EUROPEANIZATION, NATIONAL PARTY SYSTEMS and LESBIAN, GAY, BISEXUAL, and TRANSGENDER RIGHTS: The Cases of ESTONIA, LATVIA and LITHUANIA

by

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Abstract

In recent years, there has been a growing divergence in national policies towards lesbian, gay, bisexual and transgender (LGBT) persons within a growing European Union (EU). This variation is surprising given that support of LGBT persons, and more specifically, of state recognition of gender-neutral partnerships has become a widely disseminated EU value. In explaining why this variation has occurred, this dissertation forwards two central arguments: First, the EU’s ability to achieve policy convergence in the sphere of LGBT rights across all 28 member states is limited by a lack ‘hard tools’ at the EU’s disposal. In absence of a larger horizontal equality directive, the EU must increasingly rely on elite persuasion to achieve its goals in member states. This contrasts with the reality in applicant states, such as Montenegro, where the promise of eventual membership in the EU provides strong external incentives to comply with policies supported by Brussels. As this thesis finds, such direct pressure is absent for countries already within the Union, and elevates the importance of domestic factors that can challenge pro-LGBT EU norms. Secondly, through a closer examination of the Baltic States of Estonia, Latvia, and Lithuania, it is argued that the stability of national party systems, measured through the number of political parties, ideological polarization and issue cleavages, as well as system volatility, can significantly shape whether a country
adopts EU LGBT norms or not. The relative stability and more programmatic nature of the Estonian party system made it easier for a minimal number of elites to adopt EU-supported gender-neutral partnerships. By contrast, the highly volatile and unstable Latvian and Lithuanian party systems made the passage of laws touching on socially contentious issues, such as gay rights, extraordinarily difficult, if not impossible to pass, despite a supranational environment strongly encouraging such laws. While this analysis derives centrally from the Baltic countries, it may have larger generalizable potential, as many countries within the EU with underdeveloped or unstable party systems have shown resistance to adopting pro-EU LGBT laws.
Acknowledgements

This thesis represents the culmination of many years worth of research, travels, and fascinating experiences across Central and Eastern Europe. Along the way, I have met many deeply committed and tireless advocates for the LGBT community, often working in deeply hostile environments, or facing entrenched political resistance to their work. I am continuously inspired by their commitment to the LGBT community.

Closer to home, I owe a deep debt of gratitude to many people; sadly far too many to name. None of this research would have been possible without the guidance of my Supervisor, Randall Hansen, and Helen Kennedy, at Egale. I also thank my parents, David and Margaret Pelz, for their support and encouragement throughout my PhD. Lastly, this project would not have emerged beyond what was originally just a distant idea without the love and support of my partner and fiancé, Noah. Each day you reminded me this research was important and urgently needed in a world where, so often, the LGBT community continues to face senseless violence and discrimination.
Table of Contents

Abstract ii
Acknowledgements iv
Introduction 1
The Global State of Human Rights for LGBT Persons 51
Post-Communist Party Systems 63
Party Systems of the Baltic States 88

Case Studies

Latvia 100
Lithuania 126
Estonia 147

Conclusion 176
Bibliography 186
Appendices 197
Chapter 1
Introduction

The controversy following the victory of Conchita Wurst, a transgender Austrian singer, in the 2014 Eurovision song contest poignantly highlights the growing European division on the rights of lesbian, gay, bisexual, and transgender (LGBT) persons. While Wurst’s victory was strongly supported in much of Europe, and hailed as a victory of freedom of expression and diversity, further to the east, Russian leaders expressed bitter disappointment and threatened to withdraw Russia from Eurovision entirely, declaring Wurst’s lifestyle as being incompatible with Russian values, and a violation of the country’s strict anti-gay propaganda laws.1 Vladimir Zhirinovsky, a nationalist member of the Russian parliament went so far as to say that Wurst’s victory signaled “the end of Europe,” while a Russian Deputy Prime Minister thought Eurovision reflected “…the collapse of Christian civilization as we know it.”2

The annual Eurovision contest has become a visible manifestation of the growing political and social divisions within Europe on rights for LGBT persons. For in a continent nominally committed to the same liberal values, there is wide variation in the treatment of LGBT persons across the region. Russia’s crackdown on the public expression of LGBT persons is well known3, but the substantial variation on rights for LGBT persons within the EU itself, particularly for EU candidate and member states in

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Central and Eastern Europe (CEE), is hardly, if at all, known. This variation is especially noteworthy given that all EU member and applicant states are subject to nearly identical supranational pressures to expand human rights protections for LGBT persons. Indeed, of the many multilateral institutions working to promote human rights for LGBT persons, the EU is uniquely placed to support gender and sexual minorities, since only the EU can apply conditionality or set legal minimum standards all member and applicant states must meet.

These tools at the EU’s disposal have helped achieve an increasing degree of policy convergence, and they have reinforced supportive public attitudes in Western and Northern Europe. In these regions, most states have legalized marriage for same-sex couples, or in absence equal marriage, have civil partnerships that provide many, if not all, of the same benefits as marriage. Many Western and Northern European states are also active supporters of the advancement of LGBT rights both within the EU and internationally. Yet, within Central and Eastern Europe, the policy convergence found in Western Europe is strikingly absent, with national policies and public attitudes increasingly characterized by divergence. For example, within CEE, some states, including the Czech Republic, Estonia, Hungary, and Slovenia have introduced registered partnerships for same-sex couples, while others, including Latvia, Lithuania, and Slovakia have constitutional bans on same-sex marriage, no provisions for registered partnerships, while homophobic rhetoric from public officials is common.

The wide divergence in state policies towards LGBT persons within Central and Eastern Europe, despite common EU norms, is the central empirical puzzle of this thesis. The dissertation focuses on the three Baltic states of Estonia, Latvia, and Lithuania.
Though relatively understudied and often unknown in Western academia, the three Baltic States present fascinating case studies.\textsuperscript{4} Sitting on the contested boundary of competing moral worldviews, and despite sharing similar histories of Soviet occupation and the relegation of homosexuality to the margins of society, the three countries have taken highly divergent approaches in their treatment of LGBT rights.

In October 2014 the Estonian government narrowly passed a gender-neutral partnership bill that will provide state-recognition of same-sex partnerships, and limited adoption rights. Estonia also ranks above its Baltic counterparts in ILGA-Europe’s index of LGBT rights protection (as shown in Table 1.1).\textsuperscript{5} In contrast, the Latvian government is unlikely to legislate on LGBT issues at any time in the near future, while the Latvian President has referred to homosexuality as a “road to nowhere;” if expressed at all, homosexuality should be kept private.\textsuperscript{6} Latvia is also tied for the lowest LGBT-rights index score in the EU, according to ILGA-Europe. In Lithuania, virulently anti-LGBT views are common across the political spectrum, and as the EU’s Agency for Fundamental Human Rights (FRA) finds, the country has the most documented cases of homophobic rhetoric from elected officials in the EU.\textsuperscript{7}

Outside of LGBT rights, the three Baltic States share many similarities. All are relatively small, both geographically, and in population size. Despite all three having at times tricky relations with Russia (particularly following the larger disagreement between

\textsuperscript{4} Given their many similarities, the Baltic States can be thought of as representing most similar case design
\textsuperscript{5} ILGA-Europe is the European branch of the International Lesbian, Gay, Bisexual, Transgender, and Intersex Association, a global LGBT human rights organization. For more information on ILGA-Europe, please visit: http://www.ilga-europe.org
\textsuperscript{6} Mozaika (2014), “Latvian President Andris Berzins in his comment in regards to the upcoming EuroPride states that homosexuality should not be “advertised and imposed,” Accessed online June 19, 2015 at: http://mozaika.lv/mozaikas-reply-to-latvian-president/
the EU and Russia over Ukraine) the Baltic countries have nevertheless undergone the most successful transformations following the end of the Soviet Union, quickly democratizing, and reorganizing their economies to ensure rapid NATO and EU integration. Given their many similarities, and the fact that all are recipients of EU pressures to improve LGBT rights, why then have governments in Tallinn, Riga, and Vilnius approached LGBT rights so differently? Accounting for this variation, in the period from the restoration of independence during the collapse of the Soviet Union up to the end June 2015, is indeed the central puzzle of this thesis. Findings from the analysis of these case studies may also shed light on larger variations in the treatment of LGBT persons by member states of the EU.

It is important to acknowledge at the onset that the study of LGBT rights is a recent development within mainstream political science research. While Mucciaroni is of the belief that “sexuality and gender are fundamental aspects of human societies that

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8 The relative success of the Baltic States can be measured in comparison to other post-Soviet states, such as Georgia, Ukraine, or Armenia. The latter states, which share similar post-Soviet legacies as the Estonia, Latvia, and Lithuania, have struggled to develop stable democratic institutions, with many continuing to be characterized as hybrid or authoritarian regimes. Nor have these states pursued membership (and in some cases do not have interest in membership) in Western organizations such as NATO or the EU. Certainly, the Baltic States had some comparative advantages over many of their post-Soviet counterparts, including greater political, economic, and social linkages with Western Europe (Way and Levitsky, 2010). Baltic leaders, soon after regaining independence, frequently stressed the “geographic, culture, and civilization norms and values” that were shared between Estonia, Latvia, Lithuania and the broader European community. These values were stressed for many reasons, though the realization that their geographic location placed the Baltic countries “…on the outer edge of Europe,” and under threat from a potentially restless neighbour was a key factor. See, Richard C.M. Mole (2012), The Baltic States from the Soviet Union to the European Union: Identity, discourse and power in the post-Communist Transition of Estonia, Latvia, and Lithuania, London: Routledge, pp. 152-3. See also Michael McFaul (2002), “The Fourth Wave of Democracy and Dictatorship: Noncooperative Transitions in the Postcommunist World,” World Politics, 54(2); 228-229; Lucan A. Way (2008), “The Real Causes of the Color Revolutions,” Journal of Democracy, 19(3), pg. 61

9 June 2015 was selected as the end point in the analysis of this dissertation as it overlaps with the holding of Europride in Riga, a highly significant event for the LGBT community, and one that faced significant resistance from political authorities in Latvia. Riga Europride, and its implications for the region, is discussed in greater detail in Chapter 5 and the Conclusion.
reflect power relations and increasingly have become the object of public policy.”

Weiss and Bosia are skeptical that many agree with Mucciaroni. They contend that political scientists often “…treat gay politics as marginal to and outside the parameters of the state and society proper.” Similarly, Lennox and Waites note that studies that examine LGBT rights globally are “remarkably rare.” Many of the earlier works on LGBT rights emerged from Sociology, Queer theory, or informative but ultimately limited individual case-studies.

However, the highly visible global divergences in LGBT, particularly within the EU, but also globally, has led to newfound interest on the part of political scientists seeking more robust explanations for why these variations are taking place. In response, several studies have begun to explain variation in support for LGBT countries in a more theoretical manner, often referencing established literatures in political science, such as Europeanization studies, social movements, and in a somewhat less developed manner, political parties, and nationalism. In addition, quantitative scholars have forwarded explanations building from the modernization and value change literatures. These literatures provide a helpful starting point to analyze variation in LGBT human rights politics globally, but also within the EU.

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13 For more on differing approaching to studying LGBT rights, please see Matthew Waites and Kelly Kollman (2009), “The Global Politics of lesbian, gay, bisexual and transgender human rights: an introduction,” Contemporary Politics, 15:1; 1-17

The EU & LGBT Rights

Of all the major multilateral institutions that address minority rights, the EU is especially powerful, given that countries in the EU face common supranational pressures to strengthen human rights for LGBT persons. At a baseline, the Copenhagen accession criteria require countries wishing to join to the union to agree to a package of liberal democratic values, including "...respect for and protection of minorities." While contested, there is a growing belief within the Commission and European Parliament that EU citizenship includes LGBT rights, and that the Union represents a “community of values” supportive of full rights for LGBT persons. Although, there are detractors – Puchalska, for instance, argues that the EU’s focus on human rights stemmed partially from security concerns and a need to manage ethnic conflict in CEE, while others think EU support for LGBT rights has occurred for instrumental reasons, namely for supranational institutions to gain a new area of competence. Regardless of motivation, official EU support of LGBT rights has been a repeated fixture since at least 1994. In that year, the European Parliament’s Roth Report highlighted the importance of seeking measures to combat discrimination against gays and lesbians, while in 1999, Article 19 of the Amsterdam Treaty “…empowered the EU to adopt measures to deal with discrimination,” including sexual orientation.

15 European Council in Copenhagen conclusions of the Presidency, 21-22 June 1993. Available at [http://www.europa.eu/legislation_summaries/glossary/accession_criteria_copenhagen_en.htm]; At the time, these requirements were more likely aimed at protecting ethnic minority rights, as opposed to being specifically targeted at LGBT persons (or possibly also the Roma).
16 Interview no: 13, 14.
One of the most significant decisions made for LGBT rights in Europe occurred in 2000, when the European Council agreed to an Equality Directive that created a general framework for equal treatment for gays and lesbians in employment. For many countries in Central and Eastern Europe, this directive was the first time that any mention of sexual orientation was included in national legislation. The European Council has also considered a more expansive horizontal directive that would expand anti-discrimination protections for LGBT persons beyond employment (it has not yet been implemented). More recently, the Lisbon Treaty reaffirmed EU support for LGBT rights by including these rights within the Charter of Fundamental Rights in the European Union. In addition to activities within the Union, the EU has become vocal in supporting LGBT issues outside of the Union. On several occasions the Union publicly condemned the criminalization and persecution of same-sex sexual practices overseas, and recently issued guidelines on how member states should incorporate the advancement of LGBT rights into their foreign policies.

Buttressing official positions and statements, an expansive collection of institutions and specialized agencies have competencies on LGBT rights. In the European Commission, the EU’s main executive bureaucracy, the Directorate-General (DG) Justice monitors the implementation of the Treaty of the European Union (TEU) for potential

20 Interview no. 20
21 Interview no. 35, It is believed that Germany is chiefly responsible for blocking the horizontal directive from passing in the Council. While not against expanding EU competencies in the area of LGBT rights, a German government official explained that there are numerous disability related provisions within the directive which, if passed, would be extremely expensive to implement. Interview no. 35
22 Although as Puchalska notes, the Charter of Rights was removed from the main text of the Lisbon Treaty, while opt-outs were secured by Poland, the Czech Republic, and the United Kingdom (Puchalska, pg. 490).
human rights infractions within member states. In addition, the DG- Enlargement monitors applicant countries, with LGBT rights falling under Chapter 23 of the enlargement criteria. For applicant countries, the EU Commission also publishes extensive progress reports, highlighting steps taken by national authorities to comply with EU regulations. Within these reports, LGBT rights are frequently flagged, including in recent reports for Montenegro and Serbia. For countries not in the accession process, including Ukraine and Moldova, the EU has insisted on expanded protection for minorities before visa liberalization can occur. Here, the EU is credited with having pushed Moldova to rescind its anti-gay propaganda law. The Agency for Fundamental Human Rights (FRA), an offshoot of the European Commission, also compiles data and publishes reports on hate-crimes and public opinion on LGBT rights in the EU. These reports are widely disseminated across the EU, including an expansive 2014 report that covered discrimination against LGBT persons. Eurobarometer polls also touch on LGBT rights, including a special report in 2012 focused on discrimination within the EU.

Beyond the Commission, the LGBT Inter-group within the European Parliament (one of the largest parliamentary groupings within the EP) is tasked with monitoring LGBT rights within the Union and accession countries. The Inter-Group furthers this objective through country visits, attending Pride parades, meeting with government

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24 For more on specific negotiating chapters please see: http://ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index_en.htm
26 Of course LGBT rights are only one of many requirements tied to visa liberalization. Limiting refugee flows is also one of the main concerns connected to visa liberalization.
27 Interview no. 13
28 Supra at footnote 9.
29 In particular, see European Commission, Eurobarometer 393 “Discrimination in the EU” (2012), Available at: http://ec.europa.eu/justice/discrimination/files/eurobarometer393summary_en.pdf
officials, issuing reports, and liaising closely with the Commission. The European Parliament has also lobbied the Commission to develop a comprehensive roadmap to improve rights for LGBT persons in the Union. This roadmap specifically calls for the Commission and its many agencies, to “mainstream” LGBT human rights into their work, and outlines areas where anti-discrimination can be improved in education, health, goods and services, and calls for the “mutual recognition of… civil status documents.” In practice, this indicates a demand for countries that lack registered partnerships or same-sex marriages, such as Italy, to recognize those from other countries in the EU.

Yet, despite an impressive array of EU institutions and subsidiary agencies working on LGBT human rights promotion, Figure 1.1 documents widespread variations within Europe on the scope and forms of rights national governments provide to LGBT persons.

30 Interview no. 14
32 Organizations formally outside of the EU, but working closely with the Union, are very active on LGBT human rights promotion as well. For example, the European Court of Human Rights (ECtHR) has issued several rulings supportive of LGBT persons. In one example, a verdict overturned a Greek law limiting registered partnerships to opposite-sex couples. Earlier, the court also required that the Austrian government extend state-recognition to same-sex couples. Another major non-EU multilateral institution active within Europe is the Council of Europe (CoE). Within the field of LGBT rights, the CoE has partnered with Albania, Latvia, Italy, Montenegro, Serbia, and Poland to help develop national strategies to improve tolerance and support legislative changes. Beyond formal European institutions, there is a significant constellation of national human rights advocacy organizations of varying levels of development, as well as ILGA-Europe, a large transnational LGBT advocacy organization based in Brussels that liaises both with national groups and EU institutions.
In Figure 1.1, countries are ranked on basis of their national laws that cover or influence LGBT rights. Zero represents “gross violations of human rights” and acute discrimination, while 100% indicates “full equality” and a commitment to respecting human rights. More specifically, full equality means same-sex marriage, expansive anti-discrimination protections, policies designed to “mainstream” LGBT issues into most areas of life, as well as inclusive foreign policies. In its 2015 findings, the ILGA scale

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33 The ILGA scale is an aggregation of national human rights laws and policies, grouped into 6 categories. These categories are equality and non-discrimination, laws affecting LGBT families, provisions to prohibit bias motivated speech, rights for transgender persons, freedom of assembly, as well as laws on LGBT asylum. See: http://www.ilga-europe.org/resources/rainbow-europe/2015
reveals a clear East-West divide. The UK has the most expansive legal protections, while most Western and Northern European states rank high (with the exception of Italy). Further to the east, however, there is greater variation, with Russia, unsurprisingly, ranked as the worst performer, at 8%. Most countries in Central and Eastern Europe rank below their Western and Northern European counterparts, however there are significant differences in this region. For example, Slovenia and Estonia, ranked at 35% and 34% respectively, do better than Italy, despite promises from the Renzi government to introduce partnership legislation in the near future.  

Croatia, moreover, is ranked significantly ahead of many Western European states. There is also a significant range in the extent to which countries provide anti-discrimination protections outside the employment. While all EU member states cannot discriminate on the basis of sexuality in employment, only 17 out of 28 states prohibit discrimination on the basis of sexual orientation in goods and services. Similarly, only 17 out of 28 innumerate sexual orientation within their hate crimes laws, while even fewer have official policies to address discrimination against gay and lesbian citizens. These policies could include national action plans targeted at the transgender community, or the ease in which same-sex couples can adopt children.

34 In July 2015, the European Court of Human Rights (ECtHR) ruled that Italy was in violation of Article 8 (respect for private and family life) of the European Convention on Human Rights (ECHR) for not recognizing same-sex partnerships. Though the court cannot force legal changes in Italy, and the ECtHR is legally independent of the EU, this verdict provides added momentum to groups seeking to introduce common partnership legislation across the EU. See Judgement on the merits delivered by a Chamber, Oliari and Others v. Italy, 18766/11; 136030/11 ECHR, 2015-IV.

35 Croatia’s increased score stems from the recent legalization of same-sex partnerships. The Law on Life Partnerships provides same-sex couples with many of the same legal benefits as marriage, although it does not include adoption rights. The bill was passed after a 2013 referendum which voters chose to constitutionally limit marriage to opposite-sex couples. (ILGA-Europe, 2015 Annual Report, pg. 58)

36 These findings are available in the Index to the 2014 ILGA “Rainbow Map.” Available at: http://www.ilga-europe.org/home/publications/reports_and_other_materials/rainbow_europe

37 ibid.
Looking specifically at national recognition of same-sex partnerships, significant variation is apparent. As outlined in Table 1.1, at the national level, 11 EU member states (as well as Norway) have extended marriage to include same-sex couples. Countries are ranked in this table according to their score on the ILGA-Europe LGBT human rights index, and as is observable, countries ranking highest on the scale are also the most likely to have introduced marriage equality or gender neutral partnerships.

Table 1.1- LGBT Rights in the EU: Non Post-Communist Countries

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<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>86%</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Belgium</td>
<td>83%</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>Malta</td>
<td>77%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Sweden</td>
<td>72%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Spain</td>
<td>69%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>The Netherlands</td>
<td>69%</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>Denmark</td>
<td>68%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Portugal</td>
<td>67%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>France</td>
<td>65%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Finland</td>
<td>62%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Germany</td>
<td>56%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Austria</td>
<td>52%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>43%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Ireland</td>
<td>40%</td>
<td></td>
<td>✔</td>
</tr>
<tr>
<td>Greece</td>
<td>39%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Italy</td>
<td>22%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cyprus</td>
<td>18%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Countries recently making this legal change include France in 2013, the United Kingdom in 2014\(^\text{38}\), and Luxembourg in January 2015. A bill that legalizes same-sex marriage passed in Finland in 2014, while 62% of voters backed a referendum legalizing same-sex

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\(^{38}\) Same-sex marriages are not currently recognized or performed in Northern Ireland
marriage in Ireland.\textsuperscript{39} Prior to the vote, the Irish government, and all major political parties strongly supported making the legal change, making the result rather less surprising. Public opinion data prior to the referendum had also shown significant majorities in favor of introducing gender-neutral marriage.\textsuperscript{40} Malta, which previously ranked as one of the worst performers on ILGA-Europe’s map as late as 2012, introduced partnerships for same-sex couples that provide the same benefits as marriage.\textsuperscript{41} Same-sex marriage is not currently legal in Germany and Austria, however both countries have civil partnerships, while neither Greece, Cyprus, nor Italy, provide any specific legal recognition of same-sex partnerships.\textsuperscript{42}

\textsuperscript{39} For referendum results, please see: http://www.irishtimes.com/news/politics/marriage-referendum; this vote was the first time a public referendum had taken place on introducing same-sex marriage in the EU


\textsuperscript{41} ILGA-Europe (2014), 2014 Annual Review, pg. 12

\textsuperscript{42} In June 2015, the Austrian parliament voted against same-sex marriage.
Table 1.2 looks more closely at Central and Eastern Europe, where the legal environment for LGBT persons is, on balance, worse than the countries found in Table 1.1. Unique to the post-Communist region, several countries explicitly prohibit same-sex marriage in their constitutions, and none currently recognize same-sex marriage. Nevertheless, some positive national-level developments have occurred. For example, the Slovenian parliament has passed a law legalizing same-sex marriage, while the Czech Republic and Hungary have introduced registered partnerships and other anti-discrimination protections.\(^{43}\)

Yet, many other countries have demonstrated a sustained reluctance to address LGBT issues, either in the form of recognition of partnerships or anti-discrimination protections. In Poland, Latvia, and Lithuania, efforts to expand rights for LGBT persons have faced significant resistance. In Lithuania, in particular, numerous legislative amendments seek to restrict freedom of expression for LGBT persons, as well as introduce variations on Russia’s anti-gay propaganda laws. Recently, in February 2015, Slovakia held a referendum that seeking to “reinforce traditional family values” by banning same-sex marriage and prohibiting adoptions by same-sex couples. A similar referendum held in Croatia succeeded in banning gay marriage in 2014.

44 See, amongst others, O’Dwyer and Schwartz (2010); Mole (2011); O’Dwyer (2012); Ayoub (2012)
45 These legislative amendments will be addressed in Chapter 6.
46 See Karen Janicek, “Slovakia to hold referendum on gay marriage, adoption,” The Globe and Mail, February 6, 2015. Available at: http://www.theglobeandmail.com/news/world/slovakia-to-hold-referendum-on-gay-marriage-adoption/article22851411/ In the end, the referendum was invalidated because of low turnout.
Popular attitudes towards homosexuality also vary widely across the EU. As outlined in Table 1.3, Western and Northern Europe have the largest percentage of respondents supporting homosexuality, while there are rather lower levels of support in Southern and

<table>
<thead>
<tr>
<th>Country</th>
<th>Average</th>
<th>Change (2009-2012)</th>
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<td>6.6</td>
<td>0.1</td>
</tr>
<tr>
<td>Denmark</td>
<td>8.9</td>
<td>0.5</td>
</tr>
<tr>
<td>Sweden</td>
<td>8.8</td>
<td>0.1</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>8.5</td>
<td>1.5</td>
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<tr>
<td>The Netherlands</td>
<td>8.4</td>
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<td>Ireland</td>
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<tr>
<td>Spain</td>
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</tr>
<tr>
<td>United Kingdom</td>
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<td>0.1</td>
</tr>
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<td>France</td>
<td>7.3</td>
<td>-0.5</td>
</tr>
<tr>
<td>Malta</td>
<td>6.8</td>
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<tr>
<td>Germany</td>
<td>6.5</td>
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</tr>
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<td>Slovenia</td>
<td>6.2</td>
<td>0.8</td>
</tr>
<tr>
<td>Italy</td>
<td>5.8</td>
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</tr>
<tr>
<td>Poland</td>
<td>5.8</td>
<td>-0.3</td>
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<td>Austria</td>
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<td>4.9</td>
<td>-0.6</td>
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<td>Romania</td>
<td>3.6</td>
<td>0.2</td>
</tr>
<tr>
<td>Slovakia</td>
<td>3.4</td>
<td>-1.2</td>
</tr>
<tr>
<td>Latvia</td>
<td>3.2</td>
<td>-0.6</td>
</tr>
</tbody>
</table>

Source: See Appendix B
Mediterranean nations, particularly in Greece and Cyprus. Across post-Communist Europe there is also a substantive degree of variation, with Slovakia and Latvia ranking far below Slovenia and the Czech Republic in popular tolerance towards homosexuality (countries with shaded entries indicate examples where popular support of homosexuality has decreased between the reporting periods of 2009 and 2012). All three Baltic countries rank below the EU average in support of homosexuality, with Latvia and Lithuania ranking among the least accepting countries towards gay persons.

It is important to recognize, however, that popular attitudes are not always connected to policy outcomes. While prevailing popular attitudes can incentivize governments to pursue particular policies, governments may choose to act (or not) regardless of public opinion. Moreover, as will be discussed in greater detail below, public opinion pressures on LGBT rights are significantly mediated by EU supranational influences in all of the case studies considered, and in at least one case study, Estonia, the government acted in absence of public pressure to do so.47

In sum, the growing divergence and variation in national policies towards LGBT persons in Central and Eastern Europe raises important questions on the efficacy and ability of the EU to promote uniform policies towards LGBT persons within a growing Union. More centrally, this also brings up the question of why countries that officially sign up for a package of liberal democratic values when joining the EU pursue such divergent trajectories in the realm of minority rights post-accession.

Convergence and Divergence pressures within the EU

Studying variation in LGBT rights within the EU involves the added complexity of understanding, and conceptualizing, how the EU’s supranational minority rights initiatives are received in member states, and what domestic forms of resistance might challenge EU efforts. To help explain this dynamic, Figure 1.2 provides a schematic of the various pressures, represented by arrows, that may influence why an EU member state chooses to adopt EU policies or not. As a result of its supranational influence, the EU is found at the top of the figure, with the two competing strands of EU influence cited in the Europeanization literature, namely external incentives and social learning, listed at the top. Centrally located is the member state, which faces pressure both from the EU, and from domestic factors. The domestic factors that could influence policy makers decisions are wide-ranging, but especially influential could be factors known to effect tolerance to LGBT communities more generally, such as the form of nationalism present, religiosity, economic development, as well as the presence of a highly developed network of civil society actors pushing for particular policy goals.
Europeanization Theory

The pressures for policy convergence rest primarily with the EU through directives, information campaigns, and a dense network of institutions overseeing the implementation of EU policy. Here, Europeanization literature proves helpful in delineating the different forms of EU influence, two of which could be relevant to understand variations in national LGBT policies. In particular, the contributions by Schimmelfennig & Sedelmeier are instructive. The authors note that there are two ways to conceptualize EU influence, one based on rationalist bargaining and the other on social learning.  

The first approach is based on rationalist bargaining, and is connected to a belief that the EU can incentivize domestic actors through the promise of membership in the Union. Consequently, rationally acting political elites in applicant states will fulfill EU

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criteria in order to gain membership in the Union. While political actors need not internalize EU norms, they do constrain behaviour. With regards to LGBT rights, the external incentives approach can explain why several current applicant states, including Montenegro and Serbia, have relatively liberal laws towards LGBT persons, despite low levels of public support for LGBT persons. Within the external incentives literature, non-compliance with EU rules is conceptualized as simply delaying an eventual convergence with preferred EU rules and policies. Indeed for Noutcheva non-compliance can be attributed to the domestic political costs faced by incumbent governments, particularly if a governing party is concerned that continuing political liberalization will lead to a loss of power. However, once “reform-minded elites” return to office, rule-adoption resumes in a relatively straight-forward manner.

While the external incentives strand of Europeanization theory makes inherent sense in applicant states, it is ill-suited to explain variation in LGBT rights the vast majority of Central and Eastern Europe countries. Primarily this is because the EU cannot use conditionality in countries already in the Union, and, moreover, the costs of violating EU minority rights norms for domestic policy elites in member states are far less than in applicant states. For example, whereas policy makers in Lithuania may be reprimanded for proposing anti-gay legislation, for a Montenegrin elected official, refusal to protect a

49 Ibid.  
50 Conor O’Dwyer (2013), “Gay Rights and Political Homophobia in Postcommunist Europe: Is There an “EU Effect”? In Meredith L. Weiss and Michael J. Bosia eds., Global Homophobia, Urbana: University of Illinois Press, pg. 110; In numerous interviews conducted with the researcher in Montenegro, elected officials affirmed their support for expanding LGBT rights, including partnership provisions. However, in some cases, interview respondents acknowledged that they were personally ambivalent to the topic, but realized the necessity of adopting progressive legislation.  
51 Gergana Noutcheva (2012), European Foreign Policy and the Challenges of Balkan Accession, London: Routledge, pg. 15  
52 Ibid.  
pride parade could result in accession negotiations being suspended outright.\(^{54}\) Perhaps unsurprisingly, most of the backlash against LGBT rights has emerged in Central and Eastern European countries \textit{after} they gained membership in the Union, a finding also noted by O'Dwyer.\(^{55}\) Moreover, so long as EU member states do not violate the Council’s Employment Directive, governments are technically not legally obligated to expand explicit protections for LGBT persons.

A secondary challenge with the external incentives approach is that the EU’s influence is most clearly felt when all EU institutions and member states equally support and advance the policy.\(^{56}\) The EU’s external influence is less successful, however, when there is disagreement within EU institutions on how aggressively to advance a particular policy.\(^{57}\) Interviews conducted in Brussels for this project help illuminate this point, as it appears there is clear disagreement between EU institutions on the extent to which LGBT rights advancement should be a priority, with the European Parliament and Commission noticeably more active on LGBT rights than the Council, where national interests are most directly represented.\(^{58}\) These findings corroborate with Gupta’s view that the EU’s

\(^{54}\) Interview no. 7


\(^{57}\) In one example, referencing the recent Croatian accession, an EU official explained that a lack of progress on LGBT rights would alone probably be insufficient to block membership. Interview no. 13

\(^{58}\) It is not surprising that the Council has been the most recalcitrant to further LGBT rights. Indeed, the Council is the institution where the interests of the individual member states, including those with conservative values towards gay rights, are directly represented by national representatives. In most cases, Council decisions are passed either through unanimity or qualified majority voting (QMV), giving EU states opposed to expanding LGBT rights competencies for the EU leverage to either stall or prevent new directives from passing. Elsewhere, Mos develops similar findings, suggesting that the “…complex nature of internal and institutional dynamics” often leads the EU to “violate” its stated principles of equality and non-discrimination (Mos, 2013, pg. 80). See, Martijin Mos (2013), “Conflicted Normative Power Europe:
multiple institutions often define their interests in “divergent ways,” and that more generally, the EU “…rarely acts as a unified actor.”\textsuperscript{59}

A second strand of Europeanization theory is based on social learning. Here, the EU is theorized as representing far more than a set of institutions, but is rather an “…an international community defined by a specific collective identity and a specific set of common values and norms.”\textsuperscript{60} A growing number of comments from EU officials on the importance and power of (admittedly loosely defined) European Citizenship, as well as the EU being viewed as “a community of values” by policy makers and LGBT activists connects with the idea that there is a normative human rights component to the EU. While cautioning that EU enlargement has not created a “…thick collective identity” where there are a uniform set of values agreed by all, Sjursen does believe that EU enlargement has led to “…an idea of a collective European self-understanding.”\textsuperscript{61} While largely elite-driven, this self-understanding of the EU, and what it means to be a European citizen, is increasingly accepting of LGBT persons. This self-understanding manifests itself through both public statements and concrete policies adopted by the Union.

Regardless of the degree to which the EU has developed a coherent or “thick” identity, under the social learning approach domestic policy elites adopt EU laws not solely because of external pressure or conditionality, but rather because they believe in the inherent value of the laws. Through repeated interactions with EU institutions, elites


\textsuperscript{60} Schimmelfennig & Sedelmeier, pg. 18.

are gradually persuaded of the appropriateness of EU laws and norms.\textsuperscript{62} This approach is closely linked with international norm diffusion, insofar that international organizations, represented here by the EU, facilitate and promote a “supranational culture” through promotion of values deemed to be universal. These institutions also “…pursue strategies to implement these principles on the ground by designing clear, ready to to-use templates of policy models, and monitoring deviations from global norms.\textsuperscript{63}

Given that laws are passed because elites believe in the inherent value of the laws, there is also a better likelihood that the laws will be effectively enforced.\textsuperscript{64} As Kollman argues, a focus on elite persuasion is a more realistic way to account for compliance in post-accession countries, given the absence of conditionality as an option within the EU’s toolkit.\textsuperscript{65} In addition, the social learning approach is less elite-centric than the external incentives model, and awards greater causal influence to other actors, such as civil society organizations and other interest groups that can “lobby the government for rule adoption.\textsuperscript{66} What social learning leaves out, and by extension makes the approach informative but ultimately \textit{incomplete}, is accounting for the domestic conditions give

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\textsuperscript{64} The effectiveness of policy implementation is an important component of Europeanization theory. While laws passed as a result of social learning stand a good chance of being enforced, those passed via external incentives may not be. This is because for laws may be passed for instrumental reasons (or strategic calculation), and not because elites truly believe in the value or importance of the law. See, in particular, Robert Ladrech (2011). “‘Shallow Europeanization and party systems instability in post-communist states: how changing constraints undermine the development of stable partisan linkages.” In Paul G. Lewis and Radoslaw Markowski eds., \textit{Europeanising Party Politics}, Manchester: Manchester University Press, pg. 221.

\textsuperscript{65} Kollman (2009), pg. 39.

\end{flushleft}
elites greater leeway or room to be ‘persuaded’ by supranational initiatives in the first place. To what extent, for example, do domestic political realities, such as hostile political parties or religious groups, block the transmission of EU norms? In addition, the approach assumes a minimal set of common European values, which in the case of same-sex marriage - noting the divergence in national policies, does not appear to exist.

Consequently, and given that the Baltic States are all full EU member states, this project will assume that the EU’s influence operates as a form of soft-power across Estonia, Latvia, and Lithuania, and that rationalist bargaining is unlikely to characterize the channels of EU influence. However, the social learning and soft-power approach, while more persuasive than external incentives, must be examined in combination with other domestic mediating circumstances. A number of plausible variables that could influence a country’s approach and tolerance to LGBT rights as identified in the literature are discussed below, as well as their applicability to the Baltic context.

**Level of Economic Development (Modernization)**

Overlapping with the broad contours of modernization theory, the connection between rising levels of economic development, education, urbanization and LGBT rights centers on the process in which rising levels of wealth alter value-orientations. Over time modernization challenges and de-centers the normative framework promoted by traditional authorities, and replaces the power of religious groups with a framework that is both more secular and rational. Economic development matters to LGBT rights because when individuals no longer have to dedicate the bulk of their concerns to

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67 See Kollman and Paternotte (2013) for an analysis on the diffusion of the EU’s same-sex union norms in Germany, Belgium, Austria, and Spain.

68 See Weber (1997)
Meeting basic needs, they gain a greater ability “...to focus on other matters that allow an expansion of choices in freedoms in multiple aspects of life, including sexual areas.”

Large-N studies have also demonstrated a correlation between economic development and tolerance of sexual minorities. For example, in a study of 35 democracies, Andersen and Fetner conclude that countries with the highest levels of economic development have the most tolerant views towards LGBT persons. They argue that economic growth helps shift popular attitudes away from survival views (which is intolerant of outgroups), towards tolerant views characterized by higher degrees of social trust. In postindustrial societies, Inglehart and Norris find a noticeable liberalization in attitudes towards sexuality, including in areas related to abortion, homosexuality, divorce and prostitution. This has led to the idea of a ‘sexual modernization theory’, whereby liberalizing attitudes and laws towards LGBT communities are considered an “...inevitable state in development” while homophobic attitudes will be relegated to marginalized traditional forces in society.

A key challenge, however, of focusing on the linkage between the degree of economic development and state behaviour towards LGBT rights is that the approach assumes that countries are merely at different stages of the same teleological and

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71 Robert Andersen and Tina Fetner (2008), “Economic Inequality and Intolerance towards homosexuality in 35 Democracies,” *American Journal of Political Science*, 52(4), pg. 943, 949; the authors also find that the level of economic inequality within a country matters. This is because economic inequality can fuel “social anxiety and distrust,” which can facilitate negative views towards outgroups, such as sexual minorities (955).
deterministic path towards greater acceptance of sexual and gender minorities. More specifically, for LGBT rights, this would mean we could expect to see a gradual convergence in policies and social attitudes towards gays and lesbians. While Ayoub does argue that older EU member states (those joining before 2004) have adopted pro-LGBT rights policies as they have become wealthier, he finds that economic development matters far less for post-Communist EU members, who have been far more susceptible to “international social and political channels” in the forms of both transnational activism and well-defined EU norms on LGBT rights.74 Directly linked to the case studies under examination, and as noted in table 1.4 below, the three Baltic States are at broadly similar levels of economic development, and yet, have pursued diverging policies, thus suggesting that other factors are at play.75

A further difficulty with the theory is that homophobia is not theorized in relation to the state, or policy choices pursued by elected officials. Indeed, modernization approaches do not seek to understand beyond the policy dimension of homophobia, and rarely look beyond opinion polls.76 Perhaps acknowledging as much, Norris and Inglehart find that specific changes that have led to improved gender equality, such as the enfranchisement of women, remain strongly “...contingent on nation-specific factors.”77 Modernization, and the rise of postmaterialist values is “intermediated” by a number of

75 Similarly, looking at economic development cannot explain why Germany has lagged behind England, Wales, & Scotland in introducing same-sex marriage, despite having a higher GDP, or outside of Europe, between Australia and New Zealand. Economic development is also not helpful in explaining the reasons why most Middle Eastern nations remain resistant to supporting LGBT rights.75 For a comprehensive account of LGBT rights in the Middle East, see Joseph A. Massad (2007), Desiring Arabs. Chicago: University of Chicago Press.
76 Bosia and Weiss (2013), pg 13.
77 Inglehart and Norris, pg. 152
variables, including “...culture, heritage, religion, and communist rule.”\textsuperscript{78} Economic development, as a result, may be best thought of as an important background condition, but viewed in isolation, struggles to develop a strong causal explanation on why a state chooses to advance LGBT rights or not.

\textit{Nationalism and Religion}

Another domestic intervening variable to consider is the form of nationalism present within the member state, and whether particular constructions of nationalism clash with rights for sexual and gender minorities. As Binnie argues, nationalism often serves as an “...invisible category within politics,” influencing both everyday politics and collectively held beliefs about the characteristics of national political communities.\textsuperscript{79} Examining the spread of LGBT rights through the lens of nationalism draws attention to how nations regulate sexuality, and how the construction of sexuality varies in different countries. However, the relationship between nationalism, the nation-state, and LGBT rights is by no means clear, and shows significant variation between countries. As Stychin argues, “nationalism appears to be drifting in divergent directions in its views on LGBT rights.”\textsuperscript{80} In some countries, such as the Netherlands, “...the nation-state is increasingly asserting itself as the protector of lesbians and gay men” while elsewhere, such as in Russia, the nation-state is hostile.\textsuperscript{81}

Many ethnographic studies have surmised that the particular form of national identity in CEE countries is less amenable to supporting the rights of sexual minorities

\textsuperscript{78} Ingelhart and Baker quoted in Andersen and Fetner (2009), pg. 943.
\textsuperscript{81} Stychin, pg. 21
than elsewhere in Europe. In much of CEE, national ideals of citizenship are linked to ethnicity, and certain ascribed traits which are connected to the national psyche. Howard writes that “…by and large, citizenship in these countries is still closely linked to an ethnic interpretation of nationality, transmission to subsequent generations is exclusively based on decent, [and] hostility towards multiple nationality.”

In an environment highly conscious of the ascribed traits the nation, homosexuality is often constructed as being foreign to group characteristics, while gay rights themselves are defined as threatening to the nation, or an import from Brussels. This ethnic-conception of nationalism is present within the Baltic States, particularly in Latvia with its large minority Russian-speaking population, and to a lesser extent in Estonia. Writing on Latvia, Mole has gone so far as to argue that national identity characteristics, rather than post-Soviet legacies and religion, is the key variable in understanding the country’s resistance to LGBT rights.

However, the role national identity plays in facilitating negative views towards homosexuality in the Baltic States is inconsistent. In Estonia, despite having a similarly large minority Russian population as Latvia, ethnic conceptions of nationalism coexist with more tolerant political attitudes towards homosexuality, while in Lithuania, whose national identity is less challenged by a Russian speaking majority, remains hostile towards gay rights. What appears to matter more is the extent to which particular conceptions of nationalism are politicized. Indeed, many studies implicitly suggest that it

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83 Binnie, pp: 14-17
is actually political elites who selectively reconstruct national identity in deeply homophobic ways for instrumental reasons; either to pursue policy goals or simply to mobilize voters.\(^{85}\)

Elsewhere, elites have turned to homophobic rhetoric out of concerns about nations “dying out.”\(^{86}\) Political leaders have sought to “demonize” sexual behaviours and identities that did not produce offspring.\(^{87}\) In addition, political elites may have chosen to reconstruct national identities in a highly heteronormative manner to differentiate the post-Soviet era from state socialism. Writing on Latvia, Waitt argues that political elites viewed the “...collective and genderless society” under state socialism as highly abnormal, and attempted to differentiate the post-Soviet era with a focus on traditional values linked to the pre-Soviet Latvian state.\(^{88}\) More recently, political elites have used homophobic discourses as a way of resisting growing EU powers and legislative initiatives. In Poland, Graff highlights how homophobic discourse emerged not as a result of inherent “cultural conservatism” but was rather a political reaction against frequent censure by the European Parliament. Homophobia, in other words, became “...a new form of patriotism.”\(^{89}\)

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85 In Russia, Wilkinson, he argues that it was a “logical choice” for the Kremlin to support anti-gay propaganda laws, given that homosexuality was already unpopular in Russia, and because it would help solidify the Kremlin’s relationship with the Russian Orthodox Church; a crucial source of legitimacy for the Putin government. See Cai Wilkinson (2014), “Putting ‘Traditional Values’ Into Practice: The Rise and Contestation of Anti-Homopropaganda Laws in Russia,” *Journal of Human Rights*, 13; pg. 367.

86 Mole, pg. 545-6.

87 *ibid.*, pg. 546.


Closely linked to nationalism is the role of religion. As Fernandez observes, religion and religiosity can be expected to influence attitudes towards homosexuality given that “…religious values have historically regulated the morality of sexual practices and the benefits and duties of the marriage institution.” Moreover, “…traditional Christian moralities dictate that sexual practices must have reproductive goals, “ and that those which do not lead to reproduction “…are sinful and contrary to God’s will.”

In a large-N study on views towards homosexuality, Štulhofer and Rimac argue that religion does influence attitudes towards homosexuality. The authors find that countries with large protestant denominations are more progressive in their views on sexuality, while countries with larger Catholic or Orthodox denominations are less progressive.

Religious organizations often lobby political parties to pursue policy goals (such as restricting abortions or banning same-sex marriage). Elsewhere, religious groups, notably the Serbian Orthodox church, will call upon their own supporters to protest at Pride parades or other public displays for sexual minorities.

Yet, like national identity, religion alone struggles to explain variation in government policy, particularly in Latvia and Estonia, which are both largely secular, and have taken different approaches to LGBT rights.

In a large-N study, Slenders et al uncover that the level of religiosity within a country is not influential in independently shaping personal attitudes towards homosexuality.

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91 Štulhofer and Rimac, pg. 26
93 Interview no. 5
95 Susanne Slenders, Inge Sieben and Ellen Verbakel (2014), “Tolerance towards homosexuality in Europe: Population composition, economic affluence, religiosity, same-sex union legislation and HIV rates...
within a society is certainly important, a more fruitful approach is to consider how religious organizations interact with other factors, and the ease in which religious groups can access national elites, and those responsible for the development of national policies.

**Social Movements and Transnational Activism**

Another strand of political inquiry on variations in state approaches to LGBT rights, particularly in Europe, has emerged through the literature on social movements. Here, a growing network of activist organizations has emerged to promote LGBT rights, often linking activists and organizations based in the West with their counterparts in the Global South and post-Soviet sphere. These networks disseminate information about current legal and social realities for LGBT persons, provide human rights trainings, lobby national governments, as well as multilateral institutions.

The power and importance of transnational activism has been particularly noticeable within the context of the EU. Primarily, this is because the EU has provided LGBT groups a platform to access and lobby European institutions, such as the Council of Europe (CoE), European Parliament, and European Court of Justice (ECJ). For groups in Central and Eastern Europe, transnational activism has provided newly formed groups the opportunity to network with better-developed LGBT organizations, especially those located in Western Europe. For example, Brussels-based ILGA-Europe, the main European LGBT civil society organization, liaises with a network of national LGBT civil society groups across Europe, provides funding and logistical support, and along with the

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as explanations for country differences,” *International Sociology*, 29(4); pg. 363. The authors suggest what matters more is church attendance, with countries with very high levels of church attendance less likely to be tolerant towards LGBT persons. See also Van den Akker (2012); Fernández and Lutter (2013)
European Parliament, frequently sends representatives to march in local Pride parades.\textsuperscript{96} ILGA also acts as a conduit for exchanging information about human rights abuses between LGBT groups at the local level and EU Institutions, which is especially effective during the accession stage of EU integration. At a more theoretical level, it has been hypothesized that countries with well-developed LGBT civil society organizations are more likely to have tolerant attitudes or policies.\textsuperscript{97}

The focus on transnational activism is an explanatory variable is perhaps unsurprising. Keck and Sikkink argue that when local activists are unable to access or influence their local governments, they are likely to organize transnationally and turn to international supporters in order “...to bring pressure on their states from the outside.”\textsuperscript{98} Keck and Sikkink refer to this as the “boomerang” pattern of advocacy.\textsuperscript{99} Transnational LGBT advocacy has been growing significantly within the EU, particularly as EU institutions have become increasingly supportive of gay and lesbian rights.\textsuperscript{100} As Ayoub argues, the EU’s expanded focus on gay rights has opened up a “multi-level system” of political opportunities, both vertically between Brussels and domestic groups, but also horizontally between member states and civil society groups.\textsuperscript{101}

Moreover, transnational advocacy has been effective at raising awareness of LGBT rights in otherwise conservative countries. Studies on this topic have examined how LGBT civil society organizations have used different “framing” strategies to

\begin{itemize}
\item\textsuperscript{96} Interview no. 9
\item\textsuperscript{97} Slenders et al; pp: 363-4.
\item\textsuperscript{98} Margaret Keck and Kathryn Sikkink (1998), Activists between borders: Advocacy Networks in International Politics. Ithaca, NY: Cornell University Press pg. 12
\item\textsuperscript{99} ibid.
\item\textsuperscript{100} Swiebel, pg. 30
\item\textsuperscript{101} Phillip M. Ayoub (2012). “Cooperative transnationalism in contemporary Europe: Europeanization and political opportunities for LGBT mobilization in the European Union.” European Political Science Review, pp. 2-3, 7.
\end{itemize}
maximize the domestic impact of their actions. As Keck and Sikkink suggest, framing strategies are highly salient because they help make issues such as gay rights “...comprehensible to target audiences.” Depending on the domestic context, activists often use different framing strategies. In Portugal, Santos finds that activists framed gay rights within a human rights discourse, and relied heavily on EU norms and legal documents supporting gay rights. Elsewhere in Europe, as Ayoub finds, activists have associated LGBT rights with being part of the European Community, and in many cases, of modernity itself. In Estonia, by contrast, activists have linked support for LGBT rights as a way of differentiating the country from Russia.

Nevertheless, while there is little doubt that transnational activism has greatly aided LGBT rights in Europe, it is important to recognize that the environment for activists to organize across Central and Eastern Europe was, and often remains, severely limited. This stems from the reality of it simply being unsafe for activists for organize publicly. In Montenegro, for example, threats of violence or inadequate police protection have caused a great deal of LGBT activism to remain hidden. Even where it is safe to organize publicly, legacies of forced civic engagement during State socialism has led to a “common sense of mistrust of organizations today;” even those that are autonomous from the state.

This “mistrust” of civil society activism, and fear of public self-expression is supported by many of the findings in ethnographic studies of LGBT communities in CEE

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102 Keck and Sikkink (1998), pp. 2-3
104 See Phillip M. Ayoub and David Paternotte (2013)
105 Interview no. 20
106 Interview no. 24
countries. Writing on Latvia, Waitt argues a deep skepticism prevents many from actively supporting or joining LGBT movements.\(^{108}\) In Estonia, Lasala and Revere find that a lingering fear of the government among LGBT activists had contributed to the paucity of LGBT groups within that country.\(^{109}\) Rather than challenge the government directly, many LGBT Estonians interviewed have been “mollified” by comparatively less repression, and the ability to go to gay bars in relative safely.\(^{110}\)

The limited organizational capacity of social movements across much of Central and Eastern Europe, as well as the Western Balkans, suggests their ability to influence government policy is restricted, and that government policy development can be largely independent of civil society activism. A recent large-N study on same-sex union policy diffusion by Fernández and Lutter confirmed this view, noting their study, “…does not provide robust evidence that the strength of national LGBT movement has an independent impact on the legalization of same-sex unions.”\(^{111}\) Qualitative comparisons in the Baltic States provides further evidence: both Latvia and Lithuania have far more developed, and better funded LGBT civil society groups than Estonia, yet it is the Estonian government which has moved further in pushing for LGBT rights. Similarly, the government of Montenegro has developed comprehensive policies to support LGBT persons despite limited pressures from local civil society groups.\(^{112}\)

Another challenge with approaches awarding significant causal power to social movements is that it is not clear whether these networks are fully independent of the EU.

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\(^{108}\) Waitt, pg. 175.


\(^{110}\) ibid.

\(^{111}\) Fernández and Lutter, pg. 110.

Many groups, such as ILGA-Europe or COC Netherlands, lobby EU institutions to advance their claims, but then rely on a growing set of EU norms to press national governments to accept LGBT rights.\textsuperscript{113} In addition, some groups, including prominent organizations like ILGA-Europe, receive most of their operating budget from the European Commission.\textsuperscript{114} In addition, as Swiebel argues, most social movement theories are too eager to label social movement actors as the “...main originators of ideas and demands.”\textsuperscript{115} Policymakers inside European institutions are not simply groups to lobbied, but can also act as political entrepreneurs in their own right, and work closely with governments to enact policy change.\textsuperscript{116}

More broadly, it is a convincing view that social movements have developed a dense network of transnational activism interlinked with EU institutions and supportive national governments. Indeed, social movements are helpful at framing debates on LGBT rights in ways suitable for local audiences, but for many organizations, it is not clear how independent they are, or more significantly, that they have any independent role in influencing government. In the Baltic States, as will be explored in greater detail in subsequent chapters, the strength of civil society activism appears largely unrelated to government policy. Rather, to explain variation in policies on LGBT rights, it may be more effective to consider what domestic institutional contexts aid social movements, amongst the larger interplay of domestic factors. This leads us to the two main hypothesis of this dissertation.

\textsuperscript{113} Kollman (2009) pg. 39.
\textsuperscript{114} Ayoub (2012), pg. 8
\textsuperscript{115} For example, Swiebel argues that Keck and Sikkink’s (1998) contribution on transnational activism is “too biased towards NGO input and underestimates the role played by government and UN officials.” Swiebel (2009), pg. 31.
\textsuperscript{116} \textit{ibid.}
Hypothesis One: In absence of direct EU conditionality, domestic factors play a large role in explaining variation in national LGBT policies

There is evidence in the literature that the EU plays a role in shaping domestic LGBT laws, regulations and practices, but scholars are divided on how regular and determinative that influence is. Contrary to the belief that EU membership consistently guarantees protections LGBT rights (a position usually held by those outside the EU), Kuhar writes that while the EU has helped create a solid foundation for LGBT civil society organizations to lobby governments, the EU’s direct influence over policy makers is “ambiguous.” Elsewhere, the EU has been credited within keeping LGBT rights on the political agenda. Nor is the EU’s impact uniformly positive. Relying on the case of Hungary, Bosia writes that “…The EU has done little” to prevent member state governments from “…turning back the clock on LGBT human rights,” while O’Dwyer suggests much of the anti-gay mobilization in Poland emerged after the country was censured by the European Parliament for not being supportive enough of LGBT rights.

Part of the problem is methodological: the EU’s influence is difficult to define, but many of the existing explanations in the literature (as noted above) fail to provide a clear causal mechanism accounting for variations in national policies either. Since positive action on LGBT rights requires legislation, the central actors in responding to pressures from the

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117 This dissertation acknowledges explaining national variation on policies towards LGBT persons cannot be reduced to a single factor, and rather, is more likely a complex constellation of variables. See Peter A. Hall (2003), “Aligning Ontology and Methodology in Comparative Politics,” In Comparative Historical Analysis in the Social Sciences, Edited by James Mahoney and Dietrich Rueschemeyer. Cambridge: Cambridge University Press, pp. 373-406
119 Interview no. 22
120 Michael J. Bosia (2014) “Strange Fruit: Homophobia, the State, and the Politics of LGBT Rights and Capabilities,” Journal of Human Rights, 13; pg. 264
EU, or anyone else, are domestic actors, thus the central carriers of policy change will be
domestic politicians who are, in turn, bounded by domestic institutions. More centrally,
given the presence of multi-level pressures for convergence and divergence, explanations
must take into consideration the domestic institutions whose function it is to adjudicate
domestic and supranational inputs, and translate those inputs into national policies. This
leads to the second hypothesis.

*Hypothesis Two: The Stability of National Party Systems Influences receptivity to pro-EU LGBT norms*

Given the incomplete explanations offered by the above domestic factors, this
dissertation assumes the key domestic institution (and factor) of interest that mediates EU
LGBT norms is national legislatures, and the key actors are the elected officials who draft
and consider laws. Crucially, this also includes national party systems, as it is the
characteristics of these systems that determine the types of political actors likely to be
elected, the manner in which elite competition occurs, and the types of political parties
more likely to be successful. Figure 1.3 outlines the central position occupied by national
party systems, and helps explain their central role as a key adjudicator of numerous
inputs, including those from the EU, civil society, and religious or nationalist groups.
Although there is no consensus on the precise definition and boundaries of what constitutes a party system, the classic definition proposed by Sartori remains relevant, namely that a party system refers to “the system of interactions resulting from inter-party competition.” Parties serve a crucial role in democratic politics, as they translate varying social cleavages into “patterns of political competition,” however, how political competition occurs can vary significantly between established democracies.

There are a number of ways to analyze differences in party systems and how parties compete with one another. A first, perhaps rather obvious variable to consider are major differences in formal rules, such as whether a system uses single-member plurality districts (otherwise known as First-Past-the-Post, or FPTP) or proportional representation (PR). Unless parties are regionally focused, FPTP systems are majoritarian leaning, and tend to create fewer, catch all parties. However, these systems also create large

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**Figure 1.3 - Minority rights policy making processes in complex supranational environments**

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discrepancies between the popular vote and seat totals, rewarding winners and penalizing losers with fewer seats than their popular vote totals. PR systems, by contrast, tend to result in more parties and coalition governments, as the popular vote is translated more directly into the number of seats.

All post-Communist party systems utilize variations of proportional representation, a result of compromises reached between communist authorities and liberalizing elites during the transition to democracy to prevent a concentration of power in hands of too few elites.\(^\text{122}\) Some post-Communist countries use mixed systems that combine seats allocated on the basis of PR with single-member districts allocated through FPTP or with two-round majorities. Bulgaria, Romania, Hungary and Lithuania fall into this category.\(^\text{123}\) Yet, despite varying degrees of proportional representation being a common feature to all post-Communist party systems, the systems differ substantially in the manner they operate, the degree of polarization and types of issues which characterize competition, as well as electoral volatility (more on this in Chapter 3). The diversity of system characteristics across Central and Eastern Europe suggests formal institutions may have only a limited effect on the nature of party competition.

Across systems with similar institutional designs and formal rules, there are other factors important to examine that can help account for variations in party competition. A good point of departure is to consider the number of parties within the system itself. In particular, as Sartori argues, systems with many parties (counted as more than five) stand a better chance of becoming highly polarized than systems with fewer parties. In an


atmosphere with many parties, the activation of “niche issues” occurs because once a large number of parties become established, they gain a “vested interest” in maintaining a polarized political landscape. In large measure this is to justify their existence, and their uniqueness from other parties. This environment results in frequent “outbidding” between parties, as they attempt to win over narrow groups of supporters on particular issues, and an ongoing “…enfeeblement of the centre” as more voters move towards the poles of the political spectrum.\textsuperscript{124} By contrast systems with fewer parties tend to be less polarized. Here, the major existing parties tend to compete amongst voters in the centre ideologically, “soft-pedaling cleavages and playing the game of politics with responsible moderation.”\textsuperscript{125} In part, this is because parties function here as “aggregative agencies” that seek to remain competitive by “…amalgamating as many groups, interests, and demands as possible.” Taken together, variations in the number of parties reflects the degree of \textit{fragmentation} within the system.

Beyond the number of parties, Enyedi and Bértoa propose two other indicators that help explain variations in party systems across countries, and influence the patterning of interactions between elected officials. \textit{Electoral volatility} is one of these measures, as it captures the extent of vote-switching between established parties and newcomers between elections. Systems with high levels of extra-system electoral volatility (votes switching from established parties to newcomers) are viewed as less stable, given their higher level of ‘openness’ to new entrants and because existing parties are less secure in their future electoral fortunes.\textsuperscript{126} Another criterion is the degree of \textit{polarization}. Polarization can be thought of as “…hostility between parties” either in the form of

\begin{itemize}
\item \textsuperscript{124} Giovanni Sartori (1976), \textit{Parties and Party Systems}, Cambridge: Cambridge University Press. pg. 120
\item \textsuperscript{125} ibid., pg. 170
\item \textsuperscript{126} Enyedi and Bértoa, pg. 118.
\end{itemize}
programmatic differences, but more often in Central and Eastern Europe on basis of ideological or personality disagreements.\textsuperscript{127} Highly polarized systems are expected to make coalition building and elite-compromise more difficult, while less polarized systems are more likely to allow elite compromise, negotiating, and coalition building. In addition, less polarized systems are expected to facilitate policy continuity, given that abrupt shifts in policy following changes in government are unlikely.

Overall, the number of parties in a system, as well as the attendant degrees of polarization and electoral volatility together shape the extent to which a party system can be thought of as institutionalized. More institutionalized systems, on balance, have greater predictability – both in terms of the types of issues on which party competition is fought over, the number of political factions and parties present over numerous elections, and by extension, the degree of volatility and electoral shifts between participants in the system. More institutionalized systems, moreover, are more likely to witness programmatic competition, where the parties bundle multiple policies along a single axis of disagreement, such as a traditional Left-Right socioeconomic axis. Kopstein adds that stable party systems lower transaction costs, given that predictable ideological differences, as well as a limited set of parties, helps elites coordinate and reduce the chances of ideological outbidding between actors.\textsuperscript{128} However, especially in newer or emerging democracies, parties may choose to run on “single-issues” or cultural matters as these are often easier to understand by voters. Indeed, as Downs argued “…programmatic competition imposes sharp ‘cognitive processing demands’ on the electorate” that

\textsuperscript{127} \textit{Ibid.}

“requires a higher level of information from voters in order to arrive at ‘intelligent choices.’”\textsuperscript{129}

With that in mind, within the sphere of the EU, are there particular patterns of party system development that influence the chances of pro-LGBT norms successfully becoming national law? Recent contributions from O’Dwyer and Swartz (2010), as well as O’Dwyer (2012) have indicated as much, with the authors noting that unstable party systems characterized by a high level of volatility and a large number of parties helps explain resistance to the EU’s pro-LGBT norm in some countries.\textsuperscript{130} The authors cite evidence from Poland and Latvia as examples, finding that the large degree of electoral volatility has helped facilitate the negative politicization of minority rights, particularly for LGBT persons.\textsuperscript{131} In part, this is because coalition governments have needed to pander to the interests of small right wing coalition parties who hold deeply homophobic views. At a more general level, unstable party systems have been connected to a wide variety of deleterious outcomes for democracy and regime stability, dating as far back as the German Weimar Republic.\textsuperscript{132}

Given that unstable party systems are prevalent across much of the post-Communist Europe, and that some of the most volatile systems are also found in countries that have been the most resistant to LGBT rights, it is reasonable to assume that party system instability and policies on LGBT rights are connected. Assuming the presence of supranational EU institutions committed to advancing sexual and gender

\textsuperscript{130} See O’Dwyer (2012); O’Dwyer and Schwartz (2010)
\textsuperscript{131} \textit{ibid.}
\textsuperscript{132} See, Hannah Arendt (1973), \textit{The Origins of Totalitarianism}, New York: Harcourt, Brace, Jovanovich,
minority rights, albeit limited to indirect pressure only, the hypothesized linkage is the following: unstable party systems create institutional incentives to politicize negatively LGBT rights. If this hypothesis is accurate, a clear expectation is generated: countries with unstable party systems will struggle to converge with EU LGBT norms, and are likely to feature periods of intense anti-gay politics. Such systems are likely to be characterized by newer, more numerous personality-based parties that choose to oppose gay rights, as well as other minority groups (such as linguistic minorities or immigrants). Stimuli for activating anti-gay politics can emerge organically within crowded party systems, or as a result of external events, such as EU requirements or events on the ground, such as local pride marches.

By contrast, this hypothesis also assumes that more stable systems can help (but certainly do not guarantee) an environment that facilitates a minimal elite consensus on the virtues of supporting LGBT rights. Fewer, more programmatically driven parties that survive over multiple elections characterize more stable systems. This environment, moreover, makes it easier for political entrepreneurs to advance progressive legislation, and to act on existing EU norms supportive of greater rights for LGBT persons. By extension, where elected officials have less reason to fear losing in the next election for supporting contentious legislation, or where there is less risk for LGBT rights to become a mobilized political cleavage by far-right parties, it may be easier to push contentious policies through and lobby a broad spectrum of political parties and officials to support gay rights. If the hypothesis is wrong, no visible relationship between party system stability and LGBT rights is likely to be apparent.

133 One would also expect to see fewer policies directed against other minority groups, such as the Roma, linguistic minorities, or immigrants
Method & Case Studies

To test the above hypothesis, a closer examination of the three Baltic States of Estonia, Latvia, and Lithuania was chosen. The period of analysis begins at the point of the restoration of independence of each state from the Soviet Union to the end of June 2015, following the hosting of Europride in Riga. More broadly, these three cases were selected as they offer variation on the dependent variable, namely differences in national policies towards LGBT persons. Estonia recently became the first post-Soviet state to pass gender-neutral civil unions, and has generally been more liberal towards sexual and gender minority rights than its Baltic counterparts. Indeed, partnership legislation appears “impossible” in Latvia in the near future, and is vigorously resisted in Lithuania.

Outside of minority rights for LGBT persons, however, the countries have many similarities, many of which are outlined in Table 1.4. All three countries share a common period as Soviet Republics, relatively small and declining populations, as well as similar levels of economic development. Together, this suggests the countries can be grouped together under Mill’s Most Similar Systems approach. The countries do vary in terms of linguistic diversity, with Latvia and Estonia having significantly larger Russian-speaking populations than Lithuania. Latvia also has the greatest level of religious diversity, with three major denominations.

134 However, historical factors that influence prevailing attitudes towards homosexuality will frequently be referenced in the case-study chapters.
135 For a larger discussion about research design, and the importance of having variation on the dependent variable, see Barbara Geddes (1990), “How the Cases You Choose Affect the Answers You Get,” Political Analysis, 2(1); 131-150.
136 Interview no. 38
137 For more on Mill’s logic, see Stanley Lieberson (1991), “Small N’s and Big Conclusions: An Examination of the Reasoning in Comparative Studies Based on a Small Number of Cases,” Social Forces, 70(2); 307-320.
To test whether the instability of the Latvian and Lithuanian party systems contributed to both countries' reluctance to address LGBT issues, and concomitantly, whether the greater stability in the Estonian system made it easier to convergence with EU norms, detailed fieldwork and interviews were conducted in the three states between April 2014 and March 2015. Additional fieldwork was also carried out in Montenegro in October 2013 to gain a better understanding of how EU convergence pressures are more strongly felt in accession states. Fieldwork was also carried out in Brussels to interview EU officials, as well as in Warsaw, Poland in September 2014.

In Estonia, Latvia, and Lithuania, interviews were undertaken with members of each of the major political parties, and where party interviews were impossible, with other engaged observers, such as national human rights bodies, government officials, or foreign embassies. The goal of these interviews was to gain a clearer impression of

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Table 1.4 Overview of the Baltic States

<table>
<thead>
<tr>
<th></th>
<th>Estonia</th>
<th>Latvia</th>
<th>Lithuania</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population(^1)</td>
<td>1,317,997.00</td>
<td>2,034,319.00</td>
<td>2,987,773.00</td>
</tr>
<tr>
<td>Population Change 2010-2013(^2)</td>
<td>-13,478.00</td>
<td>-84,908.00</td>
<td>-139,593.00</td>
</tr>
<tr>
<td>GNI/capita(^3)</td>
<td>$17,780</td>
<td>$15,290</td>
<td>$14,900</td>
</tr>
<tr>
<td>Economic Growth (2015 Estimate)(^4)</td>
<td>2.00%</td>
<td>2.60%</td>
<td>3.20%</td>
</tr>
<tr>
<td>% Russian Speaking Population (2011)(^5)</td>
<td>24.80%</td>
<td>26.20%</td>
<td>5.80%</td>
</tr>
<tr>
<td>Major Religious Denominations</td>
<td>Lutheran, Christian Orthodox</td>
<td>Lutheran, Roman Catholic, Christian Orthodox</td>
<td>Roman Catholic</td>
</tr>
<tr>
<td>2015 ILGA-Europe Score</td>
<td>34%</td>
<td>18%</td>
<td>19%</td>
</tr>
<tr>
<td>Same-Sex partnership status</td>
<td>Scheduled to come into effect January 1st, 2016</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Notes: 1- Word Bank data; 2- Authors calculation from World Bank data; 3-4- World Bank data; 5- CIA World Fact Book 6- ILGA-Europe Rainbow Europe Map

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138 Please see Appendix A for more details about interviews
how the pattern of inter-party competition shaped discussions on LGBT rights, both
domestically and in interaction with EU norms. To develop an appreciation for the
relative importance of civil society in pushing governments to converge with EU norms,
interviews were also conducted with LGBT advocacy groups in each Baltic State.
Complimenting extensive secondary-source analysis, a variety of primary documents
from ILGA-Europe and the EU Agency for Fundamental Rights were relied on.

Central Argument

Having reviewed the empirical puzzle and methodology, the central arguments
raised in this dissertation should hopefully be both clear and tenable. The first main
finding from fieldwork observations is that the EU plays a much more direct role in
shaping policies countries that are currently in the midst of the accession process, and can
override domestic factors that might inhibit more liberal policies towards LGBT
persons.139 The case of Montenegro will be relied on to help clarify and illuminate this
argument. By contrast, evidence and fieldwork from the Baltic States demonstrates that
the EU’s influence in member states is far more diffuse and indirect, akin to the social
learning strand proposed within Europeanization theory. Though the Baltic countries
have pursued different policies with LGBT rights, the EU’s pressure has been felt
consistently in the region, and in none of the cases can directly account for why policy
makers chose to adopt progressive LGBT policies or not. Rather, domestic factors play a
much larger role in explaining variation in state policies towards LGBT persons in
member states. In itself, such a conclusion is consistent with what we know about the

139 Ayoub reaches a similar conclusion, suggesting that “…EU conditionality may have a greater effect in
the years leading up to accession, when Brussels has a carrot to offer…” In this instance, the ‘carrot’ is
membership promises. Please see Phillip M. Ayoub (2014), pg. 7.
EU; for all the talk of federalizing influences, member state interests and preferences trump those of the Commission and the European Parliament.\textsuperscript{140}

Moreover, interviews and country visits from Estonia, Latvia, and Lithuania highlight that party systems \textit{do matter}. Unstable systems led to the negative politicization of LGBT rights, and blocked elite willingness to converge EU’s polices and standards. National governments in Riga and Vilnius are characterized by numerous, frequently shifting and ideologically incoherent parties, as well as high electoral volatility, combined with the continued presence of sociocultural issue cleavages that compete with socioeconomic matters. This has left LGBT rights one of \textit{many} active and deeply contentious wedge issues prevalent within both parliaments. In Latvia and Lithuania, the status of LGBT rights remains interlinked with unresolved debates on the characteristics of national identity, demographic concerns, as well as the role of the EU in each country. As a consequence, this has increased the costs, and risks for elected officials to support pro-LGBT rights policies. Many may fear losing popular support at the next election or being subject to ridicule. Indeed, opportunistic political figures in both countries have often made virulently anti-LGBT statements, or advanced highly homophobic policies, frequently for electoral gain or for attention.

The Estonian party system, in contrast, has shown signs of significant consolidation, both through a reduction in the amount of ideological polarization, the number of electorally relevant parties, as well as the degree of extra-system volatility. In practice, this environment has made it easier for domestic political entrepreneurs to advance otherwise contentious human rights policies. A dominant axis of competition

centered on socioeconomic matters has also facilitated a process in which LGBT rights have become largely *de-linked* from otherwise highly contentious morality debates or questions about national identity. Rather, LGBT rights become seen as a matter of public policy for a sufficient number of elites, and one simply requiring legislatives fixes. This de-linking has also made it easier for contentious laws, including those not supported by the majority of the population, such as the partnership bill, to gain support from elected officials from numerous parties.

The argument that party systems helps explain variation in policies towards LGBT communities in the Baltic states may have generalizable potential within the EU. Italy, for example, has an especially unstable party system, and also maintains the fewest protections for LGBT persons among the old EU member states.\(^{141}\) Poland, similarly, went through a period of intense negative politicization of LGBT issues between 2005 and 2007 at the same time as the party system was in a great deal of flux. However, it is important to realize that stable systems by no means guarantee more progressive views on LGBT rights. Under Prime Minister Orbán, Hungary has become increasingly homophobic, despite having a party system considered among the most stable in post-Communist Europe.\(^{142}\) Hungary, may, however, constitute something of an exception, as the government, along with that of Russia, has decided to attempt to re-orient national

\(^{141}\) As Holzacker explains, although the Prodi cabinet introduced partnership legislation in 2007, differing views within the governing Unione coalition, particularly from two Catholic-affiliated parties, made passage of the legislation extremely unlikely. Shortly after introducing the legislation, moreover, the Prodi government resigned over an unrelated matter. For more see Ronald Holzhacker (2012), “National and transnational strategies of LGBT civil society organizations in different political environments: Modes of interaction in Western and Eastern Europe for Equality, *Comparative European Politics, 10* (1), pp: 32-33.

\(^{142}\) Though Lewis (2007) has labeled Hungary as having a stable party system, the governing Fidesz party faces consistent far right challenges from Jobbik. More generally, a highly stable party system can provide a solid platform for elected officials to challenge EU policies without fear of electoral consequences (at least in the short term).
identity on an explicitly anti-Western (and thus anti-Liberal foundation). The argument here can only apply to liberal democratic states that view themselves as part of the West.

An additional important qualification to this argument is that it is restricted to countries within the sphere of the EU. While the EU’s influence is often indirect, and can involve a range of actions, this dissertation assumes the presence of constraining supranational institutions and advocacy networks consistently pushing to advance human rights for LGBT persons. As one Estonian government official recounted, while the actual decision to introduce gender-neutral partnership legislation was a domestic process, the EU has proven extremely effective at keeping “LGBT rights on the agenda.”143 Lastly, without a pro-LGBT supranational environment that has oversight capabilities and the jurisdiction to implement minimum standards and push (albeit indirectly) for greater rights, it is unclear whether party systems alone would prove terribly influential in shaping a country’s decision to advance LGBT rights.144

Outline of Chapters

In Chapter 2, the discussion of LGBT rights in the Baltic States and Europe is situated within the broader global context. Though there are crucial differences in state policies towards sexual and gender minorities within Europe, the divisions on state laws and attitudes towards LGBT persons are felt even more sharply internationally, with some countries sentencing gay men to death, while others include robust support of a LGBT

143 Interview no. 20
144 The United States is an interesting example of party system weakness limiting the legislative advancement of gay rights. The country is one of the pillars of the gay rights movement, particularly following the Stonewall riots and activism centered in San Francisco. Yet, the US also maintains a relatively weak party system, open to significant conservative and religious influences. Prior to the Obama administration, moreover, the country has passed significant anti-gay legislation, such as the Defence of Marriage Act (DOMA).
rights as a key plank of their national identities. After reviewing the snapshot of rights for LGBT persons globally, Chapter 3 returns to a focus on the EU, paying particular attention to post-Communist party systems, and how the unique forms of post-Communist party system development creates significant challenges for minority rights in many, but not all of post-Communist Europe. Chapter 4 turns to a detailed examination of the institutional differences and party systems of Estonia, Latvia, and Lithuania. Chapters 5, 6, and 7 present the case study linkage between party systems and LGBT rights in Latvia, Lithuania, and Estonia respectively. These chapters demonstrate that the unstable party systems in the southern two Baltic States have made it far more difficult to converge on EU LGBT norms, whereas Estonia has adopted LGBT-positive legislation. These chapters also review some of the unique differences between the countries, and include many of the recent developments on sexual and gender minority rights within the region. Following this, Chapter 8 sums up the main arguments and findings of the previous chapters, and offers a brief conclusion and avenues for further research.
Chapter 2
Variations in LGBT Rights: A Global Discussion

It is important to recognize that the emerging differences in national policies towards sexual and gender minorities are not limited to Europe, and rather, are part of a much larger global divide in state policies and public attitudes towards the LGBT community. Indeed, at a global level, three broad trends, which each incorporate a large number of countries and regions have emerged within the realm of LGBT rights. In Western Europe, North America, much of Latin America, as well as Australia and New Zealand, public attitudes and national policies have become increasingly supportive of LGBT rights. These state actions are backed by growing engagement from multilateral institutions, including the UN, Organization of American States, and within Europe, the EU, all of which are working on various fronts to promote decriminalization and greater tolerance and acceptance of LGBT persons. However, in a second cluster of countries, and perhaps as a form of backlash against the West, there are a growing number of jurisdictions strengthening the criminalization of homosexuality and actively cracking down on any form of LGBT activism. Lastly, a third set of countries, led primarily by Russia, have introduced often obscure anti-propaganda laws that limit the freedom of expression and association of LGBT individuals and communities. Briefly each cluster is reviewed in greater detail below.

Without question, within the first cluster of countries, the progress towards greater inclusion of LGBT persons has been utterly remarkable. Within the United States alone, the shift towards greater rights for LGBT persons has been especially noteworthy.

The *New York Times* highlights that following the US Supreme Court’s 2013 *Windsor* decision, which invalidated the Defence of Marriage Act (DOMA), a “…a remarkable and nearly unanimous string of more than 40 lower-court rulings” have overturned state bans against same-sex marriage. On June 26, 2015, in a landmark decision, the US Supreme Court ruled that there is a constitutional right to same-sex marriage, legalizing gender-neutral marriage nationwide, and overturned continuing bans in Texas, Louisiana, and several other Midwestern States. Describing the verdict as “…justice arriving as a thunderbolt” President Obama said the ruling was a “victory for America”, and that the country should be proud. Even allowing for Obama’s interest in appealing to a section of the Democratic Party’s base, popular opinion in the US has also shifted rapidly, with approximately 55% of the US population supporting equal marriage, up from 37% in 2005.

Including the United States, a total of 18 countries have legalized same-sex marriage, starting first with the Netherlands in 2001, Belgium in 2003, and Spain 2005. Canada was fourth country globally, and first in the Western hemisphere to introduce same-sex marriage. More recently, in 2013, Brazil, England & Wales, France, New Zealand, and Uruguay, legalized marriage equality, and in 2014, Finland also moved to

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149 As of July 2015
introduce marriage, followed by Luxembourg on January 1st, 2015.\textsuperscript{151} Though unsuccessful to date, several legislative attempts to introduce same-sex marriage in Australia, both at the national and state levels, has been pursued. A 2014 poll also showed over 70\% of Australians supported same-sex marriage.\textsuperscript{152} Legal protections for persons identifying as transgender are also improving in certain parts of the world. In 2012, Argentina introduced legislation allowing gender-variant persons to change the sex designation on official documents without undergoing sex-reassignment surgery, or without prior approval from a physician or judge.\textsuperscript{153} In Canada, several provinces have also introduced explicit protection for gender identity within their human rights codes.\textsuperscript{154} Many Western states, including prominently the United States, but also the UK, the Netherlands, Sweden, and Canada make the support for LGBT rights a key pillar of their foreign policies. For example, the US manages a Global Equality Fund, in which the US and its allies pool funds in support of LGBT causes worldwide.\textsuperscript{155} In Canada, nearly $900,000 has been given in assistance to groups promoting human rights for sexual and

\textsuperscript{151} For more on Luxembourg’s decision please see: http://www.independent.co.uk/news/world/europe/luxembourg-passes-samesex-marriage-and-adoption-bill-in-landslide-vote-9547282.html


\textsuperscript{154} Currently, Alberta, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, and Saskatchewan have passed explicit gender identity anti-discrimination legislation. The Northwest Territories is currently the only Territory in Canada with gender identity protection, although it was the first jurisdiction in Canada to have this type of law. Federally, Bill C-279, a private-members bill would amend the Canadian Human Rights Act and Criminal Code to include gender identity protections. The bill passed the House of Commons with cross party support in March 2013. Subsequently, the bill became stalled in the Senate, and failed to pass ahead of the 2015 Federal election. See, Gerald Hunt and Michael Pelz (forthcoming), “Transgender Rights in Canada: Legal, Medical, and Labour Union Activities,” In Thomas Köllen ed, \textit{Sexual Orientation and Transgender Issues in Organization – Global Perspectives on LGBT Workforce Diversity}. Vienna: Springer

\textsuperscript{155} Please see: http://www.state.gov/globalequality/
gender minorities in 34 different countries. Western Embassies in countries where LGBT rights are challenged, or under attack, often work closely with local LBGT communities. This can involve providing funding for activist groups, legal support, hosting meetings, marching in pride parades, as well as quietly lobbying host governments to become more tolerant towards LGBT communities. In addition, many Western countries accept asylum claims on the basis of sexuality for countries where LGBT persons face persecution, including Uganda and Russia. Western states have been known to post openly gay ambassadors to conservative countries, or in the case of the United States, send openly gay athletes as part of their official delegation to the Sochi Olympic games.

In recent years, several multilateral institutions have begun working to support LGBT communities, primarily through demands for decriminalization of same-sex sexual activity, and insisting that states prevent violence against sexual and gender minorities. In its first major initiative in support of LGBT rights, in 2011 the UN Human Rights Council (HRC) adopted resolution 17/19, which expressed “grave concern” at the violence and discrimination against individuals based on their sexual orientation or

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157 Personal correspondence with Canadian officials and the Department of Foreign Affairs, Trade, and Development (DFATD; Interview no: 26; This information has also been collected from ongoing personal correspondence with the members of the Amsterdam Network, an informal coalition of national LGBT human rights groups in North America and Western Europe.

158 For more on how Canada treats immigration claims from LGBT refugees, please see: [http://egale.ca/all/faq-immigration/#1](http://egale.ca/all/faq-immigration/#1)

Following this, the UN High Commissioner for Human Rights released a report documenting global instances of violence and discrimination on the basis of sexual orientation and gender identity. The report highlighted, among other human rights abuses, discriminatory laws and instances of torture and other inhumane of LGBT persons.\(^{161}\) Amongst its many conclusions, the report encouraged all UN member states to prevent torture and other forms of “…inhuman or degrading treatment on grounds of sexual orientation and gender identity” to “…repeal laws used to criminalize individuals for engaging in consensual same-sex sexual conduct,” and to “…enact comprehensive anti-discrimination legislation on the grounds of sexual orientation and gender identity.”\(^{162}\) A follow up review released in May 2015 highlighted similar findings and concerns.\(^{163}\) The Universal Periodic Review (UPR) provides another medium to address LGBT rights under UN auspices. Here, a rotating collection of member states review each other’s human rights practices and openly criticize and seek clarification of questionable behavior. LGBT rights are frequently mentioned in these debates, particularly by the Netherlands, Sweden, and Britain.\(^{164}\) The UN has also


\(^{162}\) ibid. pg. 25


\(^{164}\) These findings emerge from research conducted with Egale Canada between 2012 and 2014. To review individual UPR country reports, please see: http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx
recently launched the *Free and Equal* campaign, which seeks to improve tolerance and awareness of LGBT persons, and recently aired a video campaign in India.\(^{165}\)

Beyond the UN, other multilateral institutions, including the new OAS Rapportuership on LGBTI rights\(^{166}\), as well as the Council of Europe are active in the promotion of LGBT rights.\(^{167}\) Of all the major multilateral institutions, arguably the European Union has been the most involved in this policy area. Unique among multilateral institutions, the EU has the jurisdiction to enact conditionality requirements on applicant states through the Copenhagen Criteria, and set legal baselines all member states must follow within the realm of minority right. Supporting the work of multilateral institutions and Western nations are a growing and increasingly professional network of transnational advocacy organizations, including the International Lesbian Gay, Bisexual and Transgender, and Intersex association (ILGA), as well as national groups such as Stonewall in the UK, LSVD in Germany, COC in the Netherlands, as well as the Human Rights Campaign in the US. These civil society actors often work closely with their national governments, lobby for pro-LGBT foreign policies, and liaise with LGBT associations in countries where LGBT rights are not recognized. In addition, some national LGBT groups in Europe are re-granting agencies that distribute government foreign aid funds to partners abroad.\(^{168}\) The combined advocacy of transnational actors, national governments, and multilateral actors has resulted in a normative belief amongst many LGBT activists and Western policy makers that LGBT rights are becoming a universal value, much like democracy and freedom of speech. This inherent belief is

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\(^{165}\) For *Free and Equal*, the UN’s main website on LGBT human rights, see: https://unfe.org

\(^{166}\) See: http://www.oas.org/en/iachr/lgtbi/

\(^{167}\) See: http://www.coe.int/t/dg4/lgtb/

\(^{168}\) Personal correspondence with Swedish and Dutch LGBT organizations
encapsulated by a widely reported speech by former US Secretary of State Hillary Clinton where she referred to LGBT rights as human rights, and increasingly, for these rights to be seen as a universal value.\textsuperscript{169}

Yet, despite significant progress in the West, and sustained engagement from multilateral institutions, the spread of gay rights remains extremely uneven globally, and to a lesser degree in Europe. As shown in Figure 2.1, seventy-seven countries continue to criminalize male homosexuality.\textsuperscript{170} As The Guardian notes:

> Fewer than 1 billion of the world’s population live in countries where same-sex marriage or civil unions are recognized, compared to 2.8 billion living in countries which criminalize gay people and impose severe punishments on homosexuality, such as imprisonment, lashings and even death sentences.\textsuperscript{171}

Many of these jurisdictions, which together form the second cluster of countries, are concentrated in Africa and the Middle East, but also include India and Malaysia, as well as several Caribbean islands. For many Commonwealth countries, the criminalization of homosexuality is a product of British colonial legacies and inherited constitutions that outlawed “carnal intercourse against the order of nature with any man, women or animal…”\textsuperscript{172} Lennox and Waites argue that these types of provisions were introduced first in India, followed by other Asian territories, Pacific islands, and later in the Caribbean “…with the aim of bringing European morality to indigenous

\textsuperscript{170} http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx, pg. 25
populations.” The imperial connection is often cited to relativize (or, frankly, give a pass) to homophobic legislation in Asia and Africa. However, the Commonwealth connection cannot explain why, in the last few years, a number of Commonwealth states have moved to enhance the punishments for homosexuality, and extended criminalization beyond sexual behavior alone. It also cannot explain the position in the Middle East.

An example of this is Gambia’s recent strengthening of its anti-gay legislation to include lifetime imprisonment for “aggravated homosexuality.” In Nigeria, which already criminalizes male homosexuality with “death by stoning” in the 12 Northern States using Sharia Law, recent legislation further criminalizes those who participate in LGBT advocacy groups. Cameroon, Zimbabwe, and Uganda have also passed laws further restricting LGBT communities. Finally, India’s Supreme Court recently upheld a provision within the criminal code that penalizes sexual relations between men.

173 Ibid.
174 See Massad (2007)
177 Regarding the Nigerian law, see: http://www.huffingtonpost.com/2014/01/13/nigeria-gay-marriage_n_4590799.html
Lastly, a third, albeit smaller group of countries, have passed laws that do not directly criminalize same-sex relations, but in practice severely restrict gay rights. Of these cases, Russia is one of the key examples, following the passage of numerous anti-gay propaganda laws but falling short of full criminalization. Several other countries have drafted similar legislation, including Armenia, Kazakhstan, Kyrgyzstan, Lithuania, and Latvia, although none of these have become law. Moldova briefly legalized a Russia-styled anti-gay propaganda law, however this law was later repealed under pressure from the EU. The Russian legislation, in particular, has a chilling effect on LGBT activism, as it is illegal to publicly discuss or present views on non-traditional sexualities in either a neutral or positive light. Wilkinson explains that a “spate” of laws have passed in Russia, initially at the regional level beginning in 2006, and more recently, nationally, “…with the aim of preventing the “‘propagandizing’” of nonheterosexuality and /or gender variance to minors.” Public opinion data would appear to be supportive of the implicit goals of these laws, with a 2013 survey finding that 74% of Russians believe that homosexuality should not be accepted. Since the passage of these laws, news reports have reported an increase in violence directed against LGBT communities, often with impunity from state officials. Russia has also sought to export these laws to several countries in its near abroad, including Kyrgyzstan.

180 Interview no. 13
181 Wilkinson, pg. 366.
184 http://www.eurasianet.org/node/70676
The latter two clusters of states, moreover, have also worked to slow the advance of LGBT rights in multilateral institutions.\textsuperscript{185} At the UN Russia has introduced or supported three resolutions promoting “traditional values.” More recently, Egypt introduced a counter-proposal at the UN Human Rights Council focused on traditional values, the same day that the Council was considering the adoption of a more expansive LGBT human rights strategy.\textsuperscript{186} During twenty-ninth session of the UN HRC, the Council narrowly adopted a resolution “…which reaffirmed that the family was the natural and fundamental group unit of society and was entitled to protection by society and the state.”\textsuperscript{187} During debates on the new family resolution, Pakistan and a coalition of other states succeeded in blocking efforts by South Africa, the EU and other Western countries to include a more expansive definition of the family, including families headed up same-sex couples, in the resolution.\textsuperscript{188} Article 19 (a human rights NGO), argues the problem with these types of resolutions is that traditional values are very poorly defined and open to interpretation. They write:

\textsuperscript{186} Interview no. 50
\textsuperscript{188} Resolution A/HRC/29/L.25 was supported by a wide range of states, including amongst others: Algeria, Bahrain, Belarus, Bosnia and Herzegovina, Botswana, China, Egypt, El Salvador, Equatorial Guinea, Jordan, Kuwait, Morocco, Namibia, Nigeria, Pakistan, Tunisia, Qatar, Russian Federation, Saudi Arabia, Sri Lanka, and Zimbabwe. Interestingly, Argentina and Brazil both abstained from the resolution, rather than rejecting it outright. This is surprising as both countries have taken significantly more liberal approaches to LGBT rights in recent years, and the bill is widely thought of as a front to stop greater UN engagement on LGBT rights. A Latin American LGBT organization speculated that longstanding Catholic religious influences in both countries foreign ministries made it costly for either country to block the resolution, even if they did not support it directly. Interview no. 48
“Particularly concerning is the failure to recognize that traditional values are often abused by states to legitimize discrimination against minority groups, to silent dissent, and to violate people’s human rights – in particular those of LGBT persons. With these concerns, ingraining the concept of “traditional values” in international human rights law, absent robust qualification, presents a real threat to protection, especially for human rights defenders that seek to challenge established power hierarchies and inequalities.”

This brief survey of the current global state of LGBT rights begins to illustrate the significant variation and lack of consensus in approaches taken by states towards LGBT persons. Nor can LGBT rights currently be assumed to be a universal value. Certainly, much of West and Latin America have become increasingly progressive, both in terms of state policies and public attitudes. At the same time, throughout large swathes of Africa, the Middle East, and parts of the former Soviet Union, state and private attitudes remain hostile. Located between Western European and Russian approaches to LGBT rights, Central and Eastern European countries are very much at the crossroads of this increasingly global debate on rights for sexual and gender minorities. The role played by the EU in seeking to advance LGBT rights in this unique and contested area is the subject of the next sections.

189 Article 19 (2013), Traditional Values? Attempts to Censor Sexuality: Homosexual propaganda bans, freedom of expression and equality, pg. 19
Having reviewed the current global state of human rights for LGBT persons, this analysis turns to a closer examination of the institutional arrangements and party systems of Post-Communist Europe. As noted in the introductory chapter, the central claim of this thesis is that the volatile party systems in Lithuania and Latvia have elevated the difficulty for either country to converge with pro-LGBT EU norms, particularly in an environment of only indirect EU pressure. Estonia, by contrast, has witnessed a gradual stabilization of its party system and concomitant lessening of substantive ideological differences, which has lowered the cost for elected officials to follow EU LGBT norms. However, it is important to recognize that Latvia and Lithuania are not alone in having volatile party systems. Indeed, fragmented and ideologically divided party systems with multiple parties is a common feature across much of post-Communist Europe.

The purpose of this chapter is twofold: the first section will outline and review the contours of post-Communist party systems. Here, it will be observed that the history of party system development in post-Communist Europe has many unique features compared to Western European democracies, and that the method of party development has left many countries, though certainly not all, prone to volatility and poorly institutionalized systems. Following this, and building from arguments raised in the introduction, the link between party systems and minority rights issues will be sketched out at the regional level, with special attention to the Polish and Slovenian cases being referenced.
Post-Communist Party Systems

The rapid and mostly unexpected collapse of the Soviet Union left policy-makers in the newly independent states of Central and Eastern Europe with the task of quickly rebuilding democratic institutions as part of the larger transformation from command style communist economies to liberal democracies. The vast number of countries transitioning to democracy from similar starting points has led to a wide range of scholarly literature on the topic, including on how post-Communist democratization has differed substantively from earlier “waves” of democratization.190 Two key differences are that post-Communist transformations were significantly more complex, and had different starting points than earlier transitions, which also influenced the manner in which new party systems emerged. Unlike the third wave of democratization in Southern Europe and Latin America where elites had largely functional states and varying levels of market economies, post-Communist elites and reformers were faced with the immediate challenge of rebuilding national states while simultaneously introducing new democratic institutions and transitioning to market economies.191 In many countries, resolving the national question became an immediate challenge to ongoing democratic transformations.

190 The key theorist associated with concept of democratization occurring in ‘waves’ is Samuel Huntington. In Huntington’s analysis, the first wave began with the slow extension of voting rights in advanced capitalist countries in Western Europe, while the second wave occurred after WWII, primarily through the process of decolonization. The third wave, from 1970s onwards, involved the abandonment of authoritarian regimes in Portugal, Spain, and Greece, and later in Latin America. See Samuel P. Huntington (1991), “Democracy’s Third Wave,” Journal of Democracy, 2(2), p: 12-14; See also Linz and Stepan (1996); McFaul (2002); Bunce (2003) amongst others.
and national integration, particularly where there had been large inflows of Soviet immigrants during the Cold War.192

Moreover, the actual mode and speed of transition differed. In third wave democracies, negotiated transitions between *ancien régime* reformers and moderate opposition members were common, while in the post-Communist region, only those countries that experienced a “sharp” break where reforming elites won founding elections and largely removed former Communist figures did successful liberalization take place.193 In addition, unlike the third wave of democratization, which was largely elite-centric, widespread societal protests, often working in concert with national liberation fronts, aided the beginning of democratic transitions.194

Many liberalizing elites, as well as the popular movements supporting them, quickly turned their attention to joining Organization for Security and Co-operation in Europe (OSCE), NATO, and ultimately, the EU. Membership in these Western organizations was primarily sought for security reasons, to gain access to new markets, and to cement their status as part of the “West.”195 Supranational oversight and conditionality requirements from the EU brought what Levitsky and Way call “... a striking level of external intervention into the domestic politics of candidate countries.”196

The need to align policies with the EU’s accession criteria, as well as with the *acquis*

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194 Valerie Bunce (2003), “Rethinking Recent Democratization: Lessons from the Postcommunist Experience,” *World Politics*, 55(2); pg. 172


196 Levitsky and Way (2010), pg. 88. Of course, the process of EU enlargement is not entirely dictated by EU institutions. After the European Council approves accession, the Commission works closely with the member states to oversee the terms and conditions of eventual membership.
communautaire, highlighted the extent to which international factors influenced post-Communist democratization, and indeed far more than in earlier transitions to democracy. Together, these conditions put many post-communist countries on a closely-monitored “fast-track” process of democratization.197

Though many post-Communist countries undertook transitions to democracy and market economies with surprising speed, and succeeded in joining the EU as early as 2004, the development of stable national party systems, considered a key plank of effective democratic governance, has been more challenging. In part, the speed at which democratic institutions emerged made it difficult for national party systems to institutionalize on the basis of programmatic competition. In Western European democracies, stable multi-party systems traditionally emerged slowly through a coalescing around longstanding cleavage differences in society into the political realm.198 Lipset and Rokkan have argued that long-term processes of nation building via centralizing elites with a monopoly of the use of violence created numerous and distinct societal cleavages: generally on the basis of region, language, occupation and religion. As the suffrage was gradually extended, newfound political factions and parties relied on these differing segmental groups as their primary basis of support. For the authors, parties served as a vehicle in which these cleavages could be actualized in political

198 Kitschelt characterizes a political cleavage as “…parties that offer competing messages that appeal to electoral constituencies divided by their position in the social structure, their ideological outlook, and their propensity to get involved in political action.” In other words, parties tailor their campaigns to appeal to a set of different issues that matter to the electorate. The issues which parties can centre their appeals on vary tremendously, however the key distinctions in policy between the parties can often be described in economic or other terms, such as cultural or religious differences. See Hebert Kitschelt (1992), “The Formation of Party Systems in East Central Europe,” Politics and Society, 20 (1); pg. 11
representation in elected assemblies. As parties became more institutionalized and linked with particular socioeconomic groupings, they were often able to “freeze” these cleavages into durable and predictable patterns of political competition. The key date in most countries was the extension of suffrage to propertyless males (hence the standard social democratic/conservative, or worker/capital split in most European countries).

By contrast, the manner in which post-Communist party systems developed often precluded the development of programmatic competition among a stable set of actors, and rather, privileged the emergence of personality-based or single-issue parties that often had only limited staying power or linkages to society. A consequence of differing pattern of party-citizen linkages has generally been more system instability.

There are several reasons why this is the case. First, and perhaps most centrally, newly empowered liberalizing elites faced “…an immensely difficult task” in setting up differentiated political factions similar to Western European parties in an environment mostly devoid of societal cleavages combined with rapid franchise enlargement. Sectorial or religious cleavages had largely been wiped out by Soviet policies designed to

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200 Mainwaring and Zoco suggest that Lipset and Rokkan’s analysis has significant limitations. The ‘freezing’ hypothesis assumes that “citizens are [consistently] satisfied enough with their preferred parties to stick with them over time.” However, the authors suggest that evidence from most political regimes emerging post-1978 finds that governing parties, and presumably the opposition will almost certainly fail at some point to meet the expectation of their supporters, causing citizens “to jettison from one party to another,” also leaving issue-cleavages largely unfrozen. See Scott Mainwaring and Edurne Zoco (2007), “Political Sequences and the Stabilization of Interparty Competition: Electoral Volatility in New and Old Democracies,” *Party Politics* 13(2); pp: 169-170


eradicate social class or economic distinctions.\textsuperscript{203} As Tworzecki explains, voters faced “…a bewildering array of political parties that sprung up after the transition,” leaving newly empowered voters with a great deal of uncertainty about who to support, and the differences between the parties.\textsuperscript{204} Profound economic shifts in newly capitalist markets exacerbated weak links between new parties and the electorate, as many voters life situation was too unpredictable to develop regularized partisan affiliations.\textsuperscript{205} The ‘losers’ of the economic transition from communism to democracy were also particularly susceptible to group appeals from far-right or anti-system parties who expressed “ambivalence towards the new order.”\textsuperscript{206}

This environment also incentivized the creation of clientelistic and personality based parties. Programmatic competition, as Kitchselt argues, requires more “cognitive skills among voters to arrive at an intelligent choice between competing alternatives,” while charismatic or clientelistic appeals necessitate less “coordination costs among party voters and leaders” as “continuing loyalty [is] based on selective material and solidarity incentives.”\textsuperscript{207} Programmatic appeals, by contrast “are very demanding on voters” as they require the electorate to evaluate a party’s program and “the voters’ individual payoffs from the ‘collective’ goods promised by the party.”\textsuperscript{208} While more difficult to achieve, programmatic forms of competition are more likely to aid regime stability, as it requires the development of structured parties and more durable citizen-party linkages.\textsuperscript{209}

\textsuperscript{203} Hubert Tworzecki (2003), \textit{Learning to Choose: Electoral Politics in East-Central Europe}. Stanford: Stanford University Press, pg. 5
\textsuperscript{204} Tworzecki, pp. 5-6
\textsuperscript{205} Markowski, pg. 240.
\textsuperscript{207} Kitschelt (1995), 449-50.
\textsuperscript{208} \textit{ibid}.
\textsuperscript{209} \textit{ibid}, pp: 449-51.
Second, though popular mobilization and participation in independence movements played an important role in ending Communist rule, civil society across much of Central and Eastern Europe was otherwise very weak. As noted in the introduction, memories of forced participation in associational groups during the Soviet era, as well as lingering distrust of others outside of the private sphere limited public participation in civil associations or political clubs that could serve as links between political parties and the electorate more generally. The presence of an active civil society is widely considered to be an important, if not “invaluable” component of democratic governance. Civil society is useful for monitoring governments, aggregating opinions, and providing a channel for citizens to engage in the democratic process. As Bunce writes, a “…robust and pluralist civil society is perhaps the most important impediment to over-reaching states that are distant, centralized and unresponsive.” However, the ongoing weakness of civil society in formerly Communist Central and Eastern European “…constitutes a distinctive element of post-Communist democracy,” and suggests a “qualitatively different relationship between citizens and the state.” Over the long term this raises two key problems: First, post-communist citizens are less likely to “develop democratic habits and skills,” of cooperation and tolerance of differing opinions, nor will post-communist democratic institutions necessarily be supported by large percentages of the electorate (a point realized through the low levels of trust in political parties in the region).

210 Supra note 93; Moreover, evidence from across the post-Communist region shows relatively low levels of trust in parties, and low party membership.
211 Linz and Stepan, pg. 9
212 Howard (2002), 165.
213 Valerie Bunce (2008), “The Tasks of Democratic Transition and Transferability,” Orbis, 52 (1); pg. 30
214 Howard (2002), pg. 164.
The continued absence of civil society engaging with elected officials leaves citizens with significantly less leverage over elected officials, or to protect them against “…potentially unjust laws or policies.”

Evidence from post-Communist European democracies highlights low levels of party membership as a percentage of national populations, ranging from as low as 0.74% in Latvia (also the lowest score in the EU) to a high or 6.28% in Slovenia. In comparison, party membership is generally higher in Western European democracies, with Austria ranking the highest with 17.27% of the population registered with a political party. More broadly, a relatively weak civil society provides greater room for party figures to adopt policies for instrumental reasons, or for reasons they believe will win favour with a divided and unattached electorate.

Third, soon after gaining independence a consensus often emerged among political elites of the importance, if not urgent necessity, of joining the EU. Given the breadth of the EU’s accession criteria, particularly the density of requirements in economic matters in the Copenhagen accession criteria, large areas of policy were largely bracketed out from political contestation. Ladrech explains “…the decision to obtain EU membership as quickly as possible locked in a policy direction in terms of socio-economic choices that had direct consequences for party competition,” namely in that governing and opposition parties turned largely to socio-cultural issues to differentiate

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215 Ibid., 165.
216 Cabada et al, pg. 122
218 It is important to note that in several post-Communist countries, LGBT civil society organizations have become well developed – though often following the rise of anti-gay parties or legislation. Moreover, it is not clear how wide their membership is. The role of civil society in the three Baltic countries will be reviewed in greater detail in subsequent chapters.
themselves. Yet, so long as countries were in the accession process, highly exclusionary sociocultural positions, such as advocating for the restriction of minority rights, were not viable policy options, given that they would clash with the EU’s accession criteria and potentially threaten membership prospects. Only after EU accession was guaranteed could parties develop substantive differences in macroeconomic policies and pursue more aggressive socially exclusionary appeals. Indeed, as an example of greater leeway to pursue exclusionary policies after EU entry, O’Dwyer observers that the highest concentration of specific anti-LGBT policies has emerged from political parties within the EU. Accession negotiations were a lid holding down multiple pressures in favour of anti-LGBT initiatives; once in the EU, the lid was removed and allowed for the appearance of major social, religious, and political dynamics opposing LGBT rights to surface.

The reliance on sociocultural arguments to differentiate parties is also facilitated by a fourth factor influencing the dynamics of post-Communist party systems, namely the existence of unresolved questions about national identity, and more generally, the boundaries of the nation-state. Scholars have linked the presence of sociocultural issues within the party system as being unhelpful to democratic system consolidation and

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220 Ladrech, pp. 220-1.
221 Montenegro is a good example of the EU’s direct influence during the accession process. Here, EU conditionality pressure has limited the ability of domestic policy makers to pursue exclusionary policies. Despite popular opinion polls showing large majorities opposed to LGBT rights, few elected officials speak negatively about LGBT rights (Interview no: 3,4, 6,7). One official representing a minority party within the Montenegrin parliament explained that he was “not interested” in LGBT rights, and that supporting Pride parades was creating problems for the country. However, his party would support expanding rights for sexual and gender minorities, as it is necessary to evolve to “European Standards,” (Interview no. 7)
223 O’Dwyer (2013), pg. 109
stabilization. Unlike socioeconomic matters, such as tax policies, cultural issues including the use of language or minority rights, are much more difficult foundations on which to achieve compromise and consensus. Rather, stable democratic institutions require a baseline popular agreement on foundational societal issues, such minority rights, nationalism, the role of religious institutions, as well as what Linz and Yadav characterize as “a shared sense of history.” A larger social agreement on these types of issues, or at least a shared belief that these issues do not need to be a part of daily politics can aid the shift towards programmatic party competition – in part because sociocultural distinctions become a less effective tool at mobilizing votes. Within the post-Communist sphere, however, national questions, unresolved borders, disagreement on national histories, and debates on minorities have been common features alongside processes of democratization throughout the region, particularly in the Baltic States.

Overall, the legacies of post-Communist party system development have contributed to an environment conducive to less programmatic competition, reduced citizen involvement, and allowed the frequent involvement of socioeconomic or nationalist cleavages as major sites of political contestation. These features of post-Communist party system development, perhaps unsurprisingly, have underpinned arguments to the effect that post-Communist party system are unlikely to shadow the

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224 Kitschelt (1995); 449-451; Rustow (1970)
225 Lipset and Rokkan (1967), Lijphart (1977), pg. 81-88 quoted in O’Dwyer (2014)
227 The status of Estonia, Latvia, and Lithuania while part of the USSR is a profound source of historical disagreement. In Estonia, for example, most native Estonian speakers are of the belief that the country was forcibly subsumed within the Soviet Union, while Russian speakers in Estonia are more likely to see Estonia’s status as a Soviet Republic as voluntary. Given the sensitivity of the topic in contemporary Estonia, these diverging attitudes have become a politically contentious social divide.
development of Western European party systems, and that electoral volatility and unpredictability are likely to remain a consistent feature across the region.\textsuperscript{228}

These historical antecedents are important for understanding the context in which post-Communist party systems developed, but they should not be thought of as deterministic or rigidly path-dependent.\textsuperscript{229} Other important factors can influence system stability over time, including the formal rules adopted by a system, exogenous shocks, and more generally, the types of issues that remain salient over multiple election cycles. However, across the post-Communist region there is actually relatively limited variation in formal rules, particularly in types of electoral systems adopted. All post-communist democracies avoided strictly majoritarian systems and adopted either proportional presentation or mixed systems. Including Croatia, the most recent member of the EU, four post-Communist democracies use mixed systems (combining plurality districts with PR) while seven use PR alone.\textsuperscript{230} According to Kitschelt et al more representative electoral systems were selected as part of larger compromises between outgoing regime and liberalizing elites interested in avoiding an over-centralization of power in new democratic regimes.\textsuperscript{231}

Electoral thresholds are fairly consistent for the region as well, ranging between a low of 4% to 5% for PR voting, although thresholds for coalitions are somewhat higher,
between 7-10%.\textsuperscript{232} The regulation of parties does offer some differences in the number of people needed to set up a party, how parties are registered, annual reporting requirements (if any), and whether the public funding is provided.\textsuperscript{233} Yet, the differences in formal rules, important as they are, do not appear significant enough to explain the differences in volatility between countries with otherwise very similar electoral systems (see Table 3.1).

The types of issues present during elections can also influence stability (in line with the four factor influencing patterns of party system development mentioned earlier). Building from Kitschelt’s earlier analysis, do the types of issue-cleavages prevalent within each party system influence overall system stability? For example, do the sociocultural disagreements present during early stages of post-Communist party system remain present over multiple elections, or are they gradually replaced by a greater focus on socioeconomic matters? The answer is unavoidably tentative, since the linkage between the nature of the issue cleavages (eg – sociocultural versus market-redistribute) and overall system stability remains relatively understudied. As O’Dwyer argues, scholars of party systems “…have written at length on the dimensionality of party competition and on party system stability in new democracies…but rarely on the relationship between the two.”\textsuperscript{234} However, he suggests that the types of issues along which parties compete influence system stability, independent of formal rules.

In a large-N analysis of various party systems, O’Dwyer finds that countries where parties are able to “bundle” multiple issues into larger underlying axes of competition stand a greater chance of being stable. Should there be more than one central axis of competition, systems will trend towards greater stability if the “predominate axis”

\textsuperscript{232} Cabada et al, pp. 74-5
\textsuperscript{233} ibid., pg. 108-109.
\textsuperscript{234} O’Dwyer (2014), pp. 514-5
is market-redistributive.\footnote{ibid.} In contexts where parties provide “less bundling” of issues into larger axis of competition, this places “greater cognitive demands on voters” and increases “…the scope for contingency in voting, and the less reliable ties between parties and voters.” This latter situation is more likely to emerge, O’Dwyer finds, in contexts where there are multiple axis of competition, including major cultural or social cleavages.\footnote{ibid.} Explained slightly differently, Bértola finds systems characterized by cross-cutting cleavages aid instability, as “…parties will find it difficult to identify contiguous partners with which to cooperate, as being close on one dimension may coincide with irreconcilable differences on another.” Where cleavages structures are cumulative, or “one-dimensional” parties can more easily identify partners for collaboration.\footnote{Fernando Casal Bértola (2014), “Party systems and cleavage structures revisited: A sociological explanation of party system institutionalization in East Central Europe,” Party Politics, 20(1); pp. 29-30}
<table>
<thead>
<tr>
<th>Country</th>
<th>Party System Classification</th>
<th>Key Issue Cleavages</th>
<th>Number of Political Parties</th>
<th>Intra-System Electoral Volatility (% Average)</th>
<th>Extra-System Electoral Volatility (% Average)</th>
<th>Overall System Stability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulgaria</td>
<td>Polarized pluralism</td>
<td>Primarily socioeconomic; overlapping secondary cleavages include Communist legacy, Pro-European vs. Pan Slavic Foreign Policy</td>
<td>5</td>
<td>17</td>
<td>22</td>
<td>Lower</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Moderate pluralism</td>
<td>Primarily socioeconomic; secondary cleavages exist only briefly</td>
<td>6</td>
<td>11</td>
<td>15</td>
<td>Higher</td>
</tr>
<tr>
<td>Estonia</td>
<td>Moderate pluralism</td>
<td>Primarily socioeconomic; smaller secondary cleavages Communist legacy, traditional values vs. Pro-EU</td>
<td>4</td>
<td>17</td>
<td>30</td>
<td>Higher</td>
</tr>
<tr>
<td>Hungary</td>
<td>Moderate pluralism</td>
<td>Multiple cleavages overlapping along L-R axis: Socioeconomic, Nationalist vs. EU, Communist legacy</td>
<td>5</td>
<td>14</td>
<td>13</td>
<td>Higher</td>
</tr>
<tr>
<td>Latvia</td>
<td>Polarized pluralism</td>
<td>Multiple non-overlapping cleavages: Primary national-ethnic cleavage (Titular majority vs. Russian speakers), socioeconomic, urban vs. rural, religion</td>
<td>5</td>
<td>17</td>
<td>34</td>
<td>Lower</td>
</tr>
<tr>
<td>Lithuania</td>
<td>Polarized pluralism</td>
<td>Multiple non-overlapping cleavages: Socioeconomic, Communist legacy, religiosity + traditional values cleavage</td>
<td>8</td>
<td>14</td>
<td>56</td>
<td>Lower</td>
</tr>
<tr>
<td>Poland</td>
<td>Moderate pluralism</td>
<td>Multiple non-overlapping cleavages: socioeconomic axis mixed with religious and nationalist disagreements</td>
<td>5</td>
<td>18</td>
<td>28</td>
<td>Lower</td>
</tr>
<tr>
<td>Romania</td>
<td>Polarized pluralism</td>
<td>Multiple overlapping cleavages: Socioeconomic, ethnicity-nationalism, and regime type</td>
<td>9</td>
<td>7</td>
<td>38</td>
<td>Higher</td>
</tr>
<tr>
<td>Slovakia</td>
<td>Moderate pluralism</td>
<td>Multiple non-overlapping cleavages: Socioeconomic, Nationalism vs. Pro-EU, traditional values vs. Pro-EU, prior to 2002 regime cleavage</td>
<td>6</td>
<td>9</td>
<td>50</td>
<td>Lower</td>
</tr>
<tr>
<td>Slovenia</td>
<td>Between moderate and polarized pluralism</td>
<td>Primarily socioeconomic: Smaller secondary cleavages religion, urban vs. rural overlap with L-R axis</td>
<td>7</td>
<td>15</td>
<td>35</td>
<td>Higher</td>
</tr>
</tbody>
</table>

Notes: 1 - Cabada et al. pg. 88, 2 - Cabada et al, pp: 92-99, O'Dwyer (2014), pg. 529, Authors research; 3 - Cabada et al, pp: 76-84; 4 - Powell and Tucker, pg. 131; 5 - *ibid*, 6 - O'Dwyer (2014), pg. 520
Table 3.1 provides an overview of Post-Communist Party systems levels of institutionalization and dominant issue cleavages. As can be observed, the systems vary significantly in their classification, the key issue cleavages, electoral volatility, and their overall system stability. The aggregated findings also appear to confirm O’Dwyer’s belief that the types of issues raised at election influences system stability. The Czech Republic, Slovenia, and Estonia have increasingly shown signs of greater system stability, and feature similar issue positioning and less ideological division.

The party system of the Czech Republic has increasingly become a “two and half party” system with Social Democrats and the Conservative ODS party representing “the principle alternatives.” Electoral volatility in the Czech Republic is low for the region, and as Cabada et al note, competition is fought primarily along socioeconomic matters. Slovenia, for the majority of the time since regaining independence, has also featured a highly consensual form of party competition and lower system instability (more below). Estonia, one of the main case studies in this investigation, is categorized as a more stable system, with only four major parties (ahead of the 2015 election), and low levels of ideological polarization. Hungary also has a relatively stable system, but is somewhat of an outlier, given its more profound ideological division.

Indeed, as Enyedi and Bértoa note, the Hungarian party system is bi-polar with low levels of both intra-system and extra-system electoral volatility. Parties of the left and right routinely capture upwards of 90% of the vote, suggesting a relatively closed system. However, there is significant ideological division within the Hungarian system,

\[238\] ibid.
\[239\] ibid., pg. 124
particularly in recent years as the governing Fidesz party has shifted right to slow the rise of Jobbik, a far right anti-immigrant, anti-EU party.\footnote{Rather unusually, the Hungarian case representative an example of a stable party system forming despite significant ideological division} Moreover, the “uncompromising” attitude between left and right forces does lead to a significant centrifugal pattern of competition, weakening parties advancing centrist positions.\footnote{Enyedi and Bértota, pg. 123;} At the other end of the spectrum, the party system systems of many post-Communist countries do not show signs of significant stabilization, with a combination of high levels of electoral volatility, polarization.\footnote{See also Lewis (2007)} As highlighted in Table 3.1, Bulgaria, Latvia, Lithuania, Slovakia, and Poland fall into this category, with higher number of parties, more issue cleavages prevalent within party politics, and higher electoral volatility.

Table 3.2 focuses on the connection between overall system stability and LGBT rights, drawing back to the second hypothesis of this thesis; namely that unstable party systems and limited rights for LGBT persons are connected. As can be observed, none of the countries ranked as having “lower” overall stability according to O’Dwyer’s (2014) index have gender-neutral registered partnerships. Croatia, which ranks highest according to the ILGA-Score, has introduced registered partnerships, and also includes comprehensive anti-discrimination protections benefiting LGBT persons, including protection from discrimination on the basis of sexual orientation and gender identity in goods and services.\footnote{See Croatia page at: \url{http://rainbow-europe.org} (accessed May 11, 2015)} Hungary, despite increased homophobic rhetoric and a recent crackdown on civil society organizations, including those representing LGBT groups, maintains civil unions and a wealth of legal anti-discrimination measures.\footnote{See Hungary page at: \url{http://rainbow-europe.org} (accessed May 11, 2015)}
The majority of countries ranking lower on ILGA-Europe’s human rights ranking also have more unstable party systems, including Poland, Bulgaria, Lithuania and Latvia.\textsuperscript{245} In Bulgaria, for example, the far-right \textit{Ataka} party has introduced on two different occasions anti-gay propaganda laws similar to the Russian legislation.\textsuperscript{246} While not pursuing anti-gay laws, various smaller Polish parties have thus far been unsuccessful in advancing partnership legislation.\textsuperscript{247} Lithuania and Latvia are also found at the bottom of the scale, both in terms of party stability and LGBT rights.

\textsuperscript{245}Romania is an outlier in this group, having neither gender-neutral partnerships, and ongoing heated debates about whether the Constitution should be changed to specifically prohibit same-sex marriages, although its party system is classified as being relatively stable.

\textsuperscript{246}ILGA-Europe, \textit{2015 Annual Report}, pg. 55

\textsuperscript{247}\textit{ibid.}, 129.
<table>
<thead>
<tr>
<th>Country</th>
<th>ILGA-Europe LGBT Score (May 2015)</th>
<th>Recognition of Same-Sex Partnerships or Marriage</th>
<th>Recent Major LGBT Policy Developments¹</th>
<th>Overall System Stability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Croatia</td>
<td>71%</td>
<td>Gender-neutral partnerships</td>
<td>Gender-neutral partnerships passed after public referendum succeeded in blocking same-sex marriage; numerous other anti-discrimination measures introduced</td>
<td>Higher</td>
</tr>
<tr>
<td>Hungary</td>
<td>50%</td>
<td>Gender-Neutral Partnerships</td>
<td>Fidesz led government recently changed Constitution to define family as opposite-gender only; government has limited some LGBT NGO activity</td>
<td>Higher</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>35%</td>
<td>Gender-neutral partnerships</td>
<td>Efforts to adapt partnership act to include second-parent adoption rights</td>
<td>Higher</td>
</tr>
<tr>
<td>Estonia</td>
<td>34%</td>
<td>Gender-neutral partnership law passed in October 2014</td>
<td>Further amending laws must pass before Gender-neutral bill takes effect January 1, 2016</td>
<td>Higher</td>
</tr>
<tr>
<td>Slovenia</td>
<td>32%</td>
<td>Gender-neutral partnerships</td>
<td>Same-sex marriage legislation passed in March, 2015</td>
<td>Higher</td>
</tr>
<tr>
<td>Slovakia</td>
<td>29%</td>
<td>No legal recognition (constitutional ban)</td>
<td>Anti-LGBT referendum held in 2014, though failed after low voter-turnout</td>
<td>Lower</td>
</tr>
<tr>
<td>Romania</td>
<td>28%</td>
<td>No legal recognition</td>
<td>Green-party private members bill to introduce civil partnerships rejected</td>
<td>Higher</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>27%</td>
<td>No legal recognition</td>
<td>Anti-gay propaganda bill introduced by right-wing Ataka party to introduce anti-gay propaganda law</td>
<td>Lower</td>
</tr>
<tr>
<td>Poland</td>
<td>26%</td>
<td>No legal recognition</td>
<td>Three recent attempts from different parties to introduce gender-neutral partnerships; all failed</td>
<td>Lower</td>
</tr>
<tr>
<td>Lithuania</td>
<td>19%</td>
<td>No legal recognition (constitutional ban)</td>
<td>Numerous anti-LGBT amendments under consideration in Seimas</td>
<td>Lower</td>
</tr>
<tr>
<td>Latvia</td>
<td>18%</td>
<td>No legal recognition (constitutional ban)</td>
<td>Gender-neutral partnership bill rejected by Saema; numerous anti-LGBT referenda under consideration</td>
<td>Lower</td>
</tr>
</tbody>
</table>

¹- ILGA-Europe, 2015 Annual Report
**Plausibility Probe: A comparison of Slovenia & Poland**

A brief comparison of Poland and Slovenia, which differ in both the nature of party competition and their treatment of LGBT rights is instructive in highlighting the importance of party systems, and how they can influence convergence with EU LGBT norms. Slovenia represents an interesting case, given its classification as a more stable system *despite* having a large number of political parties as well as a moderate level of extra-system volatility. Currently, seven parties have seats in the national assembly, including four parties with 6% of the vote or less.248 Two of those parties, namely the Coalition United Left (ZL) and Alliance of Alenka Bratušik (ZaAB) had not existed prior to the 2014 election, underscoring the relatively high level of extra-system volatility. Nevertheless, Cabada et al argue that the Slovenian system is “…based on a common ideological core” with a large degree of consensus on the merits of the welfare state and mitigating inequalities created by capitalist markets.249 As Guardiancich finds, common support for joining the EU, agreement on gradualist economic reforms, as well as the existence of corporatist bargaining networks helped make the Slovenian system highly consensual with frequent grand coalitions.250 While a large number of small parties continue to exist, suggesting at least moderate pluralism, the parties mostly clustered in ideologically left or right-wing groups, and cooperate with one another.251 Anti-system parties, moreover, are a negligible force within the Slovenian politics.252 Larger parties,

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249 Cabada et al. 95
including Liberal Democracy of Slovenia, the Slovenian Democratic Party, and the
Social Democrats have served as senior parties in governing coalitions.\footnote{253}

The Slovenian pattern of party development led Lewis to argue that there are
multiple paths towards party system institutionalization in the Post-Communist region.
The first path, which aligns closely with Sartori’s logic involves “… a progressive growth
in large party representation and the diminution in the overall count of relevant parties,”
with the Czech Republic and Hungary most clearly fitting this pattern. The second, by
contrast, involves the “several small parties surviving over time and providing a
relatively stable multi-polar basis for successive government coalitions.”\footnote{254}

Slovenian governments have also been one of the more active in the post-
Communist region in promoting LGBT rights. In 2006, building on previous policy
debates by the outgoing centre-left government, a newly elected conservative coalition
pushed through gender-neutral registered partnerships.\footnote{255} That a right-wing party chose to
introduce the law is unusual, and suggests that the matter was relatively uncontroversial
within the party system, and that conservative forces were unlikely to face significant
opposition from their supporters or religious organizations in supporting LGBT rights.\footnote{256}
Momentum in favour of LGBT rights has continued since then, despite citizenship

\footnote{254} Lewis (2007), pg. 574
\footnote{255} Kuhar (2011), pg. 35
\footnote{256} Kuhar suggests the reality is more complex. He argues that the new conservative government
government passed the law to appear as a “progressive and tolerant center-right government” while also
protecting family values by limiting the legal scope of the partnerships (which in its initial formulation had
significantly less rights than marriage). Kuhar adds that the government did not consult with LGBT civil
society activists during the drafting the bill, and did not consider amendments from either opposition
parties or LGBT organizations (Kuhar, pp: 34-5); Ayoub adds that the Slovenian Catholic Church was too
weak to significantly challenge partnership legislation, as it remained tarnished by its previous association
with the Communist regime. (Ayoub, 2014, pp. 339-340)
petitions rejecting more expansive laws for gays and lesbians.\textsuperscript{257} In 2009, the Slovenian Constitutional Court found that the existing civil partnership law was unconstitutional, as it awarded different inheritance rights to heterosexual and homosexual couples. In response, in 2011 a centre-left government expanded civil union benefits to remove the distinction between partnerships and marriages in all but name. More recently, in 2015 the country passed same-sex marriage legislation with cross-party support – a first in post-Communist Europe.\textsuperscript{258}

Poland, by comparison, stands out for both its stance on LGBT rights and the structure of its party system. Though there are currently five major parties in the country, ideological competition is high and maps onto multiple cleavages and issues, with significant religious and nationalist issues competing with socioeconomic differences. Since gaining independence from the Soviet Union, the party system has passed through several phases. In the first, as Enyedi and Bertoa describe, the system was tri-polar (conservative, liberal and socialists), however in more recent years the system is “…difficult to summarize and definitely more unusual.”\textsuperscript{259} Prior to the 2005 election, the Polish party system had shown signs of consolidation with reformed former Communist party competing with conservative parties. However, as Lewis notes, the 2005 election “demonstrated the absence of any electoral freezing” with a collapse in support for the

\textsuperscript{257} Interview no. 8
\textsuperscript{258} The decision in 2011 to provide a similar set of legal benefits to civil unions and marriages appears to be an example of Slovenian politicians moving ahead of popular opinion on the topic. Shortly after the civil union change was passed, a public referendum organized by the Catholic church succeeded in overturning the law. A similar referendum has also been organized following recent legalization of same-sex marriage. (Interview no. 8)
\textsuperscript{259} Enyedi and Bertoa, pg. 125
governing Democratic Left (SLD), and a dramatic increase in support for newer right wing factions, including the Euroskeptic League of Polish Families (LRP).  

The two largest parties emerging from the 2005 election, the Law and Justice Party (PiS) and Civic Platform (PO) were both founded in the previous election, held in 2001. Both the PO and PiS shared varying levels of conservative ideology, with the PiS running a campaign including a significant morality plank. As Millard notes, the PiS ran a campaign focused launching “a moral revolution” designed to “…expunge the vestiges of communism and the shameful bargains of the Roundtable negotiations between Solidarity and the New Regime.” As part of this campaign, the PiS also adopted a distinctly anti-LGBT platform, promising to ban Warsaw Pride.

The axiological disagreements that surfaced in the 2005 Polish election have had long-term impacts on the country’s approach to LGBT rights, even if highly vocalized homophobia from Polish officials has become less common after the PiS left office. Whereas the former Democratic Left (SD) proposed civil partnerships in 2002 (during Polish accession to the EU), the mainstream left has since become “neutral” on the topic, especially – and notably - after the rupture in Polish party system in 2005. Leading conservative parties also remain staunchly opposed to extending rights for LGBT persons. A Polish LGBT activist explained that the governing Civic Platform is “fearful” of the topic, – both in terms of losing votes, and support from the their coalition

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261 Millard, pg 210
262 ibid., 212; Since that election, Cabada argues that axiological disagreements remain highly visible in the Polish system, particularly religious and nationalist values vs. pro-EU attitudes (Cabada et al, pg. 93)
263 Interview no. 34
264 Interview no. 31
partner, the Conservative Polish People’s Party (PSL). Expressing skepticism over LGBT rights has also become a valuable “tool” for electoral mobilization, as it links with Poland’s “independence values” and fighting against foreign oppression. The respondent added that previously “the Roma, Blacks, and Jews were similar targets.”

Robert Biedroń, the first openly gay MP elected to the Polish Sejm believes the party system has weakened “…the political will” of party leaders across the political spectrum to strengthen LGBT laws. Since the conservative PiS-LRP government was defeated in 2007, “there has been no legislative change – either in sexual education, abortion, or in the separation between church and state.” The PiS, though no longer actively homophobic, continues to believe that the EU’s values are “dangerous – and a danger to tradition.” While these views may no longer be accepted by a majority of Poles, the current Civic Platform leadership is not willing to directly challenge PiS views. Three different proposals to introduce civil partnerships have been introduced in the Sejm in recent years, including as recently as May 2015, and none have had support from leading party officials.

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265 ibid.  
266 ibid.  
267 Interview no. 33  
Biedroń explained that “LGBT issues are not an issue the Civic Platform would fight for.” Rather, for the party leadership, maintaining the status quo is a far safer approach, and one that will keep its coalition safe. Another respondent explained that the party leadership is “fearful of serious discussions on [LGBT] issues within the party - partially because of the strength of conservative forces in the party, but also, centrally, because of the need to maintain coalition partners.” Lastly, a local researcher on LGBT rights observed that “…the current parliament is frozen – there is “no room” to discuss LGBT rights, and the topic remains “very political everywhere.” The respondent continued by explaining that “fear is an incredibly powerful tool” felt by politicians. The genesis of this widespread fear is knowledge that taking stronger positions in favour of gay rights, particularly for major party leaders, will result in losing coalition partners, or being ridiculed in upcoming elections.

Rather, advancing gay rights appears to be left to small opposition liberal factions, who are less concerned about maintaining coalition partners. Indeed, Biedroń eventually left the Civic Platform and joined Your Movement, while Anna Grodska, an openly transgender MP, is a member of the Polish Greens. More broadly, to change the current dynamic on LGBT rights in the Polish Sejm, one respondent thought it was crucial for more sustained engagement on the topic from major party leaders, and a willingness to make their support for gay and lesbian rights explicit. Similarly,

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269 Interview no. 33
270 ibid.
271 Interview no. 34
272 Interview no. 32
273 Interview no. 33
274 Numerous interviewees noted that the PiS is currently ahead in the polls ahead of the fall 2015 parliamentary elections. This fear of a PiS victory appears well founded after Andrzej Duda, a conservative candidate aligned with the PiS, won the 2015 Presidential election.
275 Interview no. 33
Conservative parties, including the PiS and smaller factions, would need to drop their continuing objections to gay rights before the mainstream centre and left feels more confident to express support.

This brief comparison of Slovenia and Poland demonstrates that party systems do function as the institutional mechanism that influences how LGBT rights are adjudicated and treated within national legislatures. The consensual Slovenian system allowed alternating centre-right and centre-left parties to pass pro-LGBT legislation. In Poland, by comparison, the more turbulent party system following the 2005 election has kept LGBT rights a deeply contentious wedge issue, especially for the major parties. A consequence of this is that party leaders have been reluctant to support private members efforts to introduce partnership laws. Building from these findings, the next chapters turn to a more comprehensive analysis of the Baltic States to examine the relationship and linkages between party systems and gay rights.
Chapter 4  
Party Systems of the Baltic States

Having reviewed the larger picture of post-Communist party system development and the hypothesized link between party systems and LGBT rights, this chapter turns to a closer examination of the Baltic party systems. As noted in the previous chapter, Estonia has been classified as a more stable system, with lower levels of ideological polarization, fewer relevant political parties, and the primary axis of competition fought along socioeconomic matters. Latvia and Lithuania, by contrast have less institutionalized systems, with higher levels of electoral volatility, measured both in the number of electorally relevant parties, the emergence of new parties, and as well in terms of ideological polarization. In addition, socioeconomic issue cleavages compete with other dominant divisions in competition, namely active nationalist and ethnic cleavages in Latvia, and a major religious cleavage in Lithuania. The countries also differ significantly in their treatment of LGBT rights, with Estonia having successfully passed gender-neutral partnership legislation, while also ranking higher on ILGA-Europe’s LGBT scale. As noted earlier, Latvia and Lithuania have struggled to actualize the EUs pro-LGBT norm into policy (or actively resisted), and rank far lower in the ILGA-Europe scale.

In terms of formal rules, the electoral systems between Estonia, Latvia, and Lithuania share many similarities (as is the case across much of the region). Both Estonia and Latvia have fully PR systems, while Lithuania relies on a mixed system.

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Despite variation between PR and mixed systems, all of the Baltic States have minimum thresholds of 5%, which is a relatively standard requirement, and one commonly used in older democracies using proportional representation, such as Germany. Lithuania does have an added requirement that multiple parties running in a single alliance must reach a minimum of 7% of the vote to have their share of the popular vote translated into seats. In Latvia, there are 5 multi-member districts using the Saint-Lagüe divisor, while Estonia has set up 12 multi-member districts with D’Hondt divisor. Lithuania has only 1 national PR district, but also has 71 single-member districts, adding an enhanced element of personalization to the political process. Andrews and Bairett argue that lower district magnitude can help reduce elite-coordination problems, and lessen electoral volatility in PR districts.

278 Each country relies on a different divisor to allocate PR votes into seats. The divisors are relevant to the extent that they influence the threshold of exclusion, or the minimum number of votes a party needs to acquire seats. The d’Hondt method is thought to slightly aid larger parties by having a higher threshold of exclusion than the Sainte Lagüé divisor (which is used in Latvia) when there are a smaller number of parties. However, as Lijphart and Gibbert argue, when there are many parties competing in a district, the D’Hondt divisor can actually be lower than Sainte Lagüé. Please see Douglas Rae, Victor Hanby, and John Loosemore (1971), “Representation and Thresholds of Exclusion: An Analytic note on Electoral Systems,” *Comparative Political Studies* 3, 1971; pp: 481-483, and Lijphart and Gibbert (1977).
Lithuania also differs from its Latvia and Estonia in that it has a directly elected President, while in Estonia and Latvia heads of state are indirectly elected through their respective assemblies. Andrews and Bairett have noted that directly elected presidents can hinder party development. In part, this is because the allure of securing the spoils of presidential office encourages political entrepreneurship amongst elites in order to differentiate themselves from their competitors, and to seek new avenues for gaining higher office. Concomitantly, this can decrease elite-incentives to work within existing parties.\textsuperscript{280} As Lithuania does have a directly elected President, it is possible that this office has hindered party stability, and aided greater electoral volatility. Such a dynamic would not, however, be present in Latvia or Estonia, and it is in any case a contingent rather than essential feature of Presidential systems. The direct election of the French President occurred along with a strengthening, not weakening of the party system.\textsuperscript{281}

\begin{table}[h]
\centering
\begin{tabular}{llll}
\hline
& Estonia & Latvia & Lithuania \\
\hline
Seats & 101 & 100 & 141 \\
Parliamentary Term & 4 & 4 & 4 \\
Electoral system type & Proportional Representation & Proportional Representation & Mixed (70 seats PR, 71 Single-Member Districts) \\
Number of Multi-Member Districts & 12 & 5 & 1 (national) \\
Electoral threshold & 5\% & 5\% & 5\% (party), 7\% (party alliances) \\
Divisor & D'Hondt & Sainte Laguë & Hare quota \\
\hline
\end{tabular}
\caption{Baltic Electoral Systems}
\label{tab:electoral_systems}
\end{table}

\textit{Source:} Auers (2015), pg. 83

\textsuperscript{280}ibid., pg. 311
While there are some differences in the formal electoral rules between the three Baltic counties, the qualitative differences between the rules seem sufficiently insignificant to explain variations in fragmentation, volatility, and polarization. Underlying these distinctions are substantive differences in the primary cleavage structures between the countries that appear, at minimum, to be working against the development of stronger socioeconomic modes of competition, and more generally, system stability.

Turning first to fragmentation, table 4.2 highlights the number of electoral parties (ENEP) in the three case studies for elections between 1992 and 2012. Here, differing trends can be observed. While Lithuania initially began with fewer relevant electoral parties than the other Baltic countries, the two most recent elections witnessed an increase in the number of relevant electoral parties. In contrast, as Auers writes, “Estonia and Latvia have witnessed a gradual, albeit non-linear, reduction in the number of effective electoral and parliamentary parties.”

<table>
<thead>
<tr>
<th>Election</th>
<th>II</th>
<th>III</th>
<th>IV</th>
<th>V</th>
<th>VI</th>
<th>VII</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>8.8</td>
<td>5.9</td>
<td>6.9</td>
<td>5.4</td>
<td>5</td>
<td>4.8</td>
</tr>
<tr>
<td>Latvia</td>
<td>6.2</td>
<td>9.6</td>
<td>6.9</td>
<td>6.8</td>
<td>7.5</td>
<td>4.4</td>
</tr>
<tr>
<td>Lithuania</td>
<td>4.6</td>
<td>7.5</td>
<td>7.2</td>
<td>5.8</td>
<td>8.9</td>
<td>7.6</td>
</tr>
</tbody>
</table>

*Source: Gallagher (2014) cited in Auers (2015), pg. 97*

However, a challenge of relying on ENEP to account for instability in the system is that it does not capture the staying power of parties over numerous elections. Rather, it presents a snapshot of the given number of parties at any one time. Indeed, the similar number of electoral parties in Estonia versus Latvia in table 4.2 belies the greater

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282 Auers, pg. 96

* The number of effective electoral parties (ENEP) counts the “share of the vote in parliamentary elections,” while the effective number parliamentary parties considers the seat share awarded to a given party in parliament (ENPP). Both measures are described by Laakso and Taagepera (1979)
durability of parties in the former case. As Lewis writes, a high score in the number of parties does not necessarily indicate instability – so long as parties continue to exist over numerous elections.\textsuperscript{283} This durability is highlighted in table 4.3, which examines the percentage of overall votes taken by ‘more established parties,’ or those that have existed over numerous elections. In contrast, more votes being captured by newcomers suggests a lack of part institutionalization and a more fluid system open to challengers, including parties that can enter governing coalition after their first election. As the table below highlights, Lithuania and Latvia, on balance, rank below Estonia in the total number of votes captured by established parties.

<table>
<thead>
<tr>
<th></th>
<th>Election 3</th>
<th>Election 4</th>
<th>Election 5</th>
<th>Election 6</th>
<th>Election 7</th>
<th>Election 8</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>61%</td>
<td>100%</td>
<td>75%</td>
<td>93%</td>
<td>100%</td>
<td>86%</td>
<td></td>
</tr>
<tr>
<td>Latvia</td>
<td>37%</td>
<td>47%</td>
<td>50%</td>
<td>100%</td>
<td>54%</td>
<td>73%</td>
<td>60%</td>
</tr>
<tr>
<td>Lithuania</td>
<td>91%</td>
<td>40%</td>
<td>45%</td>
<td>60%</td>
<td>83%</td>
<td>64%</td>
<td></td>
</tr>
</tbody>
</table>


The countries also differ the degree of electoral volatility. In an extensive study of Baltic governments, Auers argues that the Estonian system has shown high levels of party stability, with similar levels of intra-system volatility to many Western European states, while the Lithuanian and Latvian systems are “unpredictably volatile.”\textsuperscript{284} Electoral volatility is a useful indicator of party system stability as it represents the percentage of votes switching from one party to another at different election cycles (often referred to as the Pedersen Index). There are two types of electoral volatility: Extra-system volatility refers to votes captured by parties either entering or exiting the party system, while intra-system volatility captures votes switching among established parties between elections.

\textsuperscript{283} Lewis (2006) pg. 574; In this measure Estonia actually shows some similarities to Slovenia, which also has had numerous smaller parties existing over numerous elections. See also Saarts (2011)

\textsuperscript{284} Auers (2015), pg. 95
According to Powell and Tucker, extra-system volatility is far more likely to be connected to party system instability, while intra-system volatility is a “...healthy component of representative democracy” by “[reallocating] power between political actors that are already, by and large, a relevant part of the political process.”

Table 4.4 - Extra-System Electoral Volatility

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>1st</th>
<th>2nd</th>
<th>3rd</th>
<th>4th</th>
<th>Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>20.8</td>
<td>16.4</td>
<td>3.6</td>
<td>&lt;1</td>
<td>10.5</td>
</tr>
<tr>
<td>Latvia</td>
<td>17.4</td>
<td>19.5</td>
<td>23.3</td>
<td>10.4</td>
<td>17.7</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2.9</td>
<td>10.8</td>
<td>59.3</td>
<td>16.1</td>
<td>22.3</td>
</tr>
</tbody>
</table>

* Source: Cabada, Hloušek, and Jurek (2014), pg. 120, as well as authors calculations for row averages

A closer examination of Table 4.4 reveals that in the last four election cycles Estonia has been moving towards significantly less extra-system volatility. In other words, the main parties can be increasingly confident they will survive through to the next election, and that the system provides less room for challenger parties emerge. In the 2011 Estonian election, for example, no new parties crossed the electoral threshold of 5%, while in the most recent Latvian election, over a quarter of votes were taken by parties that had not existed before, rising to almost 50% in the previous contest. In both Latvia and Lithuania, the last several election cycles have witnessed significant shifts in electoral volatility, highlighting the more tenuous hold existing parties have on seats within national legislatures.

Deconstructing these findings in more detail, table 4.5 documents the number of new parties winning elections (NP) as well also listing those entering governing

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286 Auers, pg. 96.
coalitions after winning their first election (NPG). One of the main observations from this table is that through multiple election cycles, Estonia has consistently seen fewer cases of new parties winning seats in founding elections, and has only seen one occurrence of a new party winning office and then entering the coalition government. This occurred during the 2003 election when *Res Publica*, a party founded on improving trust in political parties, and increasing grassroots involvement between elected officials and elected officials. In the subsequent elections between 2007 and 2015, the market-oriented Reform Party has led coalition governments with various coalition partners, including the Social Democrats and the conservative *Pro Patria Res Publica* (this party being a merged successor party to *Res Publica*). The 2015 Estonian election did witness the emergence of two new parties winning, including the centric Freedom Party and conservative EKRE, though neither of these joined the coalition.

<table>
<thead>
<tr>
<th>Election Cycle</th>
<th>NP</th>
<th>NPG</th>
<th>NP</th>
<th>NPG</th>
<th>NP</th>
<th>NPG</th>
<th>NP</th>
<th>NPG</th>
<th>NP</th>
<th>NPG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Latvia</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Lithuania</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|----------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|---------|

In Latvia and Lithuania, by comparison, there are many examples of new parties entering the system, and often, joining coalition governments as well. In Latvia, during the 1998 election, three new parties, the New Party, the Social Democratic Union, and the People’s Party, all passed the 5% threshold. All of these parties also served in the coalition government at various points between 1998 and 2002. A similar pattern appears

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287 The first three post-independence elections are excluded from analysis, given that it can take several election cycles for any new democracy to show signs of stabilization.


289 The 2015 Estonian election will be discussed in more detail in chapter 7.
over the next several elections, with three new parties joining the coalition government following the 2002 election, while the 2010 vote saw two new parties win office and immediately enter the governing Unity-led government. In 2011, a new party (Zatler’s Reform Party) founded by the outgoing Latvian President, did exceptionally well and secured the second largest number of seats in the poll, and immediately joined the new coalition government. In a demonstration of the instability within the Latvian system, the party did not survive beyond the 2014 election, and is not currently represented in the Latvian Saeima. The most recent election, in 2014, witnessed two new parties emerging, though neither joined the governing coalition. Throughout the observed period, Latvian coalitions have also included significantly more parties than their Estonian counterparts, averaging between three to five parties, while Estonian cabinets have usually have ranged between two to three parties.

Lithuania has also witnessed a larger degree of new party entry into the system. In the 2004 election, three new parties emerged, which together won almost 50% of the popular vote in the PR contests. The largest of the new entrants, the Labour Party, joined the coalition with the Social Democrats and three other parties, while in the 2008 election three more new entrants emerged, two of which joined the governing coalition led by Homeland Union. More recently, during the 2012 election, one more new party emerged, Way of Courage, although it did not join the coalition government. Lithuanian cabinets in

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290 The Civic Union and the Society for Other Politics, the two new parties in the 2010 election were formally aligned, though officially independent of the Unity Party ahead of the election. Unity was the senior coalition partner during the 2006-2010 government.
291 For a complete account of Baltic elections and major political parties, see Allan Sikk (2014), Elections in the Baltic States, 1992-2014. Available at: http://www.homepages.ucl.ac.uk/~tjmsasi/
recent years have included between two to five parties, with the last three governments including at least four parties, more than has been observed in Estonia.\textsuperscript{292}

In summary, despite sharing many similarities in formal rules, inter-party interactions in Estonia, Latvia and Lithuania operate differently. The Estonian party system is, on balance, characterized by fewer parties, smaller governing coalitions, and has witnessed fewer occurrences of new parties winning office and immediately joining coalition governments. Lithuania and Latvia, by contrast, are characterized by greater party system instability, evinced in larger governing coalitions, a larger number of parties as well as greater frequency of new party entry. Both countries have also seen more occurrences of new parties joining governments on their first victory.

Recalling Kitschelt and O’Dwyer’s earlier findings, predominant cleavages, as well as the types of issues discussed over repeated elections, can influence overall system stability. While the specific development of each national party system will be addressed in greater detail in the country chapters, a few broad observations can be noted at this point. Table 4.6 highlights the main cleavages prevalent in each of the three Baltic party systems (and adds to the earlier findings from Table 3.1). As noted in the table, only Estonia at present has a clearly dominant socioeconomic cleavage. While secondary issue cleavages remain important, primarily through ethnicity and longstanding disagreements about former communist legacies, the last two elections, in 2011 and 2015 were fought primarily over the state of the economy generally, taxation, and wages.\textsuperscript{293}

\textsuperscript{292} Sikk (2014)

\textsuperscript{293} Interviews no. 40, 41, 42, 43; In addition, as Auers notes, the ethnicity cleavage in Estonia is somewhat moderated by the fact that the Centre Party, the faction which traditionally receives the largest share of
In Latvia, the socioeconomic cleavage is mediated by citizenship and nationalism axes, primarily manifest in the division between native Latvian and Russian-speakers. In Lithuania the ethnic cleavage is much less salient, a product of the country’s much smaller Russian-speaking population. Rather, the main issues of disagreement appears to be ideological (the communist-anti communist divide), religiosity, as well as significant urban versus rural disagreement. While these findings only represent aggregated cleavages, (which do shift over time) they nonetheless highlight the fact that, when comparing Baltic systems, there is greater variation in cleavage structures, and more precisely the relative weight and importance of each cleavage, than in formal rules.

Table 4.6. Principal Cleavage Differences

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<thead>
<tr>
<th>Dominant Axes of Competition</th>
<th>Estonia</th>
<th>Latvia</th>
<th>Lithuania</th>
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<tbody>
<tr>
<td>Socioeconomic</td>
<td></td>
<td>Socioeconomic, Regime, Religiosity</td>
<td>Socioeconomic, Regime, Religiosity</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Secondary Axes of Competition</th>
<th>Estonia</th>
<th>Latvia</th>
<th>Lithuania</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ethnicity, Regime, Traditional values v. Nordic/EU values</td>
<td>Urban v Rural, Religiosity, Traditional values v. EU values</td>
<td>Urban v Rural, Traditional values v. EU values</td>
<td></td>
</tr>
</tbody>
</table>

Sources: Authors research, Auers (2015); Cabada et al, pp: 95-97; Enyedi and Bertoa, pp: 124-5; Lewis (2006); Mole (2012), pp: 100-103; Rohrschneider and Whitefield (2008)

In Latvia, the socioeconomic cleavage is mediated by citizenship and nationalism axes, primarily manifest in the division between native Latvian and Russian-speakers. In Lithuania the ethnic cleavage is much less salient, a product of the country’s much smaller Russian-speaking population. Rather, the main issues of disagreement appears to be ideological (the communist-anti communist divide), religiosity, as well as significant urban versus rural disagreement. While these findings only represent aggregated cleavages, (which do shift over time) they nonetheless highlight the fact that, when comparing Baltic systems, there is greater variation in cleavage structures, and more precisely the relative weight and importance of each cleavage, than in formal rules.

Russian speaking votes, has been led by Edgar Savisaar, a native Estonian, for most of its existence (Auers, pp. 109-110).

Interviews with the author suggest the salience of the citizenship issue has increased following Russian intervention in Ukraine.

Cabada, et al. pp: 95-6; Tõnis Saarts (2012), “Comparative Party System Analysis in Central and Eastern Europe: the Case of the Baltic States,” Studies of Transition States and Societies, 3(3); pg. 10

The identification of major cleavages is admittedly a subjective analysis, particularly in assigning the relative weight of one cleavage over another. Perhaps as a consequence of the challenge of ranking issue cleavages, the literature on Baltic party systems has not reached a consensus the predominant cleavages in each country. There is little disagreement with O’Dwyer’s (2012) view that ethnicity is a significant issue cleavage in Latvia. Where there is larger disagreement, however, is in whether the socioeconomic cleavage is the predominant axis of competition in Estonia. Rohrschendier and Whitefield, as well as Cabada et al, suggest it is one of the main sites of contestation, while Saarts argues that ethnicity is almost as important in Estonia as it is in Latvia, although in both countries it is “effectively inter-linked with communist-anti-communist” disagreements.
These cleavage structures may also help explain why Latvia and Lithuania are prone to greater system instability than Estonia, and by extension, have struggled to converge with EU pro-LGBT norms. This is centrally for two reasons. First, in Latvian and Lithuanian politics, the presence of visible religious, nationalist or ethnic cleavages may make anti-LGBT policies more appealing issues for office-seekers to pursue, as it is likely to resonate with voters (as opposed to those interested strictly in socioeconomic issues). Second, as noted in the literature previously, the reliance on emotionally laden or charismatic sociocultural appeals is thought to limit party system development, as parties do not develop comprehensive linkages or memberships with the electorate. Party systems driven by sociocultural appeals that are facilitated by a non-economic cleavage structures may aid system instability, and, anti-gay politics.

Having reviewed the broad contours of the party systems of Estonia, Latvia and Lithuania, the following country chapters will chart out the linkage between overall system stability and the extent to which convergence with EU policies on LGBT persons is possible. Centrally, it will be argued that the more institutionalized system in Estonia has limited the “range of governing options” and policies considered acceptable for a sufficient majority of policy makers; particularly those that might otherwise challenge EU-norms, such as restricting LGBT rights. In contrast, the more fluid and polarized systems in Latvia and Lithuania remain prone to anti-system candidates, political outsiders, and multiple, often emotionally laden issue issue-cleavages resulting in a less regulated or coherent set of boundaries for what is considered acceptable policies by political actors. In this process, resistance to LGBT rights become intermixed among a range of morality issues discussed within the party system, whether it be citizenship
issues, demographic concerns, or the country’s fate in the EU. Reaching compromise on LGBT issues, or of advancing pro-LGBT policies congruent with EU norms, thus becomes a far more difficult and risky task for elected officials.
Chapter 5
Latvia

Introduction

A visitor to Riga cannot but be struck by the beauty of the old town. Narrow cobble stone streets punctuated by the towering church spires of the Rigas Doms and secluded courtyards populate the urban core where groups of young Latvians, wealthy Russian tourists, and the odd Westerner cross paths. A large park directly north of the old town is the site of the country’s famed and starkly beautiful Freedom Monument. Here, memories of Latvia’s long occupation under Soviet rule are clearly on display. Flanked by Latvian flags and a permanent honour guard, a large female figure at the top can be seen holding three stars each representing different historic regions of Latvia, and symbolizing national unity. During the Soviet period, the monument and surrounding area were off limits to the public, viewed by Soviet authorities as a site of potentially fervent protests. Anyone attempting to climb the statue risked immediate arrest. These days the square feels similar to many public squares in Europe, though it does serve as a reminder that Latvia’s recent past has not been forgotten.

Riga, without question, feels European. EU flags are widely on display, and upon assuming the rotating European Council Presidency in 2015, combined with latent concerns about the ongoing conflict in Ukraine spilling over to other regions, the commitment of the Latvian government to the EU appears more solid than ever. Yet, one area where Riga, and Latvia more broadly, differs from many European states is in its deeply held conservative views towards gay and lesbian persons. The country gained

297 Waitt, pg. 166.
298 In April 2014 while being guided by a local expert, the researcher visited one of Riga’s main LGBT bars. Unlike many other European capitals, the bar was invisible from the road, and one was required to
notoriety for being the last to in the EU to implement the European Council’s directive to include anti-discrimination protections on the basis of sexual orientation. This change only occurred at the insistence of the President at the time, Vaira Vīķe-Freiberga, as the Saeima (Latvian Parliament) had shown great reluctance to include any provisions to protect LGBT persons. The country also was the first in the EU to explicitly ban same-sex marriage in its civil code. 

Pride celebrations have also been marked by controversy. The country’s first Pride parade, held in 2005, was marred by violence, and the Prime Minister at the time suggested it was “inappropriate” for Riga host such events. The parade was banned outright in 2006, and though no longer banned, remains controversial. More recently, a group called ‘Protect Our Children’ was authorized by the Latvian Election Commission to collect signatures for two petitions; one would prohibit the positive dissemination of LGBT relationships or marriage in schools, while a second would “make it illegal for children to march in, watch, or stand by ‘events aimed at publicizing and promoting same-sex marriage and sexual relations.” ILGA suggests both of these amendments are aimed squarely at Pride marches, and were attempts to prevent EuroPride from taking place in June 2015. Antiglobālisti, an anti-LGBT group, has also sought to challenge travel through a series of darkened hallways, past security, before actually entering the bar and dance floor. To a Canadian, the mood of the bar seemed straight of the 1980s, with dated Madonna posters and an atmosphere akin to a bowling alley. There were only a few patrons around, many of whom were young, and several seemed frightened. Anecdotal reports suggested that patrons were routinely heckled or harassed, sometimes physically, on their exit from the bar, while police did little to intervene.

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299 The committee responsible for overseeing the implementation of the directive rejected three attempts to include sexual orientation within Latvia’s Labour laws, before succumbing to external pressure. (O’Dwyer and Schwartz, pg. 226)
300 Mole (2011), pg. 541.
303 ILGA-Europe, 2014 Annual Report; pg. 101
Europride, by organizing a parallel event focused on combatting non-traditional values.\textsuperscript{304}

In a sharp contrast to the Estonian President, Andris Bērzinš, the sitting Latvian President has shown particular disdain for LGBT causes, suggesting in an interview that homosexuality “is a road to nowhere” and should not be “advertised or imposed.”\textsuperscript{305}

Given this environment, this chapter seeks to delve more deeply into why it has been so difficult to legislate on LGBT rights in Latvia, particularly in comparison to its neighbor directly to the North. While widespread conservative values no doubt make it more difficult to strengthen LGBT rights, such values are also found in Estonia. Rather, it will be argued that the high degree of instability within Latvian politics, and its party system more specifically, greatly exacerbate the challenge on converging with EU pro-LGBT norms. In particular, the party system has challenged LGBT rights development in three interrelated ways. First, Latvia’s highly volatile party system has created an environment with numerous and frequently shifting political actors, as well as ideologically ambiguous coalition governments. This context leaves little room, and has made it electorally risky, for domestic elites to push for adopting legislation supported by the EU that is otherwise unpopular within the Latvian electorate. Secondly, the volatile electoral market has made it exceedingly difficult for political leaders who are personally supportive of LGBT rights to take an active role on the topic, and similarly, made pursuing anti-LGBT politics a far easier strategy. Lastly, the ongoing and unresolved


\textsuperscript{305} The Latvian President, Andris Berzins, was responding to questions about the upcoming Latvian Council Presidency, and the attention focused on the Europride taking place in Riga. In response to his comments, Mozaika, the main LGBT advocacy group in Latvia launched a social media campaign using the Twitter hashtag #BerzinsForHumaRights to draw attention to his comments. Mozaika has also urged supporters to attend EuroPride in defiance of local resistance. For Mozaika’s press release see: http://mozaika.lv/mozaikas-reply-to-latvian-president/
nature of the ethnicity and national identity concerns within Latvian politics has resulted in sociocultural matters, and issues of morality more generally, remaining major topics of contestation and debate. It is also prevented the emergence of traditional social democratic parties who might otherwise support gay rights.

The following sections of this chapter will chart why the instability of the Latvian party system has elevated the difficulty of converging with EU norms in the realm of LGBT rights. First, however, this analysis will briefly explore the history of LGBT rights in Latvia and review some of the competing explanations for why homophobia has been a common feature in Latvia in recent years. Throughout the chapter, evidence from fieldwork and interviews will be presented to corroborate that the party system configuration in Latvia has been particularly inhospitable for LGBT rights, and that this creates a structural hurdle in front of any actors supporting such rights.

**History of LGBT Rights in Latvia**

One of the defining features of LGBT issues and awareness in Latvia is its profound invisibility until very recently. As in the other Baltic countries, homosexuality was criminalized while Latvia was formally part of the Soviet Union. Stalin’s rise to power in the USSR led to the re-criminalization of homosexuality in 1934, after it had earlier been legalized in 1917 during the Bolshevik Revolution.  

During Stalin’s rule, homosexuality was viewed as a “bourgeois aberration,” while same-sex relations were criticized given their inability to naturally “…produce new citizens for the Soviet state.” Beyond outright criminalization, the rigid conformism present with Soviet ideology left

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307 *ibid.*, pg. 35
little room for distinct social groups or identities, nor distinct individual rights.\textsuperscript{308} For homosexuals, this forced LGBT activism underground, and there was little in the way of a gay community. The ideologically-charged environment during the Soviet era led to what Rotkirch describes as a “generation of silenced sexuality.” Though topics on sexuality surfaced in public discourse in the 1980s, particularly after Gorbachev became leader of the CPSU, it was not until the 1990s that more developed public awareness and discussions on sexuality became common in Russia. Latvia, however, did not experience a similar internal debate on homosexuality until far later. When Latvia was forced to address LGBT rights, it was prompted not by internal pressures, but rather by international obligations in the form of needing to align its anti-discrimination protections with EU standards. That the catalyst of public discussion on LGBT rights emerged from outside the country had unique consequences, particularly as it allowed political figures to latch on to the idea that rights for gay and lesbian were a distinctly foreign idea, and without precedent in Latvia. Public discussion, where it did occur, was often “…anchored in the silenced sexual practice” era of the past, where most knew little about the topic, other than it was illegal historically.\textsuperscript{309}

In one of the few ethnographic studies of the lives of LGBT Latvians, Ruduša concludes that there have been very few substantive changes in the social context for LGBT persons since Latvia regained independence. She argues that past criminalization as well as the knowledge of Soviet-era psychiatry that pathologized same-sex behaviour have not been sufficiently challenged by alternate views or knowledge.\textsuperscript{310} These legacies,

\textsuperscript{308} ibid., 34
\textsuperscript{309} Putnina, pg. 320
she argues, have left “deep imprints” in society. Henriksson adds that despite homosexual acts being decriminalized “the Latvian LGBT community remains to a certain extent an underground subculture.” One respondent expanded on this sentiment by arguing that gay rights fell into the “private sphere” along with other contentious topics, such as the prevalence of domestic violence, which are not suitable for substantive public discussion. Lingering “Soviet legacies,” she suggested, are principally responsible for this.

Other than the decision to de-criminalize homosexuality in 1993, there have also been few changes in public policies or laws affecting LGBT persons, nor have LGBT issues featured prominently in public discourse in the decade after independence. One notable exception occurred in 1999 during a court case which linked homosexuality to paedophilia, while an essay-writing competition focused on the evils of homosexuality received significant media attention – in part because it included contributions from the head of the Catholic Church in Latvia as well as several MPs.

The environment of limited knowledge or discussion of homosexuality shifted dramatically after the first Pride march took place in Riga in 2005. As a leader of Mozaika explained, the parade in Riga raised a direct challenge to those who believed that Latvian homosexuals did not exist, and that same-sex behaviour was limited to “foreign immigrants living in Riga.” Whereas there may have been at most 100 participants in the march, over 500 protested the event, uniting previously disparate

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311 Ibid.
312 Ibid.
313 Interview no. 10
314 Waitt, pg. 168
315 Putnina, pg. 317.
316 Ibid., Interview nos: 10, 12, 23
317 Interview no. 10
groups in Latvian society, including nationalist, religious, and individuals spanning the
Russian-Latvian linguistic divide. The protests also catalyzed significant backlash from
elected officials, and began a larger process of “mainstreaming” homophobia into
national political discourse. Only one year after the pride parade, Latvia became the
first country in the EU to pass a constitutional amendment banning same-sex marriage,
and has since remained an outlier on LGBT rights. Moreover, the country has not passed
any substantive legislation on LGBT rights since the required Council employment
directive, and homophobic discourse remains a common reality from elected officials.
Some of the plausible reasons why LGBT rights have been so challenging for Latvia are
reviewed in greater detail below.

**Latvian Resistance to LGBT Rights**

There are several, local factors that might help shed light on why homosexuality
has remained such a contentious political issue in Latvia. One prominent explanation is
religiosity. As Mole observes, the major denominations present in Latvia, namely the
Catholic, Orthodox, and Lutheran churches have distanced themselves from
homosexuality in varying degrees. The Lutheran church, which is quite progressive in
Scandinavia, and has even performed same-sex marriages, joined with its Catholic and
Orthodox counterparts in signing an open letter comparing homosexuality to
“...kleptomania, vampires, alcoholics and drug addicts.”

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319 *ibid.* 3
321 Mole (2011), pg. 543.
Yet, as outlined in the introductory chapter, the relationship between religiosity and views towards homosexuality is not clear. Referencing Moore and Vanneman, Saunders et al correctly note that religious authorities play an important role in shaping public debate on morality issues, as they can “...spread their messages through major institutional vehicles like media, education, and politics.” The influence of religious authorities is strengthened when large percentages of the electorate regularly attend church and take in religious messaging on homosexuality directly. A higher degree of church attenders also creates the possibility for greater interaction between religious and non-devout persons, creating opportunities for the dissemination of anti-LGBT views beyond religious circles.

On closer examination, religion does not appear to be a decisive factor in Latvia. While religious authorities in Latvia have certainly been clear in their opposition to homosexuality, it is not obvious to what extent this is disseminated into the electorate. Only 7% of Latvians attend church services regularly, so political speeches from the podium are heard by few people. What’s more, a larger comparative study by Oppenheimer et al found that while more religious countries in the EU correlate with negative or more conservative views towards homosexuality, Latvia stands out as notable outlier, scoring low on religiosity and tolerance of LGBT rights.

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323 Slenders Sieben & Verbakel, pg. 352
324 Religious pressure to limit rights for LGBT persons does not emerge strictly from pro-Russian or Catholic organizations. Indeed, a respondent speaking with the researcher argued that American evangelical groups have also been active in the country. (Interview no. 37)
325 Mole (2011) pg. 544
Interviews with Latvian elected officials as well as civil society representatives respondents also downplay the significance of religion as an explanatory factor. When asked \textit{why} public opinion data shows Latvians so resistant to LGBT rights, many suggested it was actually a product of Latvia’s post-Soviet mentalities. This mentality, it was suggested, is one of “issue-avoidance” whereby people simply ignore challenges to tradition. One respondent summed it up cogently as a form of “paralysis” and an “excuse.”\textsuperscript{327} The conservatism found among the electorate is potentially aided by the intense focus on family-issues emanating from the Kremlin-controlled Russian-language media. “Moscow is taking the family issue very seriously these days,” the respondent continued.\textsuperscript{328}

Issue avoidance can be a motivation, but it is hard to prove as it involves establishing why something does not occur rather than why it does. More importantly, all Baltic States experienced both Soviet domination (and Soviet homophobia), and there is no obvious reason why Latvia would be affected by a post-Soviet proclivity for issue avoidance but Estonia would not.

Another further explanation cites a lack of public interest in supporting LGBT rights. One respondent explained that many would be more amendable to talk about LGBT rights once their own economic wellbeing had been secured.\textsuperscript{329} As outlined in the introductory chapter, large-N studies have flagged economic development as a factor leading to more tolerant views towards homosexuality. In part, this is because as societies become wealthier, they tend to move away from “survival” attitudes that reject non-traditional identities. Latvia experienced significant economic growth in the years

\textsuperscript{327} Interview no. 37
\textsuperscript{328} \textit{ibid.}
\textsuperscript{329} Interview no. 23; 37
immediately after joining the EU, while the Baltic States together had the highest growth in GDP in the EU for several years, leading to the term “Baltic Tigers” being used to describe their performance. Large inflows of foreign investment and inexpensive credit helped fuel economic growth. However, this growth was bracketed by severe economic downturns during both the initial transitions to communism, and in the aftermath of the 2008-2009 Global Financial Crisis. In the initial transition to democracy and capitalism, total economic output in each Baltic state declined by as much as 50% as Baltic economics were hit by losing access to markets in the former Soviet Union, while concurrently facing intense competition from Western markets, whose consumer goods especially were often superior. During the more recent global economic crisis, Latvia was the hardest hit of the Baltic States. Auers notes that Latvia suffered from “…the biggest fall in GDP of any industrialized state since the US great depression in the 1930s.”

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<td>-0.03</td>
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<td>5</td>
<td>4.2</td>
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Certainly, periods of economic distress could challenge attitudes towards LGBT rights. However, the period where homophobia first emerged as a political reality in Latvia began after the emergence of the Lativan First Party (LPP) in 2002, and the Pride parade in 2005, during which time the country was experiencing significant economic growth.

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330 Auers, pg. 159, although Auers does not that much of the foreign investment entering the Baltic states was tailored to “low-wage relocation sites” for West European producers, rather than fostering a high-skilled services oriented economy (ibid., 171)
331 *ibid.*, pg. 155
332 *ibid.*, 158.
333 Ibid., 159.
growth (as outlined in Table 5.1). Between 2005 and 2007, the period in which Latvia amended its constitutional to prevent same-sex marriages, overlaps with the timeframe when the economy was growing 10% or above each year. This implies that economic challenges alone cannot persuasively explain the initial onset of negative views, particularly from elites, towards homosexuality.

Where the economy may be a more powerful factor is in explaining political indifference to LGBT rights. After the 2008-2009 financial crisis, the Latvian economy recovered somewhat in 2011 and 2012, growing at 5.3% and 4.2% respectively, but in the last two years has seen growth below 3%. Low growth rates certainly has contributed to a belief that LGBT rights are not a priority for many. When asked to sum up public opinion on the matter, an elected official argued that many Latvians would say that LGBT rights are “their 11th or 12th priority.” What matters far more is jobs and improved economic wellbeing.334

Another factor in Latvia, and common to the Baltic region, is the explanation that LGBT rights are a demographic threat to the nation.335 Binnie, for example, writes that homosexuality is often viewed as an existential threat to national continuity, with homosexuality perceived as a behavior imposed from abroad, and without local precedent or history.336 Viewed on the Latvian case, this argument can be translated as acceptance of homosexuality and pro-LGBT legislation being forcibly imposed by the EU and other Western organizations. This mandated acceptance of non-traditional sexualities, in turn, threatens the continuity of the Latvian nation, given the low birth rates of titular Latvian speakers combined with the presence of a large Russian-speaking minority, as well as,
increasingly, an unstable geopolitical environment. From an empirical point of view, concerns about demography are not unwarranted, as the country's population rate has been negative since the 1990s, having lost over 200,000 people between 2005 and 2015. Given that gay and lesbian couples must go through many additional and often arduous steps to have children, it is plausible that people draw a correlation between greater tolerance of LGBT lifestyles and lower birthrates (though, if that were truly the concern, they should support sperm banks for lesbians).

An important catalyst for demographic fears is the palpable discomfort about the fate of Latvia’s sizeable Russian speaking minority. It is currently the largest of the Baltic states, reaching 48% of the total population at the end of the Soviet period, and currently closer to 26%. This ‘discomfort’ has helped facilitate highly exclusionary citizenship and language policies. Like Estonia, since regaining independence Latvia has struggled to develop citizenship policies for native-Russian speakers, the majority of whom immigrated during the Soviet period. Successive Latvian governments have passed exclusionary citizenship laws, and introduced restrictions of the use of the Russian language in public life. This has drawn substantial criticism from Moscow, fearing that the Latvian state was persecuting minority populations. Finally, some segments also express concern about the allegiance of native Russian speakers to the Latvian state itself.

338 David Galbreath (2003), “The Politics of European Integration and Minority Rights in Estonia and Latvia,” Perspectives on European Politics and Society, 4(1); pg. 36; By comparison the percentage of native-Russian speakers reached a high of 38.5% in Estonia
339 ibid., pg. 37
340 For those who could not prove ancestry in Latvia prior to the incorporating of Latvia into the USSR, the 1994 citizenship law required fluency in Latvian as well as successfully passing a Latvian history test. The law also provided a strict quota system that greatly limited the number of applicants and left many de facto stateless (Galbreath, 2003), pg. 44)
Yet, Latvia is not alone in having highly restrictive citizenship policies designed to counter perceived demographic challenges. Estonia has also been criticized for its own restrictive citizenship policies (see more in Chapter 7) that have left large segments of the country’s Russian-speaking minority without official citizenship. At a broader level, Howard has documented that many countries in Central and Eastern Europe have adopted highly restrictive citizenship policies, usually emerging from a widely shared need to protect small titular majorities in countries that have little experience with multiculturalism and have only recently regained independence.342

In sum, the varying influence of religious institutions, post-Soviet legacies, and concerns about demography and the continuity of a homogenous Latvian nation have created an environment where LGBT rights are likely to face significant headwinds. They are, however, to be found in all Baltic nations and cannot thus explain Latvian exceptionalism. Indeed, a common and repeated sentiment from respondents is that Latvian politicians have played an outsized role in facilitating negative views towards homosexuality, and, that Latvia’s reluctance to expand LGBT rights is more a product of political realities than social demands or other structural factors.

**The Latvian Party System & LGBT Rights**

Interviews with Latvian elected officials, civil society activists, as well as representatives of foreign missions in Riga document that elected officials and the Latvian Saeima more broadly have been inhospitable to advancing LGBT rights, and that this environment has consistently characterized the country’s politics since the 2005. Three factors in particular appear to have facilitated and led to the continuation of anti-gay politics in Latvia. The

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first of which is the overall instability of the system and the sheer number of different and often ideologically non-distinct parties.

As highlighted earlier, Latvia has consistently been ranked as having amongst the most volatile and unstable party systems in the EU. Numerous, short-lived parties have been a common characteristic of the system for many years. Writing in 2006, Pabriks and Štokenberga find that “…there are more than fifty registered political parties, almost half of which are, or have been, represented in the Saeima.” A high level of extra-system electoral volatility also points to the success of new parties entering the system. Many of these parties also enter government after their first election. Powell and Tucker observe that on average 34% of votes are taken by new parties entering the system, above Estonia, although less than Lithuania. Moreover, as highlighted in Table 4.5, a minimum of one new party has been elected at each election since 1998, with new political entities joining governing coalitions at the 1998, 2002, 2010, and 2011 elections. The emergence of so many new parties results in both a lack of political continuity, and a realistic fear among elected officials about their survival beyond the next election if they become targeted for holding views outside the political mainstream, such as progressive ones on LGBT rights.

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343 See, amongst others, Lewis (2007); Cabada et al (2013); Powell and Tucker (2013); Auers (2015), O’Dwyer (2013), Kuklys (2014); pg. 135
345 Powell and Tucker (2014)
346 See Table 4.5 on pg. 94; The formal rules of the system do appear to create some incentives for the formation of new political entities. Prior to 2012 Latvia did not provide any public funding for political parties, making them more reliant on private donations, and consequently, centering party development on a small elite. Bertoa and Spirova have argued that public funding of political parties is “critical” in aiding “…long-term party survival.” The availability of public funding helps shift party reliance away from large private donations and increases the need to develop durable, and larger, party memberships. In absence of state funding prior to 2012, however, Latvian parties have not actively pursued large party members, instead “…relying on corporate donations and expensive media advertising in elections.” (See Bertoa and Spirova, quoted in Auers, 2015, pg. 115)
Between elections, there is also a significant degree of volatility, with at least one major party either splitting into several smaller parties or reconsolidating into a new party.\(^{347}\) Indeed, “newness” is often the only institutional innovation offered by new party groupings, as many of their policy positions do not differ greatly from other parties.\(^{348}\) Latvian parties also have only limited linkages with the electorate, measured both through limited overall national party membership (at 0.74% of the total population, an EU low), as well as low levels of popular trust with parties themselves.\(^{349}\) This environment, characterized by many political entities, low levels of trust, and limited party membership appears to have facilitated a pattern of elite competition based intensely on individual party leaders, and their attempts to win votes from only a percentage of the electorate. As one respondent explained, Latvian parties rarely seek to win more than 10-15% of the total vote of either the Latvian or Russian speaking population.\(^{350}\)

Several respondents flagged the emergence of the Latvian First Party (LPP) as being instrumental in politicizing homophobia; that is, making it into an explicit political strategy.\(^{351}\) Founded prior to the 2001 election, the newly formed party, which counted many MP’s as priests, adopted a distinctly homophobic platform and used its reliance on homophobia as a strategy to win votes from both ethnic-Latvian and Russian speaking population.

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\(^{348}\) Allan Sikk (2014), “Newness as a winning formula for new political parties,” *Party Politics*, 18(4); 476; Patriks and Stokenberga pp: 60-1

\(^{349}\) Auers, pg. 114

\(^{350}\) Interview no. 10; see also Pabriks and Štokenberga, pg. 60

\(^{351}\) Interview no. 10
In its first electoral competition, in 2002, the party secured 9.6% of the vote, winning 10 seats and joining the coalition government in several ministries. In the years following their victory, and overlapping with the 2005 Riga Pride parade, homophobic rhetoric was again a common feature from the LPP. Mozaika, the main LGBT human rights organization in Latvia observed that:

...anti-LGBT rhetoric used by Latvian politicians employs a broad spectrum of arguments such as Christian values, moral values, family values, and nationalism. Homosexuality is cast as a disease, licentious, a foreign conspiracy or source of negative demographic development. Homophobic rhetoric was not limited to the LPP, and indeed filtered to many other parties at the time. A respondent summarized the situation by arguing that the LPP created an environment where “no reasonable politician could say anything neutral or positive about LGBT rights” and that they managed to create a “total vacuum” on the issue as other parties quickly moved to adopt similarly homophobic views. A few examples help illustrate the widespread nature of homophobic rhetoric. For example, Aigars Kalvitis, the Prime Minister from the ruling People’s Party at the time who suggested the Pride Parade should not take place. Other members of the Latvian Saeima were far more outspoken. For example, in 2005 the Minister of Children’s Affairs suggested efforts to protect LGBT persons amount to “...an

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353 Danish Institute for Human Rights (2009), *The social situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia*, Copenhagen, para: 48

354 Interview no. 47 Another described that time as a period of “hysteria (Interview no. 10)
anomaly [that] is being proclaimed as something normal.” While in 2006, another Latvian MP made a passionate defence against pride celebrations arguing that: “What shall we do? Let all these scoundrels, drug addicts, vermin and pederasts walk on the street while we hide in the bushes? No, we will go on the streets, because it is us who is right.” Shortly after the 2005 Pride event, the LPP was instrumental in pushing through an amendment to the Latvian constitution to ban gay marriage with a majority of support from Latvian MPs, despite the arguments of more senior government officials, including the Latvian President, that the law was not needed.

Recalling this period, an elected official from the current governing coalition explained that the LPP had purposefully used LGBT rights as a wedge issue, “...overstating” the perceived threat posed by the pride parade and gay people more generally. This environment, combined with the coalition potential of the LPP, scared other parties, including the governing People's Party, and made it “…very easy to turn to [bigotry].” In part, this decision may have been made to appeal to the widest electorate possible with relatively simple and easy to understand messaging. While the LPP did not survive beyond the 2010 election, there has been sustained reluctance to counteract the narrative that LGBT rights are a threat to Latvia from across the political spectrum. Part of the challenge for LGBT rights promotion is that successive governments have included numerous coalition partners, many of which identify as centre-right, increasing the

355 The social situation concerning homophobia and discrimination on the grounds of sexual orientation in Latvia, para. 48
357 Interview no. 22; “Xenophobia” in the original quotation
number of potential veto-points for pro-LGBT policies. As one respondent explained, in
the 2011 election, three parties mentioned LGBT rights in their platforms, including two
which entered government under the newly formed Unity Party. However, since winning
the election “…governing is very much a balancing act – they have 4 parties, and they
have to deal with the Russian Party, which is openly homophobic.  

For example, the
Ministry of Justice considered developing a partnership law in 2012, but the project was
shelved after the Ministry realized it would be necessary to open the law to same-sex
couples as well.  

Demonstrating this reality, one MP who did nevertheless choose to
amend an existing piece of legislation in committee stage to include same-sex
partnerships saw the proposal defeated 9-0.  

The importance of party political considerations was emphasized by an elected
official who told this researcher that a profound disjuncture existed between prevailing
private attitudes and behaviours, and the actual public attitudes of officials. The
respondent explained that “there is a high level of tolerance privately” within Latvian
society, with generally conservative public views but “liberal practices.” Many Latvians,
she continued, actually tolerate “all modes of life privately” but are deeply fearful of
“public ridicule,” whether that be in the media, or from public figures. By supporting
restrictive definitions of the family, many elected officials were actually promoting
“hypocrisy” given that “50% of marriages in the country end in divorce, and that

358 Interview no. 10
359 ibid.
360 Interview no. 37; After the defeat, the author of the amendment indicated that legislating on LGBT
issues is a problem that “would take a long time to fix.” The committee that considered the amendment
included representatives from both the Harmony and Unity Parties (the latter being the senior member of
the governing coalition). According to author of the law, the representative from the Harmony party argued
that the law would directly “challenge the societal foundations” of Latvia, while the other parties were
relatively quiet during the hearing, asking only technical questions.
children are born out of wedlock.”\textsuperscript{361} Another official from the Unity Party thought that many \textit{Saeima} members had been frightened, or at least cautioned, into supporting traditional definitions of the family, fearing “…far right backlash” should they choose to be vocal in their support of LGBT rights.\textsuperscript{362} These concerns are supported by findings from the FRA, which observed that homophobic rhetoric from \textit{Saeima} elected officials remains very high, and are the fourth most frequent in the EU.\textsuperscript{363} Given this background, adopting more accepting views on LGBT rights would be “…electoral suicide,” particularly in an environment that currently lacks any political leadership, and where future prospects of office are insecure.\textsuperscript{364}

The volatile and highly divided party system has also been effective at blocking the soft power influence of the EU, particularly over elected officials.\textsuperscript{365} One activist speaking with the researcher argued that the EU’s influence has remained low since the country joined the EU in 2004. He thought that the EU provides good directives, and ensured that the employment code was eventually changed to ensure explicit anti-discrimination protection for LGBT persons in employment during the accession process.\textsuperscript{366} Indirect EU pressure also appears to have ensured that Latvian officials provided the needed protection to allow Europride to take place in June 2015. However, beyond that, the EU little direct influence on the ground nor do EU agencies appear to

\textsuperscript{361} Interview no. 22
\textsuperscript{362} Interview no: 37
\textsuperscript{363} FRA report, pg. 83
\textsuperscript{364} Interview no: 37, 38, 46. A report published by the OSCE also highlights that the media has historically also been very hostile to LGBT persons. The report notes that while some media organizations have taken accommodating views to the LGBT community, editorial material is often very negative, with LGBT persons being labeled as “…a danger to the rest of society” or “…an undesirable phenomenon” or that “LGBT is a disease;” that it is necessary “[exclude] LGBT persons from the public sphere.” (OSCE Report, 2006, A.1.1.2)
\textsuperscript{365} Interview no. 10
\textsuperscript{366} Interview no. 12
directly lobby political figures to support particular policies. Moreover, the respondent continued, it was actually national embassies in Riga that play a more direct role, citing the US, Austrian, and British missions being particularly supportive of the local LGBT community.\textsuperscript{367} However, many of these missions lack the resources to directly lobby individual Latvian MPs to consider more progressive policies.\textsuperscript{368}

More broadly, the instability within the Latvian party system appears to have facilitated a conscious choice among many Latvian MPs to adopt a view that LGBT rights are simply too controversial to support, and could hurt them at future electoral contests. This environment underscores the second, and largely related factor of the Latvian party system, namely that the current environment has precluded any major political actors from taking a highly public and sustained pro-LGBT stance. A common theme from numerous interviews was that the government was currently doing very little on the topic. One activist bluntly explained that “…basically, nothing is going on,” while another suggested LGBT rights was a complex problem that needed consistent political leadership and would take a long time to fix, and a problem unlikely to be resolved in the current parliament.\textsuperscript{369} A Western Ambassador in Riga similarly observed that his office had been unable “to identify any minister being a champion for LGBT rights.”\textsuperscript{370}

The lack of any sustained leadership on LGBT rights is unexpected for two reasons. For one, unlike Estonia, since the 2005 Pride Festival, there has been a well developed and organized local LGBT community which has made numerous attempts to

\textsuperscript{367} ibid.
\textsuperscript{368} Interview no. 21
\textsuperscript{369} Interview no. 47
\textsuperscript{370} Interview no. 46
reach out to political parties and factions.\textsuperscript{371} Their activism and awareness-raising campaigns on the situation of LGBT persons in Latvia more generally has resulted in significant international attention, both within the EU, and in North America. This activism recently culminated in the hosting of the 2015 Europride festival, which saw over 5,000 people march throughout central Riga. The parade included representatives from many foreign missions, civil society activists, as well as major LGBT celebrities, such as Steve Grand.\textsuperscript{372} While the state succeeded in providing appropriate security and police protection for the event, the Latvian government did not support the event, nor did any high-level government officials participate. This led Amnesty International to accuse Latvian officials of “turning their backs” on the festival, a sentiment echoed by Mozaika.\textsuperscript{373}

Secondly, the 2014 announcement by Edgars Rinkēvičs (the well-respected Latvian Foreign Minister) acknowledging that he was gay via Twitter led some to believe that Latvian parliamentarians would become more receptive to LGBT rights. Indeed, Rinkēvičs’s statement received widespread support from EU officials and foreign missions in Latvia who applauded his decision – with many arguing his decision could serve as a role model for others. Following his announcement, Laimdota Straujuma, the incumbent Prime Minister, suggested it would likely become necessary to adopt some form of

\textsuperscript{371} Interview. No. 12
\textsuperscript{372} Steve Grand is an American singer-songwriter whose song “All American Boy” gained him a great deal of media attention and support in the United States. For the video, please see: https://www.youtube.com/watch?v=pijiyjiYcwNyY. His trip was sponsored by the US Embassy in Riga.
partnership legislation in the future.\textsuperscript{374} A major fire at a Riga supermarket in late 2013 that killed 50 also drew attention to the large number of widowed unmarried heterosexual couples who could not claim spousal benefits, leading to calls for legal changes to provide state recognition for all unmarried couples.\textsuperscript{375} However, in the months since the Foreign Minister’s statement, there have been no observable concrete shifts on LGBT rights within governing circles (other than the ill-fated attempt at partnership legislation). One Ambassador to Latvia observed that “...it is pretty fair to say that [his] coming out has not been followed up by a prominent role with the LGBT rights,” and that it seems that he is “not wanting to be seen” as being too involved in LGBT issues.\textsuperscript{376}

Elsewhere, the speaker of the Saeima was said to have “froze” when asked about LGBT rights by a senior diplomat, while the Justice ministry is known to remain very resistant to discussing sexual and gender minority issues.\textsuperscript{377} In the days before Europride, the Saeima amended the Education Act by introducing “constitutional morality education” Act that will, amongst other things, prohibit teaching about non-traditional relationships within Latvian schools.\textsuperscript{378}

A third, and related feature of the Latvian politics that has limited the uptake of pro-LGBT norms rests with the ongoing salience of ethnicity and nationalist issues, which has aided the continued relevance of morality and values debates within Latvian politics. As Kažoka writes, Latvia is unique among the EU states in that “…the principle

\textsuperscript{374} Please see, http://www.kasjauns.lv/lv/zinas/170271/straujuma-latvija-juridiski-nav-atrisinats-jautajums-par-partnerattiecibam: An Estonian official speaking with the researcher also mentioned that Latvian counterparts had been in touch with them to learn more about their legislation.


\textsuperscript{376} Interview no: 46

\textsuperscript{377} Interview no: 46, 47

political cleavage among political parties is not distributional (economic), but rather is ethnic.\textsuperscript{379} A central concern among majority Latvian speakers relates to the continuity of the Latvian nation, as well as the allegiance and integration of the Russian speaking community, while for native-Russian speakers, many have felt discriminated against, particularly through onerous citizenship and language laws.\textsuperscript{380} This environment has weakened the development of programmatic socioeconomic party competition, as some leaders have turned to debates on morality or defending the Latvian nation. The recent and hotly-contested referendum on the use of the Russian language is an example of the prominence of ethnic concerns in Latvian politics.\textsuperscript{381}

This cleavage, moreover, has been continually reproduced within the party system, as “Latvian” and “Russian” parties have largely competed amongst themselves, even if ideologically “…they are not very clearly differentiated.”\textsuperscript{382} Avowedly ethnic appeals are striking common, and are often designed to “distract” from other pressing issues.\textsuperscript{383} As Schwartz explains:

\begin{itemize}
\item \textsuperscript{379} Kažoka, pg. 81
\item \textsuperscript{380} More recently, events in Crimea and Eastern Ukraine have raised additional concerns about the security of the Latvian nation, and raised questions about the commitment of the Russian-speaking community to Latvia itself.
\item \textsuperscript{381} See The Economist, “Latvia’s Referendum: What’s my language?” February 14 2012, available online at: \url{http://www.economist.com/blogs/easternapproaches/2012/02/latvias-referendum}
\item \textsuperscript{382} ibid., pg. 84
\item \textsuperscript{383} A brief scan of the key issues of contestation highlight the centrality of morality issues in Latvian politics. In the 2002 election, for example, a major campaign issue focused on the necessity of Latvia’s accession to the EU & NATO, with the leader of one party representing Russian speakers, \textit{For Human Rights in a United Latvia}, raising significant controversy by meeting with Russian President Putin two weeks prior to voting day. The party also expressed doubts on “the necessity” of joining NATO, although it did agree with the benefits of joining the EU (Davies and Ozolines, pg. 837). The 2006 election witnessed controversy over language rights and the role of religion in politics, while the 2010 election involved significant debates on extent to which Latvia should “strengthen economic and political ties with its eastern neighbours, including Russia.” In response to this debate, Unity, the largest of the ethnic-Latvian parties reverted to a campaign revolving around “…The Russians are coming,” designed to “…divert attention from the difficult economic situation and the government’s draconian budget cuts.” (Bloom, pg. 380)
\end{itemize}
Latvia’s political parties are rigidly polarized on ethnic lines, heavily controlled by powerful economic interests, weakly rooted in society, and deeply mistrusted by most citizens. Seeking to boost their weak ratings, office-seekers, often resort to emotionally based populist appeals. For most parties with an ethnic-Latvian base, these emotional appeals have often focused on anti-Russian nationalism.\textsuperscript{384}

Indeed, one of the few areas where both sides of the ethnic divide agree is on resistance to LGBT rights, and the need to uphold traditional values. For Russian speaking parties, it is sensible to remain largely against LGBT rights, given that most of their voters watch Russian TV, and are familiar with the Putin government’s views on homosexuality.\textsuperscript{385} For native Latvian parties, the ongoing salience of ethnicity and nationalism within national politics has encapsulated LGBT rights into larger discussions of what it means to be “a good Latvian” and whether strengthening LGBT rights are in the best interest of the country.\textsuperscript{386}

Lastly, the prominence of the ethnic cleavage in Latvian politics limits the options of parties traditionally aligned with the left, which might otherwise be supportive of gay rights. In Latvia, left-wing parties are widely thought of as representing the interests of the Russian-speaking minority, and in large measure are reformed communist organizations continuing to support traditional values. The association of the left with Russian-speaking interests has also blocked the emergence of leftist social democratic parties blind to the ethnicity cleavage, who might in other circumstances advocate for LGBT rights in a coalition government (as in Estonia).

Rather, numerous small Russian-speaking parties, including some aligned on the left, have merged to form a new party, Saskaņa, which won the largest number of seats in

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{384} Schwartz (2005), pg. 6
\item\textsuperscript{385} Interview no. 37
\item\textsuperscript{386} Waitt, pg. 162
\end{itemize}
\end{footnotesize}
the 2011 and 2014 elections, yet has been excluded from government on both occasions.  

In part, this is because ongoing ethnic debates have led to the near permanent exclusion of left-wing parties from office. Kažoka explains that “Affiliation with right-wing parties within each camp as been a *sine qua non* in order even to be considered for the government.” Even if *Saskaņa* was permitted to join government, however, it is unlikely it would be an active supporter of extending LGBT rights, given that many reformed communist organizations maintain largely traditional values.

Amongst the ethnic-Latvian parties, there is also no reliable liberal faction, leaving the centre-right and nationalist groups as the only suitable coalition partners.

**Conclusion**

Without question, the status of LGBT rights in Latvia is a highly complex issue, shaped by historical legacies, religion, and a newly independent state concerned about its demographic survival. Latvia’s membership in the European Union has also forced it to adopt a limited number of minimum legal requirements strengthening LGBT rights, although these have been controversial. During the accession process, LGBT rights were largely a non-issue, subsumed within the larger processes democratization and entering the EU – a project supported by the vast majority of political parties. Since joining the Union, however, the EU’s efforts to use elite persuasion and socialization measures to


388 *ibid.*, pg. 85

389 Interview no. 47. There are at least two reasons behind *Saskaņa*’s reluctance to support gay rights. First, while their leaders are described as “...intelligent and understanding” on the issues surrounding partnerships, their party has maintained a formal agreement with United Russia, which has taken a very clear stand against LGBT rights. Secondly, the party also maintains significant linkages with the Russian Orthodox Church.

390 *ibid.*, pg. 85

achieve policy change appears to have been blocked most directly by the daily realities of Latvian politics. Unwieldy coalition governments, electoral volatility, and non-programmatic forms of political contestation relying on resistance to LGBT rights as an electoral strategy have been a frequent feature in the Saeima. Political resistance to LGBT rights, led initially by the new Latvian First Party following Riga Pride, have left serious discussion of converging with a growing EU norm on LGBT rights “off the political agenda” for the vast majority of elected officials.
Introduction

In 2010, the first major pride celebration to take place on Lithuanian soil almost did not happen. Only two days before the ‘March for Equality’ was scheduled to occur did organizers and LGBT groups receive the requisite permits to host the parade – having already agreed to host the event at some distance from central Vilnius. Similar to events in Latvia ahead of the Riga Pride in 2005, nearly one-third of Lithuanian MPs signed a petition calling for the parade to be cancelled. Many argued the event represented an assault against the Lithuanian nation, and demanded that it be stopped. When the parade did take place, two sitting MPs were arrested for attempting to disrupt the event, and though charges were eventually brought against both individuals, the Seimas refused to revoke their parliamentary immunity.

While the events surrounding the 2010 Baltic Pride are only one example, they highlight the extent to which politicized homophobia has become common in recent years. The Lithuanian parliament has been especially vocal in its criticism of homosexuality and its perceived affront to Lithuanian national values and to dominant religious interests in the country. In one widely publicized event, Petras Gražulis, the chair of the Conservative Law and Justice Party (TT), and current governing coalition partner, delivered a pair of jeans with a prominently displayed rear zipper to the offices of the Lithuanian Gay League (LGL), the largest LGBT organization in the country. The

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393 ibid.
jeans were designed to demonstrate his “disgust for homosexuals,” which he referred to as a “curse brought from the EU.”

More recently, the Lithuanian Justice Minister (from the ruling Social Democrats), stated unequivocally that there would be no partnership legislation during his tenure, while the current speaker of the Seimas, and a member of the nominally left-wing Labour Party, reflected that Latvian Foreign Minister Rinkēvičs’ decision to come out would have been more appropriate before he was re-elected to the position.

Unlike the Estonian President, the incumbent Lithuanian head of state has been distinctly uneasy about gay rights. When asked by a Latvian reporter to comment on LGBT rights in Lithuania, the President refused to answer any questions on LGBT issues, and immediately ended the interview, despite still being on the air.

Beyond the actions or comments from individual MPs, the FRA documents that homophobic remarks by public officials are more widespread in Lithuania than any other EU country, with 93% of survey respondents saying homophobic remarks by politicians were “fairly” or “very widespread.” The country is also the only in the EU to have laws that prohibit the dissemination of non-traditional families on TV during daytime viewing hours – in essence a lighter version of the anti-gay propaganda laws in Russia.

With this context in mind, this chapter seeks to explain why LGBT rights have become such a politically contentious issue in Lithuania, and to evaluate the extent to which similar patterns exist between Vilnius and Riga in their respective approaches to

396 http://ltv.lsm.lv/lv/raksts/19.05.2015-11-gundars-reders--dala-gribauskaite-eng_id49662/
397 FRA, LGBT Report, pg. 83
rights for sexual and gender minorities. As in the previous chapter, this analysis will begin by first offering a snapshot of LGBT rights in Lithuania since the country regained independence, before highlighting some of the factors that have led to widespread social and political resistance. Many of the same factors that contribute to negative views towards homosexuality in Latvia are similarly present in Lithuania. These include demographic concerns and a frequently articulated belief that the EU and other Western partners are unfairly ‘imposing’ LGBT rights on the country. Lithuania does have a stronger religious cleavage than the other two Baltic States, but the influence of the Catholic Church appears more a manifestation of its influence over elected officials, rather than widespread popular support of religious edicts.

In explaining the failure to converge with EU soft norms, the unstable party system, and the degree to which it limits discussions of LGBT rights represents a striking commonality with Latvia. Particularly since the 2000 election, the party system appears to have increased the attractiveness and opportunities for elected officials to be viewed as “standing up for national values,” and pursuing exclusionary sociocultural appeals. Large and often unwieldy coalition governments, the frequent emergence of new parties, weak party-citizen linkages, high extra-system volatility, as well as the continuing salience of socio-cultural issue cleavages has led to LGBT rights being operationalized as a highly visible wedge issue for a number of different officials. Lastly, as in Latvia, for officials not actively anti-LGBT, this political environment has cowed many into avoiding the topic altogether, and certainly contributed to the blockage of EU pro-LGBT norms. While not the only factor at play, this chapter ultimately contends that the similar patterns of elite competition in Lithuania as in Latvia both contributed to the country’s poor track
record on LGBT rights and limited the efficacy of pro-LGBT EU soft norms. The remainder of this chapter considers these points in greater detail.

**History of LGBT Rights in Lithuania**

In many respects, the political and social environment towards LGBT persons in Lithuania in the immediate years after regaining independence is similar to Latvia. While the country was part of the Soviet Union, male homosexuality was illegal, with those convicted facing sentences of up to three years. A prominent Lithuanian LGBT activist speaking with the researcher explained that the past criminalization of homosexuality had made it a “taboo subject,” as were all matters related to gender and sexuality. Several interviewees explained that the Soviet legacy of criminalization must not be underestimated, and that its legacies had left deeply ingrained resistance within much of Lithuanian society to reexamine the appropriateness of non-traditional sexualities. Regrettably for the social scientist, but perhaps unsurprisingly, there are very few studies on LGBT persons in Lithuania that cover the period before the country acceded to the EU. One notable exception is a chapter by Reingarde and Zdanevičius, who observe that the LGBT community is “…very much under-researched… because silence prevails and it is difficult to get people to talk about the subject.” In the years since regaining independence, concealing homosexual identity within the public sphere

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399 Interview no: 26, 27, 28
remains a “dominant survival strategy,” for many. Moreover, despite homosexuality now being legal, a common belief is that “…LGBT people have a right to exist as long as they suppress their own identity.”

In largely the same context as Latvia, the initial pressures to add protections for LGBT persons into Lithuanian law emerged from external pressures, primarily in the form of EU accession criteria. In 2003, the country introduced a new labor code, which made explicit reference to protection on the ground of sexual orientation in employment matters, while the penal code was also amended to equalize the age of consent between same-sex and opposite-sex relations. A broader Equal Treatment law was also introduced in 2003 that specifically prohibited discrimination on the basis of sexual orientation. At the time these laws were passed, there was widespread if not “total” agreement among the main Lithuanian political parties on the importance and value of joining the EU. Where LGBT rights were discussed at all “…they had fallen unintentionally under a broader scope of issues that was understood as “democratization” and an “external” political issue necessary for joining the EU.

Interviews with leading LGBT advocates in the country largely confirm the above observations. A prominent LGBT activist explained that “…we looked very nice when joining the EU,” by adopting relevant legislation touching on LGBT rights in an

401 ibid., pg. 55.
402 Mažylis et al, pg. 47
403 ibid., pg. 48.
404 ibid., pg. 48.
unproblematic fashion, and in line with Lithuania’s status as one of the star performers of
the larger triple transition from communism to liberal democracy. Interestingly, during
the accession process the Catholic Church, which later would become a notable force
within Lithuanian politics, was also largely silent on how adopting EU accession
requirements would shift human rights protections in the country. A current member of
the Seimas reflected that “the church was silent on human rights issues until after the
country joined the EU – [only] then it became very vocal.” While other interviews
frequently mentioned the power of the church in recent years, none suggested it was an
obstacle to joining the EU, nor how the Copenhagen Criteria may challenge Lithuanian
national interests. Indeed, it was only after the country had joined the EU, and in
particular the 2010 Vilnius Pride festival, that homosexuality suddenly became a widely
discussed topic, and one which received a great deal of attention from Lithuanian MPs.

Lithuanian Resistance to LGBT Rights

The history of Soviet criminalization of homosexuality represents a useful
baseline for understanding resistance to LGBT rights, but it is a reality for all of the
Baltic States and there is nonetheless variation between them. This legacy, moreover, is
being counteracted by EU membership requirements necessitating more progressive
policies towards LGBT persons.

As in Latvia, religion is an oft-cited explanation for resisting demands to improve
LGBT rights. Within the country, 77% of the population identifies as Roman Catholic,

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405 Interview no. 26
406 Interview no. 30
407 Interview no: 28, 29, 30, 31
while Latvia, by contrast, features greater denominational diversity, with religious affiliation mixed between Eastern Orthodox, Lutheran, and Catholic. Despite some liberalization in attitudes under Pope Francis, the Catholic Church has maintained very conservative views towards homosexuality, and opposes the legal recognition of same-sex relationships. The linkage between the Church and independence movements could also have important ramifications for later debates on LGBT rights: where Churches are perceived to be major supporters of independence movements, they may have greater say over future policy developments, especially if religious opposition to Communism has become a central plank of a country’s national identity. But the opposition dynamic can also be at work; in cases in which the Church has been discredited for collaboration with former Communist authorities, its influence and reach over policy development is significantly limited. In Lithuania, the church has maintained a high degree of social legitimacy, largely a product of its role in supporting independence demands during the Soviet period. As Grzymala-Busse observes the Lithuanian Church has “…consistently acted to defend national and democratic (if not liberal) interests, both under the authoritarian Voldemaras regime…and subsequently under communism. For example, 

_The Chronicles of the Catholic Church of Lithuania_, a dissident publication published


409 See Phillip M. Ayoub (2014), “With Arms Wide Shut: Threat Perception, Norm Reception, and Mobilized Resistance to LGBT Rights,” _Journal of Human Rights_, 13: 337-362; In a comparison of Slovenia and Poland, Ayoub finds that the perceived legitimacy of the Church can powerfully effect its ability to block pro-LGBT EU norms. In Slovenia, the Catholic Church suffered serious legitimacy problems after being associated with the Communist regime, while in Poland, the Catholic church has remained intimately connected with “the essence of the popular nation.”

410 Auers (2015), pg. 33

from 1968 onwards, included explicitly nationalist content.\textsuperscript{412} In addition, the Lithuanian independence front, \textit{Sajūdis}, maintained good relations with the Catholic Church, while the return of the Vilnius Cathedral to the Roman Catholic church was a key moment in cementing weakening Soviet power in Lithuania.\textsuperscript{413}

Yet, as in Latvia, the actual level of religiosity in Lithuania is quite low, with Oppenheimer et al finding that 54\% of polled Lithuanians stated that religion is either “not important” or “not important at all,” only one percentage point lower than in the Netherlands.\textsuperscript{414} Nor has the Church been entirely successful in achieving desired public policies in the post-Soviet period, with it notably failing to prevent the legalization of abortion.\textsuperscript{415} Building on this statistic, another interviewee observed that the Church’s influence is rather unimportant in people’s day-to-day lives: while many do feel pressure to marry, this has caused a great deal of unhappiness for many people, and led to, among other things, high rates of suicide in the country.\textsuperscript{416}

One area where Lithuania does differ substantially from Latvia, and also Estonia, is in the lower percentage of native-Russian speakers in the country. Currently, just under 6\% of population identifies as Russian speaking, compared to approximately 30\% in Latvia and Estonia.\textsuperscript{417} The reduced number of Russian speakers should decrease the salience of concerns about the continuity of the Lithuanian nation, and reduce pressure to

\textsuperscript{412} Richard M. Mole (2012), \textit{The Baltic States From the Soviet Union to the European Union: Identity, discourse and power in the post-communist transition of Estonia, Latvia and Lithuania}, Oxford: Routledge; pg. 66; The Latvian Catholic church, by contrast, appears not to have developed a similar relationship with the Polish Church.
\textsuperscript{413} \textit{Ibid}, pp: 70-71
\textsuperscript{414} Oppenheimer et al, pg. 230
\textsuperscript{415} Grzymala-Busse, pg. 345
\textsuperscript{416} Interview no. 27
\textsuperscript{417} Auers, pg. 145, During the Soviet period, ethnic Poles, rather than Russians constituted the largest minority group in Lithuania.
develop a clear narrative on the distinctiveness of the Lithuanian titular majority versus other minority groups. Though cognizant of lingering threats to its sovereignty from neighbouring Russia, the Lithuanian “…understanding of state belonging, unlike that of Estonia and Latvia, was more territorially defined than ethnically or historically defined.” The first citizenship law, passed in 1989 made, “…no reference…to saving the nation, as the non-indigenous population was not considered to a constitute a threat to the former’s continued existence.” All residents of Lithuania, moreover, could gain citizenship after meeting language and residency requirements.

Nevertheless, concerns about national identity and continuity remain a significant fixture of the Lithuanian psyche, even if the sources of this anxiety differ somewhat from Latvia. Rather than immediate fears about large internal, and potentially disloyal minorities, fears of Lithuanian identity stem from fears about ongoing population decline. As one respondent explained, there is a general awareness that Lithuania is “depopulating as a country” particularly in rural areas – with many moving first to larger centers, and then out of the country entirely. As in Latvia, this concern is not unwarranted, as the country’s population has declined from 3.3 million in 2005 to 2.9 million in 2013. More recently, the ongoing conflict in Eastern Ukraine and Crimea has led to renewed concerns about the security of the Lithuanian state, and whether NATO is able to defend its territorial integrity. The Lithuanian President, in particular, has been quite outspoken

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418 Mole (2012), pg. 84
419 ibid., 87
420 Auers, pg. 147.
421 Interview no. 45
in her fears about potential Russian aggression in the region, and actively supported the reinstatement of conscription. As such, underlying security and demographic concerns are a common reality for both Lithuania and Latvia, and are filtered into its political discourse.

A more striking commonality between Latvia and Lithuania, however, is the extent to which interview respondents flagged Lithuanian parliamentarians as the key obstacle in blocking EU norms in the area of LGBT rights. As in Latvia, the high number of parties, unwieldy and ideologically incoherent coalitions, extra-system electoral volatility, as well as a major religious cleavage that competes with socioeconomic competition has created an environment where most MPs are either unwilling, or uninterested, in converging with EU norms. Moreover, some MPs appear to have profited directly by raising their electoral profile by through the pursuit of vehemently anti-LGBT policies. To build on this finding, the next section reviews the Lithuanian party system, particularly as it relates to the treatment of minority rights.

**The Lithuanian Party System & LGBT Rights**

Multiple interviews with Lithuanian officials and activists conducted between September 2014 and May 2015 underscored that how deeply entrenched homophobia has become within the Seimas, particularly following Vilnius Pride in 2010. As in Latvia, a number of specific characteristics of Lithuanian politics appear to have stalled the process of convergence with EU LGBT norms, including a highly volatile and underdeveloped party system, as well as the continued salience of morality issues. Unlike Latvia, however, the
Catholic Church has played a larger influence over Lithuanian political leaders and has rigorously resisted expanding rights for gays and lesbians.

Regarding the first characteristic, the unstable and volatile party system has created a culture where few MPs are willing to touch LGBT rights. A common theme emerging from several of the interviews was that the presence of a few highly outspoken anti-gay MPs, such as Petras Gražulis, from the Order and Justice Party, have frightened a great number of MPs away from developing independent views towards the LGBT persons. While the regulation of homosexuality is not a daily topic, in part a result of the limited bandwidth of the parliament to address social issues, when it does surface, it is deeply contentious.

As in Latvia, the instability and frequent electoral shifts within the Lithuanian party system have created the institutional conditions under which avoiding LGBT rights, as well as other contentious morality issues, is the easiest course of action. Prior to the 2000 election, the Lithuanian party system operated in a relatively predictable fashion, and showed signs of significant stabilization with large parties regularly capturing over 50% of the vote. However, following the 2000 election, the party system has shown significantly greater volatility and electoral fluidity. The 2000 election saw the emergence of four new liberal parties that challenged the leftist bloc and largely

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423 In another notable example, Gražulis interrupted a meeting taking place at the Lithuanian Parliament discussing homophobia and attended by many foreign Ambassadors. Gražulis allegedly demanded that all gays leave Lithuania, as well as the foreign ambassadors that support them. He also directed criticized the Christian Democrats for allowing the meeting to take place in the parliament. Please see Eglė Digrytė, “MP Petras Gražulis: Let’s chase gays and ambassadors out of Lithuania,” 15 min.lt, May 16, 2012. Available at: http://www.15min.lt/en/article/politics/mp-petras-grazulis-let-s-chase-gays-and-ambassadors-out-of-lithuania-526-219147
424 Interview no. 45
425 Sikk (2014)
displaced conservative parties. Subsequent elections also witnessed significant volatility and new party entry. In both the both the 2004 and 2008 contests new parties competed and succeeded in joining coalition governments. Many of the new political factions also lack clear ideological bases, and are driven largely by the personalities of their leaders, or for their perceived “newness” or being “anti-system”. In the 2008 election, the National Resurrection Party, led by a prominent Lithuanian TV and described as a “one man show” failed to develop any clear election platform, yet still placed second in the popular vote.

Instability within parties is a common problem as well, with Matonytė and Šumskas observing a high degree of “tourist” MPs switching parties, meaning the initial composition of parliament and related parties is likely to shift dramatically throughout the parliamentary term. Combined, this environment has left the system with the highest total system volatility average in the EU. Indeed, as Powell and Tucker observe, while most countries in Central and Eastern Europe have witnessed declining system volatility, Lithuania, by contrast, has witnessed Type-A (or extra-system) volatility increase.

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427 Mindaugas Jurkynas (2005), “The 2004 Presidential and Parliamentary elections in Lithuania,” Electoral Studies, 24; pp 774-5; Jurkynas suggests that “discontent with traditional parties,” and their inability to widespread affluence to Lithuanian society led to widespread support for new political groups, particularly those including some degree of anti-system rhetoric.
428 Ibid., 771.
431 Powell and Tucker, pg. 131
“…quite substantially from 1996 to 2000, and even more so in 2004.”432 For example, in the 2004 election, over half of the total votes were for three totally new parties.433

This chaotic environment appears has blocked convergence with EU LGBT norms for at least three broad reasons: First, as a result of the instability and lack of electoral security within the Seimas, many MPs have simply become frightened to touch LGBT rights, and created a leadership void for those supporting gay rights, according to an elected official.434 Rather, for many MPs it is easier to latch on to the narrative that expanding LGBT and converging with EU norms posed a threat to traditional Lithuanian values.435 Two leading activists from LGL drew similar conclusions, noting that the “mood of the parliament” was especially unhelpful for discussing LGBT issues. One of the respondents explained that “…there are a few crazy MPs who advance anti-LGBT issues – but this can create a culture of fear which other MPs buy into – out of the 141 members of the Seimas, only 3 or 4 actively support LGBT causes.”436

Secondly, the anti-LGBT mood within the parliament has fuelled significant legislative support for homophobic legislative proposals, usually initiated by one of several anti-gay MPs.437 Indeed, between 2012 and 2014, numerous amendments have been proposed, often with cross-party support, which would significantly hinder LGBT rights and leave the country further at odds with the EU. One of the bills proposed to the criminal code to allow public criticism of non-traditional sexualities. Under the

432 ibid., pg. 133
433 Jurkynas (2005), pp 774-5.
434 Interview no. 30
435 Interview no. 30; The MP suggested she was viewed as a “rebel” within her own party, and stood almost no chance of convincing others to change their views on homosexuality
436 Interview no. 27
437 Petras Gražulis has authored or jointly submitted several of these proposed amendments.
amendment, public criticism or attempts to “...change such behavior, convictions, or views” would not be deemed as “...bullying, incitement to hatred, discrimination or incitement to discrimination.” Other amendments include banning gender reassignment surgery, fines for “...public contempt for a family,” clarifying that children have an “inherent right to have a father and a mother” as well as prohibiting adoptions by non-heterosexual couples, as well as banning same-sex couple adoptions explicitly. In addition to the proposed amendments, in 2010 Lithuania enacted a law designed to protect minors from the “Detrimental Effect of Public Information.” The initial version of the law specifically prohibited the promotion of homosexuality (as well as bisexuality and polygamous relations), as well as public information “…whereby family relations are distorted, [and] its values scorned.” Under pressure from the European Parliament, which condemned that law and threatened sanctions against Lithuania, the anti-homosexuality provisions were removed and replaced by a much looser statement that restricts information about sexual relationships, and “protects” traditional family values.

A representative from the Lithuanian Human Rights Monitoring Institute also pinpointed the parliament as one of the key obstacles in addressing LGBT rights in

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438 Republic of Lithuania, Law Supplementing Article 170 of the Criminal Code, Vilnius 2013  
439 Republic of Lithuania, Amending Article. 2.27 of the Civil Code  
440 Republic of Lithuania, Amending Article 224 and 259 of the Code of Administrative Offences and Supplementing the Code with Article 188  
441 Republic of Lithuania, Supplementing the law on Fundamentals of the Rights of the child with Article 7  
443 Article 4, sections 14, 15  
Lithuania. In addition to following the lead from other more outspoken MPs, resistance to homosexuality is backed by religious conviction, while for others, it is the result of not being able to speak English, which leaves them isolated from the EU’s pro-LGBT narratives, and more knowledgeable about Russian-language media coverage on LGBT issues. In consequence, many have “drifted” towards Russian-styled anti-propaganda legislation.\textsuperscript{445} Exacerbating these factors, however, is an underlying concern that being viewed as supportive of these laws could also hinder future electoral prospects if faced with public criticism for supporting progressive legislation. This reality may be particularly acute for those contesting seats in the single-member districts in rural areas where homosexuality remains deeply unpopular.

Demonstrative of this reality, a recent study on Lithuanian political parties observed that the liberal parties, currently the only grouping making clear public statements in support of LGBT rights, has nonetheless often voted against gay rights. The study notes that a large number of MPs from the two ideologically liberal parties were absent during votes for the Protection of Minors law, and that neither liberal party “participated in the session where amendments to the law” were passed. The liberal parties simply “…closed their eyes’ when the parliament passed the amendments to the Law on the Protection of Minors,” and did not “…defend their values as actively as they could, based on their declared ideas.”\textsuperscript{446}

Thirdly, instability within the system has also made efforts at building cross-party for those who do support LGBT rights incredibly difficult. Above all, the need to govern

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\textsuperscript{445} Interview no. 28 \\
\textsuperscript{446} Mažvydas Jastramskis (2013), \textit{A Map of Values: Political Parties in Lithuania}. Mëta Adutavičiūtë ed. Lithuanian Human Rights Institute, Vilnius, pg. 27
\end{flushright}

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in coalition with often numerous, often electorally insecure, as well as ideologically ambiguous (as well as inconsistent) parties has made reaching consensus or developing cross-party support especially difficult. Take, for example, the current coalition government, in power in 2012. The coalition comprises the Lithuanian Social Democratic Party (LSDP), a nominally left wing group, the Labour Party (DP), the highly conservative Order and Justice (TT), as well as Electoral Action of Poles in Lithuania (AWPL), a decidedly conservative organization with close links to the Catholic church. Officially, these parties differ on a number of policies, ranging from socioeconomic matters to questions or morality, including homosexuality. Yet, the willingness to form a coalition despite ideological diversity suggests that formal differences on each parties’ support for LGBT rights in their platforms was not a sufficient reason to discredit potential coalition partners. Moreover, since entering the current coalition, Mažylis et. al. observes that the LSDP has cooled considerably on LGBT issues, stating that any law on partnerships would explicitly not include persons of the same-sex.

The influence of religious authorities in Lithuania over elected officials is an additional feature of Lithuanian politics. One official explained that the Lithuanian Catholic church is clearly “to the right” of the Vatican on sexuality matters, and is actively lobbying Seimas members to reject any legislative efforts to introduce any form

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448 Ibid., 50
449 This suggests that although homosexuality is a polarizing subject within the Lithuanian parliament, official statements in support of greater rights may not be deeply believed, or that officials are willing to accept, or do not wish to directly challenge, more conservative opinions on the topic; this also links with O’Dwyer (2014) arguments about issue crystallization – instability is more likely when parties do not package positions in ideologically coherent ways, such as left wing parties being socially progressive, while right wing groups are both economically and socially conservative.
of state recognition for same-sex couples. Another respondent claimed the church cast a “long shadow” over elected officials and their ability to pursue policies on contentious minority rights issues. They continued that the Church “may actually keep lists on different MPs, and how they vote.” Two European Ambassadors to Lithuania expressed a similar view, noting that religious groups are frequently invited to committee hearings, including those connected to registered gender changes. They argued that the Church has “pervasive influence” over policy makers, and that only ministries more detached from the Church’s influence have greater leeway to be liberal on sexuality and gender matters. The Foreign Ministry, in particular, was cited as an example. More recently, the Church has been asked to comment on any future registered partnership-bill, regardless of whether they are open to same-sex couples. Though not directly stated by interview respondents, many elected officials appear to have charted closely to church doctrine, either to avoid criticism from religious officials, or because it provides them cover to pursue anti-gay politics.

The types of issue-cleavages featured in the Lithuanian party system during recent elections has also left room for politicized resistance to LGBT rights to remain a convenient, if not acceptable, political strategy While socioeconomic matters are more

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450 Interview no. 27, 29
451 Interview no. 27
452 Interview no. 29
453 ibid. Foreign ministries are also more susceptible to EU social learning pressures, given frequent EU meetings and interactions with officials from other member states
454 Yet, as Grazmala-Busse observes, that close “alliances” between religious authorities and elected officials face a number of difficulties remaining durable over the long term. First, “partisan coalitions erode the churches’ moral authority” as it can lead religious organization of being “…accused of being more concerned about with narrow political (and self) interests than with saving the souls of the nation and pursuing public good.” Second, there is not always a clear party or faction consistently aligned with church interests. Finally, even if there is a clear agreement between religious bodies and political parties or elected officials, the church has little formal capacity to ensure those agreements are honoured (Grazmala-Busse, pp. 347-348)
prominent than in Latvia, they are not the exclusive topics of contestation. Lingering distrust of parties, combined with low voter turnout, has created room for the frequent emergence of populist or new parties seeking to win over volatile voters. Many voters, moreover, continue to identify “with political and moral questions: [including] assessment of the communist regime, church attendance and national pride” more so than identification on the basis of economic policies.455 Limited voter attachment to socioeconomic issue cleavages has aided the continued relevance and appeal of pursuing issues that tap into secondary cleavages, such as the role of religion, urban/rural differences, and criticism of the EU itself. One official explained that, at least prior to the current crisis in Ukraine, it was quite popular within the parliament to be anti-EU, and since the EU is associated with LGBT rights, it was a logical step to link the two together. Homophobic appeals, including those made by Grazulis, have been built around these secondary cleavages.

Finally, as in the other Baltic States, it also appears that the EU agencies do not actively lobby individual MPs or parties on their LGBT policies, or are elites socialized in the EU’s pro-LGBT norms. Despite passing requisite accession requirements, a respondent from the Lithuanian Human Rights Institute noted that during the accession process the country:

“…copied a lot of laws…often without a full realization for what those laws entailed. The civil code, for example, was copied from Germany, while other progressive legislation may have been copied-pasted – many did not realize that signing up to the EU meant signing up to a particular set of values – For many it is not clear what those values look like?”

455 Ainė Ramonaitė, pg. 81
That Lithuania would rapidly transcribe significant portions of the accession criteria into national law without fully appreciating the nature and consequences of those laws is a reality across much of Central and Eastern Europe, in part a result of limited institutional capacity in new democratic institutions, as well as limited oversight from the EU. Moreover, it confirms that many post-Communist countries only complied shallowly with EU regulations, particularly after EU accession had been secured and conditionality requirements removed.\footnote{Ladrech (2007)}

While the European Parliament has been helpful, LGL activists explained that the Commission has been less supportive. As an example, Vivian Reading, the (former) EU Commissioner for Justice, Fundamental Rights, and Citizenship, allegedly told LGL that they were “pushing to much too soon.”\footnote{Interview no. 26} Moreover, as an official from the European Parliament’s Inter-Group on LGBT Rights explained, the EU lacks a mechanism to appropriately deal with challenges to LGBT rights once countries are formal members of the Union.\footnote{Interview no. 14, 15.} Rather, like in Latvia, the responsibility of lobbying the Lithuanian government appears to fall more foreign ambassadors – particularly the US and Swedish Embassies in Vilnius. In one notable example, before a visit by the Lithuanian President to Sweden, the Swedish Ambassador outlined to the President how the visit would be severely damaged if she went ahead with a declaration against LGBT rights.\footnote{Interview no. 29}

In recent months there have been some limited positive developments. The opposition Liberal party has begun to take a much clearer stance in support of LGBT

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\begin{itemize}
  \item \footnote{Ladrech (2007)}
  \item \footnote{Interview no. 26}
  \item \footnote{Interview no. 14, 15.}
  \item \footnote{Interview no. 29}
\end{itemize}
rights, which, as one respondent noted, “took a great deal of courage.”\textsuperscript{460} Previously, only a few members of the social democrats had spoken positively of LGBT rights, while the party leadership was opposed to being more supportive of gay rights. This is despite prevailing popular attitudes remaining solidly against any form of same-sex partnerships. Following the Liberal Party’s victory in the Vilnius municipal elections, won by a charismatic young leader who indicated he had “no problem” with Baltic Pride taking pace in the capital, the parliamentary wing has more clearly indicated its support for sexual minority rights.\textsuperscript{461} During the 2015 winter session of the Seimas, the Liberal Party introduced an amendment that would legalize same-sex civil unions. Although the amendment was rejected, an official observed that there were now at least 9 MPs in the Seimas supportive of gay rights, up from only 3 previously.\textsuperscript{462} Positively, there has also been little movement on the various anti-LGBT amendments in the Seimas introduced after Vilnius pride.\textsuperscript{463}

\textit{Conclusion}

At a general level, the Lithuanian party system appears to have many similarities to the Latvia, featuring a large number of parties, unwieldy coalitions, and high system instability. Relatively new parties, such as Order and Justice, have had MPs speaking out vocally against gay rights, while unwieldy coalitions have stalled or challenged individual efforts to align with EU LGBT norms. More broadly, this environment has

\begin{thebibliography}{463}
\bibitem{460} Interview no. 45
\bibitem{461} The mayor’s support has largely been fuelled by support from young urban voters, many of which are supportive of the party’s libertarian social values. One respondent argued that party has become “the talk of the country,” and stands a good chance of doing well in the 2016 Parliamentary elections (Interview no. 45)
\bibitem{462} \textit{ibid.}
\bibitem{463} Interview no. 45, 46
\end{thebibliography}
been conducive to the emergence of generalized reluctance from Lithuanian MPs to address LGBT rights, while only a few MPs speak out publicly in support. Convergence pressures from the EU are difficult to detect, and in many respects, indicate that within broad boundaries, debates on LGBT rights remain largely a domestic affair. While the Lithuanian and Latvian systems may appear unremarkable on their own, a comparison with the Estonia, and its treatment of LGBT rights, suggests that differences in elite-competition can significantly shape whether advancing laws for LGBT persons is a possibility.
Chapter 7
Estonia

Introduction

On October 9th, 2014, the Estonian Riigikogu narrowly passed a gender-neutral partnership bill. The vote on third reading was extremely close, with 40 MP’s voting for, 38 against, and 23 abstaining or not present to vote.464 The close vote reflects the contentious and yet substantively innovative nature of this law. Should necessary amending legislation be passed during 2015, Estonia will become the first country in the post-Soviet region to have legislated state-recognition of same-sex partnerships.465 The law charts Estonia in a starkly different direction than its Russian neighbour, and also differentiates the country from Latvia and Lithuania, where nascent efforts to introduce similar legislation are unlikely to succeed in the near future. Rather, the passage of this law aligns Estonia more clearly with its neighbour to the north, Finland, which legalized civil partnerships for same-sex couples in 2002, and itself passed same-sex marriage legislation in 2014 following a citizens petition.466

Immediately after the bill was passed, small groups of people lay flowers in front of the Riigikogu to demonstrate their support for the bill and their solidarity with the LGBT community. Kari Kaspar, the director the Estonian Human Rights Centre stated “…mentally, we want to belong in Scandinavia and share those same liberal values –

465 The Estonian Human Rights Centre argues that the bill is specifically designed to “…protect all families and children being raised in them.” Centrally, this is because there is currently no legal obligation for a surviving adult in a same-sex household to continue caring for the couple’s children should one parent die. The bill would specifically rectify this gap in legislation. There are other areas of discrimination that this bill seeks to remedy. Currently same same-sex couples have no legal right to visit each other in hospital. Same-sex couples are also prohibited from jointly filing tax-returns. Please see: http://humanrights.ee/en/equal-treatment/cohabitation-act/fact-sheet-1-the-cohabitation-act/
466 Nick Duffy, “President of Finland signs same-sex marriage law,” PinkNews, February 20th, 2015, Available at: http://www.pinknews.co.uk/2015/02/20/president-of-finland-signs-same-sex-marriage-law/
homophobia is one of the scales by which you can measure how tolerant and open society is." An Estonian government official speaking with the researcher argued the bill was an important component of Estonia’s ongoing transformation into a developed, Westernized, and increasingly Nordic state. A strong commitment to minority rights, she explained, helped demonstrate and affirm that “…Estonia doesn’t want to belong in the East.”

Senior officials from the Estonian government spoke favourably about the law, including, Toomas Hendrik Ilves, the current President of Estonia.

Yet, given the extremely close vote, it is unremarkable that not all were pleased that the law passed. One of the most significant challenges emerged from a group called Foundation for the Protection of Family and Tradition. The group collected over 35,000 signatures, a not insignificant feat in a country of only 1.3 million. The petition specifically called for the government not to recognize gay couples. Recent popular opinion data finds that citizens are equally divided on partnership legislation, although a solid majority of native Russian speakers oppose granting partnerships to same-sex couples. Religious authorities spoke repeatedly against the law, arguing it was the

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468 For a larger discussion on the manner in which Estonia has sought to brand itself as Nordic, please see Paul Jordan (2014) “Nation Branding: A Tool for Nationalism.” Journal of Baltic Studies, 45(3); 283-303
469 Interview no. 39
wrong approach for Estonia, and would only exacerbate the country’s demographic challenges.\textsuperscript{473}

With this context noted, this chapter seeks to account for why and how Estonia was able to pass gender-neutral partnership legislation despite at best ambivalent local pressure and indirect EU influence. As noted earlier, Estonia possesses similar institutional arrangements as both Latvia and Lithuania, including the use of electoral systems which include proportional representation, and frequent coalition governments. Like Latvia, the country has a significant Russian-speaking minority that has historically been less inclined to support minority rights, including those for LGBT persons. What then is different about Estonia?

As will be outlined below, there are unique features about the manner in which Estonian politics operate that has permitted LGBT rights be taken up by elected officials. In particular, the relative stability of the Estonian party system, manifest in fewer, more durable parties, and the electoral salience of socioeconomic issues has helped make LGBT rights less of a polarizing or threatening electoral issue. Unlike Latvia or Lithuania, once the Social Democrats chose to support the idea of partnership legislation, they only needed to convince one coalition partner, the Reform Party. At the time the law was being considered, there were only two other parties in the Riigikogu, one of which was neutral on the law, while only one party was firmly opposed. Clear statements of support from the Estonian President also provided leadership for legislators backing the bill. Combined, this environment made it easier to advance this legislation than in the highly segmented and polarized Latvian or Lithuanian legislatures.

\textsuperscript{473} Interview no. 38
Like the previous two case studies, the EU’s influence is felt indirectly, mostly through well-funded civil society organizations, including the Estonian Human Rights Institute, and the presence of government elites socialized in EU values, such as the in Ministry of Social Affairs. However, as the remainder of this chapter strives to make clear, in the end it was political elites themselves who actualized arguments for partnership bills into law.

**History of LGBT Rights in Estonia**

In many respects, public discussion of LGBT rights is a new phenomenon in Estonia. Like Latvia and Lithuania, homosexuality in Estonia had been illegal since 1934, and the persecution of gays and lesbians increased after Estonia’s incorporation into the Soviet Union following the Second World War. During Stalinist times, homosexuality was viewed harshly as a “…counterrevolutionary, anticommmunist bourgeois decadence left over from the tsarist era.” Though Estonia may have been one of the more “Westernized” parts of the Soviet Union through its access to Finnish television broadcasts which offered more liberal views on gender and sexuality, traditional views on sexuality were predominant.\(^{474}\) While there was a brief thaw in persecutions of gay men in the early 1960s, there were seventeen criminal cases brought against gay men in 1967, and a minimum of one case brought against gay men in subsequent years.\(^{475}\) More broadly, like


\(^{475}\) Viespak (1991) quoted in Heidi Kurvinen (2005), Homosexual Representations in Estonian Printed Media During the Late 1980s and 1990s.” In Roman Kuhar and Judit Takács eds., *Beyond the Pink Curtain: Everyday Life of LGBT People in Eastern Europe*, Ljubljana: Peace Institute, pg. 288
many social issues viewed negatively and punishable by jail by communist authorities, non-heterosexual sexualities were experienced by most as an intensely private affair.\textsuperscript{476}

In the immediate years after the fall of Communism, the situation for homosexuals did improve somewhat, however the complex post-Soviet legacies found in Latvia and Lithuania are similarly evident in Estonia. Homosexuality was decriminalized in 1992, and a few small gay establishments did open in Tallinn.\textsuperscript{477} Yet, as Štulhofer and Sandford argue, in many post-Communist states the initial legislative change occurred neither “…as the outcome of grassroots action nor the result of broad consensus over human rights” but rather from international pressure, and a belief that decriminalizing homosexuality would serve as an “‘admission ticket’ to international organizations and donor conferences.”\textsuperscript{478} Indeed, within Estonia, issues of homosexuality were largely peripheral during the transition period. A respondent explained that there was an “anything goes mood” in the years immediately after Estonia gained independence, while Kurvinen highlights that the Estonian press began to treat homosexuality as a “trendy topic,” although coverage was usually limited to individual stories, such as the first Estonian to undergo sex-reassignment-surgery.\textsuperscript{479}

The country at the time was going though a period of intense neoliberal reforms, which though harsh, did create at least a subjective feeling of openness.\textsuperscript{480} Yet, this feeling of openness existed at the margins of larger socioeconomic and sociopolitical

\textsuperscript{476} There appears to have been a small gay community in Tallinn during the Soviet period, but any larger attempt at organization was off the agenda, for fear of most robust or institutionalized LGBT advocacy groups being co-opted by the state
\textsuperscript{479} Kurvinen, pg. 290, Interview no. 38
\textsuperscript{480} Interview no. 38
changes occurring in independent Estonia. Rather, in the immediate post-independence years the central goal was to quickly gain accession first to NATO, and then the EU.\footnote{Viljar Veebel and Ramon Loik (2012), “Estonia” In Donnacha Ó Beacháin, Vera Sheridan and Sabina Stan eds., Life in Post-Communist Eastern Europe after EU Membership: Happily Ever After? London: Routledge; pg. 165.} Negotiations with the EU opened in March 1998 and were concluded in December 2002, and involved Estonia (like all applicant states) conforming with the EU’s *acquis communautaire*, a collection of over 12,000 legal acts.\footnote{Ibid., pg. 166} As part of this, Estonia had to agree to the Copenhagen Criteria, which stipulated a general commitment to protect minority rights.

As in Latvia, within the realm of minority rights protection, the most controversial challenge for Estonia has been to address the rights and citizenship claims of the country’s sizeable Russian-speaking minority, which accounted for upwards of 30% of Estonia’s population historically, and is now closer to 25%.\footnote{Kjetil Duvold and Sten Berglund (2014), “Between Ethos and Demos: Territorial Identification and Political Support in the Baltic States,” *East European Politics and Societies,* Vol. 28; pg. 342; Veebel and Loik, pg. 177; The CIA World Factbook lists the Russian speaking population in Estonia at 24.8%, even though these figures are from 2011. Please see: https://www.cia.gov/library/publications/the-world-factbook/geos/en.html} For countries engaged in processes of democratization, questions of citizenship, and a basic agreement on who constitutes the boundaries of state membership are often considered necessary pre-requisites for a cohesive political community.\footnote{Rustow (1970).} As Auers notes, an ongoing central cleavage in Estonian politics exists between the titular Estonian majority and the Russian speaking population. Like Latvia, some of the key issues of disagreement between the two communities involve a lack of consensus on whether Estonia was forcibly annexed by the Soviet Union or joined voluntarily, as well as the use of the Russian language in
More recently, the Estonian government’s decision to relocate a Soviet-era bronze statue commemorating the Soviet victory over Nazi Germany led to riots in central Tallinn.\footnote{Auers, pg. 122}

Estonia’s reluctance to grant automatic citizenship for Soviet-era Russian speaking immigrants, and insistence that native Russian speakers pass stringent language tests in order to gain citizenship has been a source of the most profound tensions, and notable academic inquiry.\footnote{ibid.} On a practical level, these requirements have led to a widespread disenfranchisement and isolation of the Russian-speaking minority from the larger Estonian political community.\footnote{Mole (2012), pg. 83; see also Galbreath 2003; 2006; Auers, 2015.} At present, many native-Russian speakers are legally only permanent residents and do not carry Estonian citizenship. These individuals rely on “alien” grey passports that allow travel within the Schengen zone and for visa-free travel to Russia.\footnote{Interview no. 39}

Less studied and perhaps also less controversial at the time was the Estonian elites attempt to create a new narrative to regulate family affairs. As part of larger efforts to de-Sovietize society, there was an expressed desire to move away from the amoralism, and rigid (if not practiced in reality) gender-neutral policies of the Soviet era. In its place, some Estonian officials began to support traditional views on family life, including a recognition of the inherent gender differences between males and females. Kurvinen writes that an underlying message within the Estonian press in the early 1990s was to

\footnote{Interview no. 20}
“emphasize the otherness of homosexuality in a society where “natural” gender roles were seen as the right models for men and women.”

An official speaking with the researcher explained that the positions taken by elected officials towards minority rights have often been contradictory since Estonia regained independence. Complimenting elite-driven efforts to join NATO and the EU has been campaign to rebrand the country as “Nordic” and develop a narrative of Estonia as being the most “successful” of the post-Soviet countries. As part of this campaign, elites highlight the linguistic, cultural, and economic links between Estonia and Finland while simultaneously downplaying the country’s heritage with Latvia and Lithuania.

While this elite strategy is unique to Estonia, the policy has only ambiguous benefits for LGBT rights. One official explained that elites have a tendency to “pick and choose” which parts of Nordic identity to adopt. Throughout the 1990s (and continuing to this day) strong support for LGBT rights has been too controversial to include within the country’s Nordic reorientation, despite state support of LGBT persons being a key component of national identities in Norway, Sweden, and increasingly, Finland. Here, as in Latvia and Lithuania, the post-Soviet legacies resurface in the form of fear about talking about unknown subjects. While there was some inclination towards accepting homosexuality privately among the public at large in the early post-Soviet period, having the state take a strong position in favour of LGBT rights was too

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490 Kurvinen, pg. 297
491 In the past, Estonia has considered changing its flag to the something based on the Nordic Cross, as it was believed doing so would be a potent symbol to differentiate the country from its Baltic heritage. (Sakkov, 2014 quoted in Auers, pg. 17)
492 Interview no. 20, 39, 43. Estonian officials often suggest the relationship between Sweden and Finland in the 1950s and 1960s is analogous to the current relationship between Estonia and Finland, with Estonia merely “catching up” to its Nordic neighbour along a similar developmental path
493 Interview no. 43. When asked about the pending legalization of same-sex marriage in Finland, the respond felt it had “barely registered” in Estonia, and had little influence over Estonia’s debates on gender neutral partnerships
direct a challenge to long-held views about what is appropriate behavior for many.\textsuperscript{494} A respondent explained that, under Communism, “…it was a different way of life. In totalitarian regimes a lot of decisions were made for you – and there was a simple model of how to live your life, a master narrative almost.”\textsuperscript{495} This environment created a huge degree of conformism, and although the Soviet period has passed, many, especially older generations, have little interest in “standing out.”\textsuperscript{496} Like Latvia, post-Soviet legacies, rather than religion appear to be a key source of lingering resistance to gay rights. As in Latvia and Lithuania, church attendance is low, and nearly 80% of respondents tell pollsters that religion is not important in their life.\textsuperscript{497} Moreover, a respondent explained that while ethnic Estonians certainly have some degree of spirituality, most consider themselves disconnected from organized religion.\textsuperscript{498}

As in Lithuania and Latvia, public opinion towards the LGBT community has generally been hostile. In 2006, participants at the Tallinn pride parade were violently attacked, and there have been no formal pride parades in the country since 2007. Although the rotating Baltic pride was hosted in Tallinn in 2014, security concerns prevented a parade from occurring.\textsuperscript{499} A variety of public opinion data backs the conservative attitudes towards LGBT rights within Estonian society. For example, a Eurobaromenter survey published in 2012 found that Estonia ranks below the EU average in public tolerance towards LGBT persons, and that these values have been static for the last three years.\textsuperscript{500} In addition, a survey recently completed by the EU’s Fundamental
Human Rights Agency (FRA) documented that 49% of respondents are “never open about being LGBT,” which is above the EU average of 38%.\textsuperscript{501} Similarly, Estonian elected officials have largely avoided discussing LGBT rights, and the government has reiterated that will not grant residency permits to same-sex partners of Estonian citizens.\textsuperscript{502} One elected official also gained attention after arguing that “homosexuality is an illness” and one which could be treated by “…avoiding the company of practicing homosexuals.”\textsuperscript{503}

Interestingly, despite this conservatism from elected officials, the LGBT community within Estonia remains relatively underdeveloped, challenging the view that conservative policies usually strengthens LGBT activism.\textsuperscript{504} The Estonian LGBT Association (Eesti LGBT Ühing) is the main organization representing LGBT persons in the country, and does not appear to be actively lobbying the state for more substantive pro-LGBT laws, particularly in comparison to Latvia or Lithuania.\textsuperscript{505} Rather, the association runs a drop-in centre in central Tallinn, and organizes a variety of events for the community, including cooking classes and movie nights. In the realm of advocacy, the group has organized some trainings with school teachers to improve LGBT-inclusion in Estonian schools.\textsuperscript{506} While the organization has a good relationship with certain ministries, lobbying the government for enhanced laws and protections for LGBT persons

\textsuperscript{501} FRA LGBT report, pg. 81
\textsuperscript{503} ibid., pg. 148.
\textsuperscript{504} See O’Dwyer (2013)
\textsuperscript{505} In a discussion with the researcher, an Estonian government official explained that Estonian society is often quite passive when it comes to articulating demands to the state. See also Lasala and Revere (2011).
\textsuperscript{506} In an extended interview with the author, the leader of the Association explained that sexuality and gender identity are included in the Estonian school curriculum, however teachers can elect whether to actually teach the material or not. The respondent explained further that most teachers felt “there were very few gay students” in schools, and then when prompted, many asked questions about what it meant to be gay, often asking specific questions about same-sex sexual activities.
is not one of their central priorities.\textsuperscript{507} Rather, it remains predominately a resource centre, and with a membership that is almost entirely female.\textsuperscript{508}

The lack of LGBT activism could stem from several reasons. Scholars have suggested that Estonians are deeply individualistic, and have a lingering reluctance to join groups, fearing co-optation by state bodies.\textsuperscript{509} In addition, there are currently no prominent out gay LGBT personalities in Estonia, highlighting the lack of role models that could make participation in gay organizations acceptable, particularly for younger men.\textsuperscript{510} Here Estonia differs from Latvia, where the Foreign Minister’s sexuality is now widely known. Many elected officials who spoke with the researcher also explained that the media was deeply homophobic, and this provided a forum for others with homophobic views to express those sentiments with impunity.\textsuperscript{511}

In sum, support for LGBT rights in Estonia is challenged both by historical pressures, in the form of post-Soviet legacies, as well as more contemporary demographic concerns (as the Estonian population has been essentially flat since regaining independence).\textsuperscript{512} A lack of interest by the political class in LGBT rights is illustrative of many contextual similarities across the three cases, making it more surprising that Estonia nevertheless passed partnership legislation in 2014. In other words, across most indices Estonia has more cultural and historical similarities than differences from Latvia.

\textsuperscript{507} Interview no. 42
\textsuperscript{508} \textit{ibid.} The lack of male participation in LGBT organizations is common in many countries where LGBT rights are a taboo subject. This stems from multiple causes, though one is that male homosexuality is often viewed as more threatening than female homosexuality, as homosexuality is perceived to represent a clear challenge to perceptions of what it means to be masculine. Interestingly, in both Latvia and Lithuania, the main LGBT organizations are led by male leaders with only limited female participation, while the reverse is true in Estonia.
\textsuperscript{509} Lasala and Revere, 434.
\textsuperscript{510} Interview no. 41
\textsuperscript{511} Interview no. 20
\textsuperscript{512} World Bank Estonia Data http://data.worldbank.org/indicator/SP.POP.TOTL/countries/EE-LV?display=graph
and Lithuania. As the next section will argue, however, there are significant political differences between Estonia and other two countries, and these institutional features made possible the passage of a gender-neutral partnership bill.

**The Estonian Party System & LGBT Rights**

The Estonian party system has several unique attributes that allowed for the passage of contentious legislation on LGBT rights. Primarily, these differences include a reduced number of competitive parties and a strong socioeconomic issue-cleavage, combined with a less threatening ethnic cleavage than in Latvia. However, the stabilization of the Estonian system is a relatively new development. As in Latvia and Lithuania, the development of the Estonian party system emerged first in the mid-1980s during the chaotic period of economic and political liberalization under Mikhail Gorbachev.

In Estonia, initially there were three main political movements: The first was a broad popular front focused on greater autonomy and ultimately independence, and included moderate communists, nationalists, “as well as Greens, Social Democrats, and even a small number of émigrés.”\(^{513}\) Opposing the newly developed reactionary front were Russian-dominated movements that preferred to keep Estonia within the Soviet Union. In addition, a final political grouping were “radically nationalist”, and strived for “Estonian independence by purposefully disengaging from the Soviet political institutions that it considered illegitimate.”\(^{514}\) Between 1990 and 1992, Estonia was officially governed by the Estonian Congress, which included 499 members, representing

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\(^{513}\) Auers, pg. 100  
\(^{514}\) *ibid.*
a total of 31 political groups. During the Congress, Estonian independence was formally achieved following a referendum on March 3, 1991, where 77.8% of voters backed independence. This was later recognized by the European Community in August 1991, and the US and Soviet Union, in September 1991.

The 1992 election was the first post-independence competition, and saw the emergence of several unique parties emerging from the previous Congress, with the election dominated by right wing parties committed to a vision of an Estonian state without the country’s large Russian speaking minority, including the Conservative Pro Patria faction. A total of eight parties crossed the electoral threshold, including the Centre Party, which has historically represented Russian-speaking interests, and garnered the third largest number of seats. Two dominant issue cleavages can be observed in the early years of Estonian independence, namely the extent and scope of de-communization, as well as lingering ethnic question. Kuklys refers to the period until 1998 (which includes the second post-independence election) as a time where Estonia could be considered an “ethnic democracy” given the strength of right-wing parties that campaigned to exclude the Russian-speaking minority from participating in the revived Estonian polity. In 1992, for example, 40.1% of parties elected were considered right wing.

516 Mole (2012), pg. 79
517 Sikk (2014)
518 ibid.
However, the 1995 and 1999 elections witnessed a reorientation away from highly nationalist or right-wing appeals towards greater centrist. Mikkel notes the share of the vote won by right-wing parties fell to 29.1% in 1995, rising only slightly to 32% in 1999.\textsuperscript{521} Increasingly, the main axes of competition were fought over socioeconomic matters and the speed and scale of capitalist economic transformations, while the ethnic cleavage become secondary, along with the emergence of urban-rural distinctions.\textsuperscript{522} Electoral volatility remained high during this period, both in terms of new parties emerging, as well as vote switching between parties, with extra-system volatility reaching as high as 22.6% between the first and second elections.\textsuperscript{523} Indeed, the country had a “kaleidoscopic” array of political parties, and by 2002, the country had elected seven different prime ministers from six parties.\textsuperscript{524}

Yet, despite noticeable electoral volatility, the Estonian system has exhibited a high degree of party system stability. Four main political parties remained present over numerous election: the Social Democrats, the free-market oriented Reform Party, which has been a major player since the 1999 election, the Centre Party, as well as the Pro-Patria, the main conservative group.\textsuperscript{525} The 2003 election did witness the emergence of a genuinely new party, in the form of Res Publica, launched by a former head of the Estonian Central Bank.\textsuperscript{526} It was, however, short-lived. Following the election, the party entered into a coalition with the Reform Party, although it did not survive beyond its founding election, and later merged with the conservative Pro Patria faction. Moreover,

\textsuperscript{521} Mikkel, pg., 33.
\textsuperscript{522} \textit{Ibid.}, pg. 40
\textsuperscript{523} Cabada et al., pg. 120
\textsuperscript{526} Taagepera (2006), pg. 84
ideologically, Res Publica was not terribly distinct, nor can it be thought of as an anti-system party, given that its policies were within “occupied territory” contested by other parties. Rather, its central goal appears to have been to “give a more human face to Estonian free market capitalism,” a position shared by the Social Democrats.527

Interestingly, and unlike Latvia, elections from 1999 onwards show a continuing drop in salience of the ethnicity cleavage. From the 2003 election, parties that explicitly represented Russian interests dropped below the 5% threshold and have not been represented in the Riigikogu since. Kuklys attributes this to widespread fragmentation within the Russian-speaking community in Estonia, and as a sign of “normalization of relations” between titular majority Estonians and the Russian-speaking population.528

Following widespread criticism from Estonia’s western partners as well as the EU, the Estonian government has developed more robust integration programs, while revised citizenship laws allowed children born to stateless parents to apply for Estonian citizenship without having to pass examinations beforehand.529 In more recent years, the Centre Party, which represents Russian-speaking interests, has been led by a native Estonian, which has also decreased the salience of the ethnic cleavage, according to Auers.530

A result of the limited success of Russian-interest minority parties is that nationalist parties have similarly struggled to win votes.531 Rather, moderate right-wing

527 Sikk (2011), pg. 477. Rather, as Sikk suggests, the party’s key feature was its newness and its charismatic leadership, while simultaneously not offering dramatically different policies or programmes. Taagepera discounts this view, somewhat, arguing that the party “…filled a marked void at the centre right” that could be a constructive partner to the Reform party. (Taagepera, pp: 86-7)
528 Kuklyis, pg. 109
529 Auers, pg. 150; for more on current Estonian citizenship laws, please see: http://estonia.eu/about-estonia/society/citizenship.html
530 Auers pg. 110-111
531 Cabada, Hlousek and Jurek (2014), pg. 95.
governments led by the Reform Party have achieved significant electoral success, and served in senior partners in coalition from 2005 onwards, as well as facing relatively few challenges from far right parties. More broadly, in recent years, and prior to the 2015 election, the Estonian party system has shown signs of significant consolidation. By the 2011 election, only four parties won office. Moreover, Mikkel observes that most parties are willing to cooperate with one another to form coalition governments, with the Reform party being a consistent figure in many governments over recent years.

There are also added institutional incentives in Estonia that raise the costs of new parties. Unlike Latvia, which historically only required 200 signatures to legalize a new party, Estonia has required a minimum of 2,000 signatures. Parties are also relatively free of the need to raise private funds. All parties that achieve at least 1% of the popular vote in Estonia are eligible to receive state-funding, while historically Latvian parties have not received state funding, forcing them to rely on private donations. A practical outcome of the less polarized and more stable party system in Estonia is that it has aided the development of an environment more conducive to behind the scenes cross-party lobbying, and persuasion on multiple areas of legislation.

The Estonian Gender-Neutral Partnership Bill

In 2011 the Estonian Chancellor of Justice reached the conclusion that “…continuously cohabiting” same-sex couples were entitled to state recognition, and the current lack of regulation of same-sex partnerships was in violation of the Estonian

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532 Auers, pg. 112; Sikk (2014)
533 Mikkell, 25.
534 Ibid, pg. 115.
In response to this statement, within the Estonian parliament only the Conservative Pro Patria - Res Public Union (IRL) party stated that the current legal framework was sufficient, and voiced opposition to the bill. At the time, the other parties within the parliament appeared largely uninterested in responding to the Chancellor’s proposal. Writing in 2013, one local scholar argued that “…behind all the noise [of the proposal] is just silence and stagnation, there have been few significant developments; if any – the Cohabitation bill has been placed on a shelf to gather dust…” However, a change in the coalition government in 2013, in which the IRL was replaced by the left-leaning Social Democrats (SDE) as the junior coalition partner in the Reform-led government created an opportunity to actualize the Chancellor’s decision into legislation.

Though not formally part of the coalition agreement, several respondents suggested the Social Democrats made it clear they wanted this bill introduced as one of the promises made in exchange for joining in coalition with Reform. Indeed, shortly after SDE joined the government, a draft law was submitted to parliament with the backing of 40 members of the Riigikogu, representing three of the four parties in the assembly. The bill cleared committee hearings and three readings in parliament, before it was narrowly approved in a forty to thirty-eight vote.


537 Väljataga, pg. 143.

538 Interview no. 22

539 Please see: [http://www.karijournal.com/2014/06/16/same-sex-partnership-debate-in-estonia-battle-for-egalitarian-and-liberal-values/](http://www.karijournal.com/2014/06/16/same-sex-partnership-debate-in-estonia-battle-for-egalitarian-and-liberal-values/). Bills submitted with cross-party support are very rare in Estonia. An Estonian official explained that the government was reluctant to introduce the partnership law as a
While the vote itself was very close, the fact that it passed differentiates Estonia significantly from its Baltic counterparts. In particular, it is telling that three of the four parties were willing to grant their members a vote of conscious on the matter, despite a majority of Estonian citizens being against the bill at the time. Certainly, a vote of conscious may have been designed to safeguard the parties from public criticism by allowing the party leadership to take either ambivalent or neutral positions on the bill, or to prevent party splits. However, a key distinguishing trait during the time the bill was being considered is that elected officials who spoke with the researcher did not appear fearful of supporting the bill, and with several clearly stating that they believed it was a necessary legal advancement. With the exception of the conservative IRL faction, the other parties approached the bill in a relatively consensual fashion. The manner in which the bill was able to pass through the Riigikogu is reviewed in greater detail below.

Passage of the Law through the Riigikogu

Interviews with leading party officials from each of the four main parties were conducted in April 2014, at which point the bill had passed first reading, but not yet become law. A smaller number of follow up interviews were conducted in March 2015 after the bill had become law. One of the immediate observations from the interview data is that many officials spoke about the “importance” of this law for Estonia, and believed that the bill’s passage was necessary, inevitable, and even desirable.

An official with the Centre Party asked “…how can we deny these people their rights?” The official acknowledged many within her party disagreed with the partnership bill, particularly those representing the interests of the Russian-speaking population.
However, several party members were of the belief that Estonia’s small size meant it was important to “…protect everyone.” The country had already lost many talented people, she continued, and that passing this type of legislation may help some groups, particularly young people, think about staying in Estonia. The framing was exactly the opposite of that in Latvia and Lithuania; rather than exacerbating demographic problems, a partnership bill could actually be a tool used to aid the country overcome its demographic challenges.

Similarly, a member of the Reform Party argued the bill was a necessary component of Estonia’s drive to align itself with Western European norms, and be a model member of the EU. He explained that the bill is connected with broader questions about whether Estonia chooses to join more developed Western European nations, or chooses to remain caught in an ambiguous and contested post-Soviet identity. In other words, are we [as Estonians] “…living in yesterday or tomorrow?” An official with the Social Democrats, the party that has most clearly supported the bill, held a similar view. The official argued cogently that the LGBT rights “had to be supported” and the bill was needed to overcome a “bad tradition” in Estonia where minority rights are ignored by political circles. Only the conservative IRL faction seemed reluctant to acknowledge the importance of the law, highlighting it was more important to deal with the country’s demographic problems than talk about minority rights.

An interesting observation from several of the interviews relates to the strategies taken by officials to acquire the minimum number of votes necessary for the bill to

540 Interview no. 16.
541 Interview no. 19
542 ibid.
543 Interview no. 17
544 Interview no. 18
succeed. The official from Reform Party, one of the key authors of the law, highlighted that in absence of noticeable public pressure to adopt the law, intense behind the scenes lobbying had taken place to convince members of the Riigikogu to support the law. Often, pre-existed relationships were leveraged within the assembly, while an explicit strategy was adopted to link the bill to larger discussions about Estonian identity, and the need to differentiate the country from its Soviet past.545

The level of fear expressed in supporting partnership legislation appears significantly reduced compared to the other Baltic countries. While the Reform Party official acknowledged there was a diversity of private opinions on the matter, and some MPs were fearful of losing support over the bill, others thought it was “the right thing [to do], but expressed concerns about irritating or frustrating religious authorities.”546 Officials did suggest that passing the bill would be “difficult” and would face resistance, but it was not “political suicide” to see such legislation passed.547 A belief that the partnership bill would be at most a secondary issue in the upcoming 2015 election, combined with the decision to make the vote a conscious matter, appears to have calmed fears of many MPs.

Unpacking the role of the EU during the time when the bill was being debating in the Riigikogu reveals mostly indirect support. Rather, the EU appears to have played a negligible role once the partnership bill entered parliament, as none of the elected officials awarded much direct influence to the EU.548 As an Estonian official explained,

545 Interview no. 19
546 ibid.
547 In addition, the Reform Party respondent had detected a shift in views towards Russia’s anti-propaganda laws. In the past, it was a fair assumption that some elected officials were at least quietly supportive of Russia’s anti-homosexuality laws. However, the ongoing unrest in Ukraine had led some lawmakers to reassess how seriously they took Russia’s moral views, with a noticeable shift towards greater skepticism
548 Interview no: 16,17, 19, 20
once the Chancellor of Justice highlighted the need for partnership legislation, it took several years before politicians actually drafted legislation in response to this demand, and there was not a clear EU push to advance the Chancellor’s proposal. The official continued by explaining that the Minister of Justice, who would most directly respond to findings from the Chancellery, “did nothing” to promote the enactment of this legislation.\(^{549}\) Rather, the passage of the legislation appears to have proceeded according to domestic political processes, catalyzed by the entry of the Social Democrats into the coalition government and a sufficient number of MPs from different parties willing to support the bill when it first entered the Riiigikogu.

Where the EU may have mattered more was in providing an externally supportive environment. The Estonian official indicated that the EU’s influence was best summarized as “keeping the issue on the agenda,” even if domestic political leaders were less inclined to. One of the more obvious strategies employed by the EU is through the frequent provision of public opinion data on LGBT rights, and through extensive reports on discrimination within the EU. In addition, the EU has funded entirely, or been a funding partner, in several recent events focused on improving awareness on LGBT rights, including one recently attended by the researcher in Tallinn.\(^{550}\) These ongoing events are a form of elite socialization in EU norms, although they are not directly tied to the policy making process.

\(^{549}\) Interview no. 20, 45

\(^{550}\) In March 2015, the Estonian Human Rights Centre and the Tallinn University of Technology hosted an academic seminar on Europeanization and LGBT rights in Central and Eastern Europe. The event was open to the public and received funding from the Estonian Social Ministry as well as the EU. The event programme can be viewed here: [http://www.erinevusrikastab.ee/en/news/academic-seminar-on-lgbt-rights-in-tallinn/](http://www.erinevusrikastab.ee/en/news/academic-seminar-on-lgbt-rights-in-tallinn/)
More generally, these findings support the argument that the EU’s pro-LGBT soft-norm should be conceptualized as providing external legitimation for particular policies, and that these often diffuse soft-norms can be an effective tool at helping influence the policies adopted by national elites. “Soft” support for Estonia’s policies can be seen in public statements from European Parliament members, and major LGBT civil society groups working closely with EU bodies, such as ILGA-Europe.

Beyond the role of the EU, the period of stability in the Estonian party system appears to have made it institutionally easier to advance this legislation. For one, interviews revealed that cross-party cooperation, something not witnessed in the other cases to first introduce the law to parliament was possible, and then to facilitate ongoing lobbying in absence of a public push for the law. Though there were a few homophobic MPs, there were no virulently homophobic parties in the Riigikogu at the time the law was discussed. As such, there were fewer actors that needed to sign off the law, fewer potential veto-points, and less fear of electoral consequences. Though an election was on the horizon, and indeed the government would later be criticized for passing this law without sufficient popular consent, few actors seemed overtly concerned that passing the law would hurt their electoral fortunes, nor would LGBT rights become a central issue in the forthcoming campaign. While the bill did succeed in passing, some of the initial optimism of the 2011-2015 Riigikogu was tempered following the March 2015 election,

551 See Kollman (2009)
552 For ILGA-Europe’s statement on Estonia’s partnership legislation, please see: http://www.ilga-europe.org/home/news/latest/estonia_becomes_the_first_country_of_the_former_ussr_to_legally_recognize_same_sex_families
553 Supporting this argument, the FRA documents that homophobic remarks from politicians and other public officials is significantly less common than either of the other two Baltic states – and is also less common than in Poland or Italy. See European Union Agency for Fundamental Human Rights (FRA), “EU LGBT Survey: Main Results,” pg. 83.
which rather unexpectedly saw two new factions enter parliament. Of these parties, one used specifically anti-LGBT rights to compliment to its anti-immigrant platform, as will be outlined below.

*March 2015 Election*

On March 1st, 2015, Estonia held a national election that resulted in two additional parties entering the *Riigikogu*, one of which was entirely new. Of the four parties that held seats in the *Riigikogu* prior to the election, all were returned to office. The two largest parties prior to the election, namely the governing Reform and opposition Centre Party, maintained their positions as the first and second parties, although their performances during the election differed, with Reform losing three seats and 0.9% of the popular vote, and the Centre Party gaining 1.5% of the vote and one seat. The Social Democrats, the junior coalition partner to Reform, and original sponsor of the partnership bill had a relatively lackluster campaign, losing 1.9% of the popular vote and four seats. However, the party that suffered most was the Conservative IRL faction, which lost 6.8% of the vote, and nine seats. Much of the IRL’s support appears to have moved to the Conservative People’s Party, which successfully crossed above the electoral threshold for the first time in this election, winning 8.1% of the vote and seven seats, up from winning only 2.1% of the popular vote in the 2011 election. The only genuinely new party, the Estonian Free Party, won 8.7% of the vote, and eight seats. Following the election, in late April 2015, a coalition agreement was signed between the Reform, the Social Democrats, and the IRL parties, with Reform retaining the Prime Minister’s office. The Free Party participated in the early stages of the negotiations, but later withdrew from
An overview of the likely coalition agreement focuses primarily on addressing socioeconomic challenges, such as increasing the minimum wage. The partnership bill was not formally mentioned within the coalition agreement.

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<th>Party</th>
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<th>2015 Election</th>
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*Source: http://www.parties-and-elections.eu/estonia.html*

At first, glance the introduction of two new parties may suggest the consolidation of parties in Estonia observed prior to the 2011 is unraveling, and that the system is showing signs of greater volatility and instability. If true, this increase the similarities between the Estonian, Latvian, and Lithuanian Party systems, and potentially makes it more difficult for contentious minority rights legislation to proceed. Indeed, the success of the Estonian Free Party was unexpected. A review of the party’s platform, however, suggests that many of its campaign promises are not radical in nature, nor can it be classified as an “anti-system” party. The party’s campaign material focuses mostly on improving Estonia’s democratic structures and accountability. For example, the platform argues

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554 Please see “Coalition talks to continue between three parties, Free Party to go into opposition,” Estonian Public Broadcasting. Accessed March 30, 2015. Available at: http://news.err.ee/v/politics/9a422178-b0ea-461e-b208-7ead215b88ed. It has been suggested that the Free Party did not bring concrete ideas to the coalition negotiations, which made the negotiations particularly difficult in the early stages of coalition talks.

555 “Coalition agreement: lower labour tax, higher child benefits.” Estonian Public Broadcasting. April 7, 2015. Available at: http://news.err.ee/v/politics/4ed26ec0-917a-4bad-ba2d-37961205943f

556 Interview no. 43
accountability could be improved by revising the electoral system by lowering the threshold from five to three percent, and introducing open lists for parties, as well as creating a constituency for Estonians living abroad. In addition, the party has called for ending state financing of political parties.\textsuperscript{557}

The party also does not appear to be against LGBT rights. While the platform expresses concern about continued emigration from Estonia, and the associated decline in Estonia’s overall population, there are no calls to rescind the partnership legislation. Instead, the platform states that same-sex couples have “…the right to happiness, and the country’s support.” In addition, campaign material suggests that co-habiting couples should have marriage available to them as an option, although it is unclear whether that support extends to same-sex couples.\textsuperscript{558}

The same cannot be said for the Conservative People’s Party (EKRE). Here, the party explicitly campaigned on overturning the partnership law. Indeed, during the election the party ran on two primary themes: the first involved “…closing the door to immigrants,” while the second was defence of family values. While campaigning during the election they reportedly handed out matches and promised to “light the bill on fire” should they be elected to the coalition government. A press release issued by the party in 2014 argues the government was acting without a mandate to pass the law. The release states the bill “…lacks the support of the Estonian public” and that the party will seek to repeal it if elected.\textsuperscript{559} The jump in support for EKRE is certainly concerning for the fate of the partnership bill, though it is unclear whether the party adopted this tactic for

\textsuperscript{557} http://www.vabaerakond.ee/vabaerakonna-programm-anname-riigi-rahvale-tagasi
\textsuperscript{558} ibid.
strategic reasons, or was responding to a groundswell of popular resentment against the law. Indeed, all of the other parties indicated the law was necessary, and that more generally, it was a low priority issue during the election.

At a more general level, the election appears to have been fought primarily over socioeconomic and security concerns, with morality issues present, but decidedly secondary. In light of the ongoing conflict in Ukraine, as well as increased Russian military activity in the Baltic region, the Reform party ran a largely security-focused campaign. The party, led by Prime Minister Taavi Rõivas, promised to strengthen Estonian national security, and continue to work closely with allies in the region, as well as broader EU institutions. A respondent speaking with the researcher explained that security was the party’s perceived “trump card” and that they actively chose to tailor their campaign around this theme. Nevertheless, a recently defeated elected official explained Reform’s overly security-focused campaign actually cost it votes, as she felt that for many voters concerns about the country’s security remained decidedly secondary to more pressing matters of salaries and other bread and butter issues. The focus on security, moreover, appears to have provided opportunities for other parties to pick up some seats, although Reform only lost a small number of votes in total.

560 Interview no. 41
561 Interview no. 41
562 The Centre Party, which both before and after the election remains the largest opposition party ran a somewhat successful campaign. During the campaign, the party did raise some controversy over its softer stance towards Russian aggression in Ukraine, which is perhaps unsurprising given that the party receives the majority of Russian speaking votes within the country, including from Narva. The serious illness of the party’s long-standing leader has also raised interesting questions about whether his presumptive replacement will strengthen either the pro-Estonian or pro-Russian factions within the party. Should the pro-Estonian faction be strengthened by leadership changes, it is plausible the party could become a more suitable coalition partner. A former member of the Centre Party indicated that the pro-Estonian wing of the party is very close ideologically to the Reform party, and actually sits in the same grouping as Reform at the European Parliament (Interview no. 41)

Both the Social Democrats and IRL lost support during last election. The IRL, which was the only party that did not have any members supporting the partnership bill, focused mostly on tax-reform, and was
Reflecting on the partnership bill more generally, the official explained that while she did not think EKRE’s focus on the partnership bill was responding to deep-seated and widespread disgust at the law, she did believe that many voters felt they should have been consulted before the law was implemented, and that the law had been “imposed from above” with little to no public consultation.\textsuperscript{563} What is hard to know, however, is whether EKRE’s newfound electoral success emerged from its overtly anti-LGBT campaign material, or whether it picked up support for other reasons. Plausibly, in light of relatively low wages across many sectors of the economy, EKRE’s anti-immigrant views may have resonated with voters. Anti-immigrant sentiments have been somewhat on the rise in Estonia in recent years, with the interviewee noting that the Estonian press has begun to document Sweden’s immigration problems.\textsuperscript{564} More importantly for the purposes of this thesis, the longer-term question is whether the two new parties herald a fragmenting of the party system. If the analysis here is correct, it is more likely that they will be absorbed into existing parties or form part of a cohesive, predictable block of parties. Naturally, only time will tell.

Conclusion

It is too soon to tell how the 2015 election will alter Estonia’s approach to LGBT rights. It is certainly plausible that the return of the IRL into the coalition government, as well as the newfound presence of a fiercely conservative and moralistic EKRE will

\textsuperscript{563} Interview no. 40.

\textsuperscript{564} Interview no. 42; At the same time, the respondent noted that despite criticizing Sweden for its relatively liberal immigration problems, the country still has wishes to adopt a Nordic and Scandinavian identity.
caution elected officials from advancing progressive legislation. The rise of EKRE could also signal that morality issues will take a more prominent place in Estonian politics in the coming years, reversing the trend of previous years. As noted earlier, although the partnership bill was passed in 2014, and is scheduled to take effect in January 2016, several additional laws need to be amended before same-sex partnerships can actually take place. Certainly, conservative factions within government and the greater salience of morality arguments could create an atmosphere where these amending laws cannot be passed.

Yet, it is also plausible that the election will do little to change existing practices towards LGBT persons. This is because LGBT rights are generally a low priority for elected officials, and that other than for EKRE, the partnership bill was not a major issue-cleavage during the campaign. One official speculated that the co-habitation act “was most likely not even discussed during coalition agreement.”\textsuperscript{565} Backing this view, since the election, there have been no official statements about the partnership bill being at risk from the main coalition partners, although there have been disagreements over how the amending laws should be addressed. This would make sense, and fit the recent pattern of Estonian politics where LGBT rights are dealt with rather quietly and in a non-partisan fashion between the centrist and left parties acting in concert with EU norms. Much here will depend on whether the IRL changes its position on the partnership bill, especially now that it is once again a coalition partner. There are some signs, moreover, that the party may be reconsidering its view on LGBT rights, given that it lost the most seats during the last election.\textsuperscript{566} Moreover, even if the party chooses to reject the partnership

\textsuperscript{565} Interview no. 43
\textsuperscript{566} Interview no. 41
bill, the remaining coalition partners could turn to the opposition Free Party, which has more tolerant views towards LGBT rights, to see the amending laws passed to ensure gender-neutral partnerships can take place in 2016.⁵⁶⁷

What is more certain, however, is that the specific party configuration in Estonia prior to the 2015 election provided a unique opportunity to push through the partnership bill, with the Social Democrats and Reform party largely supporting the law, neutrality from the Centre Party, and opposition emerging only from the IRL. Given the significant international attention and support given to Estonia after the passage of the law, as well as continued support from high level officials, including the Estonian President, the costs of backtracking on the law would be significant, and from the present perspective, unlikely. But even this is somewhat of a secondary issue: the key point was that Estonia’s stable 2011-2014 party system made the passage of the partnership bill possible.

Chapter 8
Conclusion

In June 2015 Riga hosted Europride, an annual festival bringing together LGBT activists and their allies from across Europe. The weeklong event, which included a human rights conference, concerts, and many Embassy-sponsored events culminated in nearly 5,000 people marched through the streets of Riga – an unthinkably large amount only a few years ago. The message of the parade goers and their allies was clear: human rights for LGBT persons are fundamental and a cornerstone of European identity. A contingent of Russian speakers, marching with both Russian and Ukrainian flags, held a banner that provocatively read “Europride, Welcome to Moscow Next!” Another parade goer reflected that “…it was so surprising how many faces you could see on the street, including elderly people…it was so touching.” While there were significant protests surrounding the festival, including a rival anti-LGBT event hosted nearby, Europride proceeded peacefully, largely without violence, and at least subjectively, with more popular support than past highly visible LGBT events.

Yet, the Latvian government was strikingly absent in its support for the event, leading Amnesty to argue that the state was “turning its back” on the festival. Beyond its reluctance to support the event, the government has continued to pursue legislation that both limits LGBT rights and narrows opportunities for broader discussion or awareness of non-traditional sexualities and gender minorities. Notably, as a representative from the Latvian foreign ministry welcomed participants, the Latvian Saeima drafted legislation that would limit the ability of teachers to speak positively

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568 See: https://twitter.com/jamietabberer/status/612226291023093760
569 Interview no. 49
570 Supra at note 368
about non-traditional relationships or gay rights more generally. The decision to pursue this type of legislation, especially during Europride, fits into a larger pattern in Latvia, but also in Lithuania, where anti-LGBT discourse, amendments, and laws are a common reality of daily politics. Estonia has not been characterized by this pattern, and has remained largely free of homophobic rhetoric and policies designed to limit human rights for LGBT persons.

Variation in national policies towards LGBT persons is indeed a striking reality within the Baltic States and EU. This variation exists despite efforts by the EU and its many auxiliary agencies to facilitate greater popular awareness of LGBT rights, and more indirectly, common public policies. Accounting for this divergence has been the central aim of this dissertation, one inspired by the puzzle of three countries otherwise sharing many similarities, including in their treatment of minority rights in certain areas—such as citizenship policies for native-Russian speakers in Estonia and Latvia—but such different policies towards LGBT people. Only Estonia showed a willingness to actualize diffuse EU norms into public policy. In this brief concluding chapter, a few broad observations will be sketched out on how divergence is explained, and on avenues for future research on LGBT rights within the EU.

The first observation is on the role of the EU itself in promoting LGBT rights within a growing Union. As stressed at various points, the relationship between the EU and LGBT rights is both complex and evolving. Human rights for LGBT persons are acknowledged in many EU documents, have become an important component of the accession criteria, and are carefully monitoring by numerous EU bodies, including the Commission, the Parliament, and the EU’s Agency for Fundamental Rights. Crucially,
the EU is also a source of funding for many LGBT organizations in Central and Eastern Europe, providing critical resources for organizational development and allowing local activists to articulate human rights demands to their national governments, and, to tap into larger transnational activist organizations. Beyond this, a dense network of EU officials span out throughout member and accession states to participate in human rights trainings and awareness raising campaigns. Particularly in accession states, where the EU can leverage membership as a reward for meeting minority rights provisions, this environment has proven effective at facilitating at least formal elite compliance. In Montenegro, despite extremely hostile popular opinion to LGBT persons, elites spanning numerous parties expressed a willingness to support LGBT rights, acknowledging that it is a necessary component of the country’s aspirations to join a larger European community.

Yet, within member states, this dissertation has argued that the EU has far fewer tools at its disposal to facilitate policy convergence, and has even fewer tools to halt homophobic policies emerging from elected officials or national assemblies. Until a larger horizontal equality directive is passed, one of the few hard tools left available to the EU is to ensure that, at least formally, its member states do not discriminate against LGBT persons in employment. Beyond this, EU pressures are best conceptualized through the lens of elite socialization and gradual persuasion. However, where more progressive policies have been initiated, as in Estonia, this appears largely the result of domestic factors – indeed, no interviewees referenced the EU has being instrumental in pushing partnership legislation through the Riigikogu. Additionally, in Latvia or Lithuania, it was almost impossible to detect the EU’s influence in shaping the decisions
or campaign promises of domestic political actors, regardless of whether they were supportive or against LGBT rights.

For LGBT communities and their supporters, this is understandably an unsatisfying reality, and challenges the belief that a constitutive element of EU citizenship is support for LGBT persons. Until greater policy convergence is achieved, many LGBT couples are likely to question whether the EU’s freedom of movement of provisions really applies to them – given that their relationship status is only recognized in some countries. The juxtaposition between the recent Irish referendum that legalized same-sex marriage, and the homophobic legislative proposals in Latvia and Lithuania also suggest a debate is necessary within the EU on whether relationship recognition needs to become a supranational competency.\(^{571}\) Though such a proposal is likely to be vigorously resisted in national capitals, it would at least provide the option of ‘managing up’ an often intractable policy disagreement to Brussels.

An environment where the EU’s influence can, at best, be conceptualized as indirect leaves significant room for domestic factors to mediate, ‘stall’, or outright block the Europeanization of LGBT rights policies. Within the Baltic States, elite discussion on LGBT rights exists within a narrowing range of state sovereignty, bounded by EU minimum standards at one end and supranational normative pressures encouraging more progressive laws at the other. These normative pressures have been challenged by local contextual realities that have left deep imprints on how homosexuality and LGBT rights are understood. Common to the region, post-Soviet legacies of male-homosexuality being illegal has left LGBT rights largely a taboo or hidden subject much of the time. During

EU enlargement, LGBT rights were a peripheral policy issue, and when discussed at all, appear to have been grouped together within larger processes of democratization, and becoming free market economies. However, since joining the EU, the first major Pride events in Riga in 2005, Tallinn in 2006, and Vilnius in 2010 elevated the salience of LGBT human rights issues. For nationalists in each country, these festivals represented an affront to what it means to be Estonian, Latvian, or Lithuanian. No doubt, underlying these attitudes are significant demographic challenges facing each country, whose populations have all declined since regaining independence. These concerns are particularly acute in Estonia and Latvia; each having sizeable Russian speaking populations, whose allegiance and loyalty to the state is often questioned.

Yet, as observed in this thesis, despite broadly similar domestic realities and common EU pressures, political leaders in each of the Baltic States have pursued different approaches to LGBT rights, with Estonia adopting partnership legislation, while that remains off the mainstream political agenda for the foreseeable future in the other states. In explaining why this is the case, this dissertation has found that the stability of the Baltic party systems has profoundly shaped each country’s approach to LGBT rights policies. This finding stands in contrast to other research on LGBT rights which has relied on varying levels of economic development, particular forms of nationalism, religiosity, or the density of civil society to explain variations in national policies. While these factors are certainly important, they cannot explain outcomes in the Baltic States – as the countries share similar levels of economic development, while fears of national extinction are a key feature of nationalism in each country. Similarly, religious differences, as a day to day practice, are only minor between the countries, while the role
of civil society is contrary to expectation, in that it is Latvia and Lithuania that have more
developed networks, and yet these are the countries most resistant to LGBT rights, while
Estonia, with more laws supporting LGBT rights, has more limited civil society
engagement.

Rather, variations in party systems appear to be the key observable difference
among otherwise very similar systems, and that party system differences significantly
account for diverging outcomes. Overall system stability, degree of polarization, as well
as the specific types of issues that feature in national campaigns has significantly shaped
either the passage or blocking of pro-LGBT policies supported by the EU.
In Latvia and Lithuania, highly unstable systems characterized by many short-lived
parties, often-unwieldy coalitions, and active sociocultural cleavages have made
legislating on LGBT issues exceptionally difficult. The crowded electoral market has
provided room for entrepreneurial elites to pursue anti-LGBT policies to win votes,
including members from Order and Justice in Lithuania and the Latvian First Parties.
This environment has also scared many others into adopting conservative views towards
gay rights. In interviews with the researcher, elected officials and local human rights
activists were in agreement that the political environment in each country precluded
strengthening LGBT rights. Nor has the EU’s soft pressures been successful in
counteracting powerful domestic narratives antithetical to LGBT issues.

In Latvia, the reproduction of the ethnicity cleavage within the party system has
been particularly unhelpful for LGBT rights, given that it has encapsulated and linked
discussion on gender and sexual minorities with the durability and viability of an ethnic-
majority Latvian nation. In Lithuania, by contrast, the ongoing power and perceived
legitimacy of the Catholic Church has provided a base for elected officials to resist gay rights. The openness of both systems to new political entrants, including those who pursue sociocultural cleavages such as religion or ethnicity, appears also to have stunted the development of more programmatic forms of competition based on socioeconomic issues; a form of competition that is more amenable to gay rights policies.

In Estonia, in contrast, the last several election cycles have witnessed a significant stabilization of the party system. Here, there has been a gradual reduction in the number of parliamentary parties, lower electoral volatility, and greater salience of socioeconomic issue cleavages and programmatic competition. This political environment has enabled greater elite willingness to legislate on policies primarily effecting LGBT communities, even in absence of clear social demands to do so. Within the Estonian Riigikogu, partnership legislation was advanced by a few committed party officials from the Reform and Social Democrat parties, who successfully lobbied for a free vote on the matter in parliament. Though there remains discomfort with LGBT issues in Estonia, the fear expressed by many Latvian and Lithuanian officials on advancing pro-LGBT policies was noticeably absent in Estonia. There was little belief among elected officials that supporting contentious laws would threaten them significantly at the polls at upcoming elections, and rather, that LGBT rights had become less of a morality issue, and instead a matter of public policy that required legislative fixes. In addition, some respondents explained that they believed partnerships open to LGBT persons will help Estonia combat its demographic challenges, while in Latvia and Lithuania, these legal arrangements continued to be perceived as a threat to demography.  

572 Certainly, the role of each Baltic President may have also shaped debates on LGBT rights, particularly through their ability to provide leadership on the topic. In Latvia, the indirectly elected President has been
Moreover, this dissertation has found that the patterns of party system development common across much of post-Communist Europe has unique consequences for the advancement of policies targeting LGBT rights, and that EU membership has done little to mitigate this. Across much of Central and Eastern Europe, closely monitored and rapid democratization facilitated the emergence of often weakly institutionalized party systems, with limited linkages between parties and voters. In the absence of well defined cleavage structures, and bounded by EU accession criteria which removed most economic matters from political contestation, many parties have chosen to mobilize on the basis of sociocultural or personality based campaigns. Doing so is less costly, as it requires less party development, and also because it imposes fewer cognitive demands on voters by offering selective incentives or easy to understand messaging amongst parties with few substantive policy differences.

A complex and mutually reinforcing combination of system instability and non-programmatic competition has facilitated the frequent emergence of populist campaigns against immigrants, the Roma, the EU itself, and in some cases, particularly in Baltic Europe, LGBT rights. As noted in Chapter 3, it is primarily only the countries which have developed more programmatic forms of contestation that are both more stable, and have also avoided heated debates on LGBT rights, such as in Slovenia, Estonia, as well as the Czech Republic. Where non-programmatic competition is common, both system instability and homophobic rhetoric is more likely. Beyond Latvia and Lithuania, Poland, and to some extent Bulgaria also appear to fit within this framework. Greater system hostility to LGBT rights while the directly elected Lithuanian President has continued to avoid the topic where possible. Only in Estonia has the incumbent President spoken favourably about LGBT rights, and urged parliamentarians to support the partnership legislation. The direct influence of these statements is hard to detect, however.
instability and non-programmatic competition appears to reduce the likelihood of natural LGBT allies within the party system. Particularly in Latvia, the left remains closely aligned with the traditional values of the Communist era, while the focus of the right on nationalism precludes active support of gay rights. In Estonia, by contrast, a traditional L-R orientation has led to more widespread support from Social Democrats and the neoliberal Reform party.

At a broader level, the findings from this dissertation suggest that advancements in LGBT rights and party systems are indeed connected, with unstable, and polarized multiparty systems less likely to support demands for advancing LGBT rights. Certainly, unstable systems have previously been connected to a wide variety of deleterious outcomes for democratic regimes – including overall government responsiveness, stability, as well as minority rights. How these systems adjudicate LGBT rights, at least from evidence from the Baltic States, fits within a larger pattern.

Future research would be well served to tease out the causal mechanisms linking overall system stability and LGBT rights beyond the EU. Moreover, it would be instructive to consider how predominant political cleavages shape attitudes towards gay rights beyond the Baltic States. Additionally, it would be engaging to more thoroughly review the importance of political leadership from non-elected officials, such as the largely ceremonial Estonian and Latvian Presidents. To what extent did their comments on LGBT rights, supportive in the Estonian case and against in Latvia, diffuse to legislators and/or provide moral cover for their policy decisions?

Lastly, it is worth recalling that this thesis has focused mostly on elites, and their ability, as well as their choices on whether to pursue laws that aid LGBT persons.
Certainly, arguments could be raised that this downplays the important work of activists and civil society groups working to advance gay rights throughout the EU. This criticism is understandable given the many recent studies on the importance of LGBT transnational activism, particularly within the EU. While not discounting the significance of LGBT activism, until major attitudinal change occurs, or the EU passes a more expansive directive, within Central and Eastern Europe it remains overwhelmingly elected officials who are the adjudicators of EU norms and domestic mediating pressures. It is legislators that must ultimately navigate between these competing pressures.

Indeed, while not seeking to diminish their own work as LGBT activists, one prominent respondent confided that it is immeasurably better when elected officials pass laws supporting LGBT rights, even if they are unpopular and create backlash, and to let society adapt.\footnote{Interview no. 12} At least within the Baltic States, the more stable party system in Estonia, with fewer parties and characteristically programmatic competition has provided a sufficient number of committed elites the ability, institutionally, to advance pro-LGBT policies; something that seems institutionally impossible in Estonia’s southern neighbours for the foreseeable future.
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# Appendix A

## Interview List

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<th>Interview Number</th>
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<td>Government of Montenegro official</td>
<td>Podgorica, Montenegro</td>
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<td>Human rights researcher</td>
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<td>February 25, 2014</td>
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<td>July 16, 2014</td>
<td>Member, Lesben- und Schwulenverband in Deutschland (LSVD)</td>
<td>Bonn, Germany (via Skype)</td>
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<td>September 22, 2014</td>
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<td>March 11, 2015</td>
<td>Latvian elected official, Unity Party (V)</td>
<td>Riga, Latvia (via Skype)</td>
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<tr>
<td>38</td>
<td>March 13, 2015</td>
<td>Member, Mozaika</td>
<td>Riga, Latvia (via Skype)</td>
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<td>39</td>
<td>March 20, 2015</td>
<td>Official, Estonian Social Ministry</td>
<td>Tallinn, Estonia</td>
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<td>Members, LGL</td>
<td>Vilnius, Lithuania (via Skype)</td>
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<td>May 13, 2015</td>
<td>Official, United</td>
<td>Vilnius, Lithuania</td>
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Appendix B
Sources to Table 1.3

Popular opinion data for the EU27 is from the Special Eurobarometer 393. Question QC5.2 asks the following: “And using a scale from 1 to 10, please tell me how you would feel about having someone from each of the following categories [a gay, lesbian or bisexual person] in the highest elected political position in (OUR COUNTRY)? ‘1’ means that you would feel “totally uncomfortable” and ‘10’ that you would feel “totally comfortable.” While the question is somewhat general, it does provide a good snapshot of prevailing popular attitudes towards gay rights generally, rather than focusing on the more emotionally-laden issue of gay marriage.