighting bullying on grounds of sexual orientation the Union over. We saw the Council of Europe instructs its diplomats to promote equality while the Court of Justice interfered when it suspected discrimination on grounds of sexual orientation in a football club in Romania. Proposals for overall legislation to

eliminate discrimination against LGBT and to promote gay rights are concurrent time and again on high levels and in general European and EU forums.

It seems that ample of work is being done to change the political and social statuses of LGBT all over Europe. However, my examination of the six member states I reviewed, as well as the additional seven member states I presented in figure 1, shows that the influence of Europe and the EU as a polity is limited. The accession process for member states includes minimal steps for LGBT, as O'dwyer shows, and although member states do reach those steps, most of them fail to move forward to improve the lives of LGBT, and their public opinions are usually not effected for the better either.

Croatia is an interesting example of the gap between positive legislation and policy, and negative public opinion. Croatia shows a positive trend and ranks number 5 (out of 49) on ILGA-Europe's country ranking for 2015 (country ranking 2015) but the referendum it held to amend the constitution's definition of marriage is a surprising element that proves societies are yet to fully accept LGBT people. The referendum also shows the way member states can agree to not discriminate against LGBT in their labor code, while they discriminate against LGBT in other fields, such as marriage. Except for Malta, none of the other member states shows improvement in the impact of laws and policies on the lives of LGBT people, while some of them even show a negative trend.

Returning to Manners' "Normative Power Europe," and Keen's interpretation of 'the carrot and stickism' approach, it seems that accessing states to the EU as a kind of a reward after they accept the Directive to amend their labor code is a testament of normative power. Moreover, one could argue that even the slightest positive change in

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LGBT rights is valuable enough to determine a normative power effect. In fact, O'dwyer himself concludes that "despite...[the] criticism, the EU's approach to fostering norms of minority rights and nondiscrimination appears to have improved gay rights frameworks in post-communist Europe" (2013: 122). In "The Normative Ethics of the European Union," Manners even goes as far as saying "the EU has been, is and always will be a normative power in world politics" (2008: 45).

I hold a much more strict and demanding approach. Looking at the trends I presented in this paper, I find it difficult to ascertain there is an actual ideational impact in the context of LGBT rights that would allow me to conclude a normative power effect. Although I can appreciate the positive changes made in EU member states, especially in the newest members, I cannot disregard the negative trends we see despite the tremendous work done in the EU and Europe in general. As I have mentioned, we need to see a more thorough positive trend in more member states to establish a normative power effect in the context of LGBT rights. Changes should include both better legal frameworks that are not limited to combating discrimination alone, but also allow basic rights in other areas such as family and education, which would prove that equality between heterosexuals and LGBT is more obvious.

Epilogue

This paper starts out with the notion that Europe is a normative power, that it has the ability to influence world politics profoundly. I decided to alter this assessment and apply it to politics regarding the LGBT community in EU member states. Relying on a 2013 research that examines whether there is an "EU effect" in post-communist countries in regards to gay-rights, I wanted to examine the same, only in the 13 member states that joined the EU in the 21st century and only post-accession. The decision to look at member states after they join the EU comes from my wish to see if member states actually promote gay rights as their own initiative, and not only in order to comply with the conditions for EU accession. In order to do that I examined the relationship between two trends of promoting LGBT rights – one in European and EU organizations and the other in the newest member states. I found the former to be positive and the latter to be negative and concluded it is difficult to ascertain that in the context of LGBT rights, the EU is a normative power.

This research does not lack problems, one of which stems from the use of indexes prepared by one organization only (although it gathers information from many). The scores with which I established the trends in the member states reviews is influenced by the impact legislation has on two communities whom I did not focus on – transsexuals and intersex people. Ostensibly, points were taken off for each member state even if legislation for Lesbians, Gays and Bisexuals is positive. A more thorough research on this matter that includes these communities might be more conclusive than what I offer. In that regard, exploring candidate states like Albania, Macedonia and Turkey, as well as

Russia and the Ukraine, which rank last on ILGA-Europe's 2015 index would also help to conclude the issue I raise.

Looking at Manners' conclusions we find that in the context of gay rights it seems as though the EU aspires to be a "changer of norms" and that it certainly "acts to change norms," while the question if it "should change norms" is entirely different. That raises a further relevant and critical thought on this issue –the morality of being a normative power, especially when it comes to a controversial issue such as LGBT rights, which may or may not conflict with religion. O'dwyer already examines the issue of religion and concludes that the process of EU accession weakens the "already small effect of predominant religious tradition," hence I do not explore it further (2013: 117). However, cultural traditions do not always coincide with LGBT rights and one might argue that imposing such rights on those cultures is problematic, if not immoral.

The question of morality deserves its own attention. Nevertheless, I will offer two possible answers: firstly, as Keene mentions Miliband's perception of the EU, it is a 'club' "that others want to join, or a 'role model' that by definition stands apart from, and above, its 'followers'" (2012: 2). If the EU is indeed a club, it is legitimate that it would require its members to maintain certain standards, including LGBT rights. In order to be a club member one must make the necessary adjustments, even at the risk of compromising one's culture, traditions or religion. Secondly, from a more personal perspective, since LGBT rights are human rights (and the EU defines that in *The Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity*; Lunacek 2013), I personally see no moral problem in a polity promoting them in its member states, despite the interference in internal affairs.

Finally, further research on this issue should explain my conclusions by answering the question of why some member states do not make progress in promoting gay rights post accession. Issues such as the rise of right-wing governments, as we see in Hungary, or the role of the church in each member state, as well as politics between member states are all worth exploring. By focusing on Croatia, for example, one can examine its high score despite its growing post-communist Catholic tendencies; compared with equally Catholic Poland's low score (O'dwyer discusses this briefly). At the same time, one can examine Croatia's relationship with Slovenia and the possibility that the latter aspires to align itself with its neighbor's norms. No doubt, promoting LGBT rights is highly complex, and as the European Union grows and seeks to reach mutual agreements, it has to align its members' norms, even when they seem controversial to some.

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