THE STRUGGLE FOR LGBT RIGHTS

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Introduction: why study LGBT rights after communism?

Seen from the perspective of scholars of both comparative politics and Eastern Europe, lesbian, gay, bisexual, and transgender (LGBT) politics and gay rights are particularly instructive as lenses for considering the region’s development since the epochal changes of 1989. The following is a list of just some of the broader questions that this issue touches on. How liberal are post-communist democracies really? Is robust rights activism possible in weak civil societies? How much influence do transnational institutions such as the European Union, which has come to be seen as a promoter of gay rights, really wield? How much like the rest of Europe has post-communist Europe become? What is the role of religion in post-communist politics? We could go on, but the point is clear: the question of LGBT rights brings each of these questions, which have purchase across a range of social and political issues in the region’s development since the fall of communism, into sharp focus. One might also point out, of course, that problems of majority-minority relations have historically very closely linked with the region’s democratic development – most dramatically in the interwar period. In this chapter, I seek not to answer these questions but to provide a brief orientation as to how the scholarship on LGBT politics in post-communist Europe has evolved over the course of grappling with them.

A note on terminology

Before going any further, however, a brief caveat about terminology, in particular the terms “LGBT” and “gay rights,” is in order. First LGBT – for lesbian, gay, bisexual, and transgender – is an umbrella term that is now well-known in the region. It is used by both supporters and detractors alike. Nevertheless, it must be applied with care when describing even recent history. The problem is not only that it was not always much used by activists and others. It is that some of the categories contained within it did not really exist for all practical purposes. For example, in the early 1990s, and certainly before, there were very few, if any, transgender people. One of the first transgender activist groups in the region, Poland’s Transfuzja (Transfusion), was only established in 2008. To speak, then, of LGBT activism in the 1990s is somewhat anachronistic. Likewise, the category “bisexual” seems very much underrepresented if one looks at the organisational composition of social movements. In general, the composition of these movements in the early
years after the fall of communism was dominated by gay men, with a much smaller number of lesbians. Over time, these proportions have shifted. A further problem is that even the language of activists and politicians (on both sides of the rights question) is not consistent over time. In the early 1990s, rights activists favoured the term “homosexuals” in naming their organisations. Later the preferred usage was “gay” or “lesbian.” Most recently, the term “queer” is presented as an alternative.

Likewise, the term “gay rights,” though commonly used on the ground and among analysts as a kind of shorthand, presents similar difficulties. First, following on the comments above, these are rights not just of gay men. Second, just what rights are included? Same-sex marriage? The right to adopt children? Or do we have in mind more basic rights such as labour laws to protect against discrimination in employment? Or, taking into account the backdrop of deep repression – and, in some cases, criminalisation – of homosexuality under communism, should we employ a more basic concept of “gay rights” in this region than we are accustomed to in the US? Even today, citizenship rights such as free speech, the right to organise collectively, and protection from overt discrimination are at issue.

After all, recent history has brought threats to even these more basic liberal freedoms in a number of countries in the region. In recent years, these have included unconstitutional bans of Pride marches in Poland and Latvia; violent attacks on parades in Hungary in 2007, Serbia in 2010, and Croatia in 2011; the passage of laws against “homosexual propaganda” in schools in Lithuania; and a surge in the mobilisation of the hard right, from electoral breakthroughs of openly antigay parties in Poland and Hungary to the street mobilisation of Ukraine’s Pravyi Sektor (Right Sector). Then, of course, there is Russia, which in the last several years has taken on the mantle of defender of traditional and conservative (read antigay) values on the international stage.

Rather than try to capture the gradually blurring boundaries between the movement’s constituents or its shifting boundaries and goals, we use the encompassing terms “gay rights” and “LGBT rights” interchangeably here to refer to the movement, its members, and its goals. Just as “gay rights” has become a blanket term for the goals of the broader LGBT movement, we will use it to cover the gamut of policies and goals from ensuring basic citizen rights to more ambitious goals such as same-sex registered partnerships, antidiscrimination protection, adoption rights, and even same-sex marriage. Likewise, the term gay-rights movement will be used to encompass the varieties of activism. In both cases, we recognise that meaning shifts not only across place but over time.  

An overview of a literature struggling to catch up

Having laid out some of the central questions that LGBT rights raise for scholars of the region and the term’s various levels of meaning, we now provide a brief overview of the scholarship by first discussing the salience of this issue in comparative politics scholarship over time and then identifying the main thematic orientations within this scholarship. It should be emphasised at the outset that the relatively recent explosion of LGBT issues onto the political scene in countries from Poland to Croatia represents another instance of political scientists being taken by surprise by real-world events. Scholars of comparative politics, at least those writing for an English-language audience, are still struggling to catch up with events on the ground – which is another way of saying that this literature remains underdeveloped compared with that on other aspects of post-communism. This section outlines the chronology of this development beginning with the communist period and ending with the current day.

To a large degree, the development of scholarship on homosexuality in Eastern Europe and the former Soviet Union has followed the politics of the issue itself. Just as the issue was long...
socially taboo and politically invisible in the region, likewise it was largely overlooked by scholars, at least political scientists. There were, of course, some notable exceptions, as described later. Academic interest, especially among scholars based outside of the region, has greatly increased, but only really in the last decade – which was also the point at which the issue began making headlines.

As was the case in the US and Western Europe, the appearance of HIV/AIDS led to new visibility, if not notoriety, for homosexuality in the 1980s. For Eastern Europe and the Soviet Union, this was late-stage communism, a period during which country-specific factors made for a highly varied map of state-society relations and ideological rigour in the application of the Soviet model. These differences were reflected in the official treatment of homosexuality, though not always in the same way as other aspects of state-society relations. For example, Poland’s regime was generally considered much less repressive than Czechoslovakia’s in the 1980s (Ekiert 1996); however, in the area of homosexuality, the situation was reversed. Polish social scientists treated homosexuality as a perversion likely to lead to socially deviant, even criminal behaviour (Owczarzak 2009, 2010). By contrast, Czechoslovak social scientists, especially those in the field of sexology, treated homosexuality as an innate condition, which, because of social stigma, would likely lead to social problems (Long 1999; Seidl 2012). Thus, Czechoslovak sexologists sought to use therapy to ameliorate these adverse consequences. To offer a third example of the variation in the authorities’ treatment of homosexuality, in Romania homosexuality was a criminal offense punishable by imprisonment of up to five years (Buzogány 2008; Kligman 1998). Yet even as we note these differences in how the region’s states treated homosexuality under communism, we should not allow them to obscure the deeper similarities among communist states and societies in this area. Namely, homosexuality was deeply taboo in society – reflecting a still largely traditional political culture reinforced by what Janos (2001) has called communism’s “neo-Victorian” morality. Consequently, gay and lesbian life was deeply underground. One consequence of this was that across the region the secret police threatened to “out” suspected gays as a means of trying to recruit them as informants.

Interest in the politics of homosexuality from comparative politics scholars outside of the region came in the aftermath of the fall of communism. Here we can think of the work of Gessen (1994), Long (1999), Flam (2001), and Ramet (1999). As the brevity of this list indicates, however, the politics of homosexuality was far from the attention of most scholars and observers of the region in the 1990s (Kulpa and Mizielińska 2011). Instead the paradigms of transition, with its triple-transition of democratisation, economic reform, and state-building, were the topics of the day. These triple-transitions constituted the yardsticks for assessing political development after communism. As a caveat, it should be noted that minority rights did find a niche within this first wave of post-communist scholarship. They did so, however, in the form of ethnic minority conflict and the gendered character of economic transition. The politics of both are arguably quite different than those of “sexual minorities.” Even recognising these differences, one can find certain themes that would later be picked up on by the post-2000 scholarship on LGBT politics, as described later. First, the connection between transnational pressure and minority-rights policies – inspired by the earlier application of Europeanisation literature to ethnic minority rights and citizenship policy in the Baltics (Kelley 2003) – became a theme in the later scholarship. Second, in the field of gender politics, a number of first-wave scholars sought to account for the surprising weakness of women’s movements after 1990 – surprising, that is, given the disproportionately harsh consequences of the economic transition on women (Sperling 1999).

Following the EU’s enlargement to Eastern Europe beginning in 2004, the question of LGBT identity and rights began to generate much more scholarly attention, especially in the West. We may divide this literature into three thematic streams: focusing on communism’s legacy; dealing
with the formation of new identities after communism, which tends to identify with the broader discipline of queer studies; and analysing the changing politics of homosexuality through the lens of transnational norm diffusion, which draws heavily on the Europeanisation literature. These boundaries can be porous at times, but they are useful in identifying the different emphases in the scholarship: legacy, identity, or transnational pressure.

The legacies branch focuses on the attitudinal and political cultural inheritance of communism. The persistence of such neo-traditionalism can be seen, these scholars typically argue, in the weakness of civil society, on the one hand, and in the church’s re-entry into politics after 1989. The former draws on the work of Jowitt (1992) and Howard (2003) to argue that social attitudes towards homosexuality in Eastern Europe reflect the persistence of communism’s neo-Victorian political culture. Štulhofer and Rimac (2009) argue, for example, that homosexuality is probably the most telling indicator of political cultural divides between Eastern and Western Europe. More case-oriented research on the legacies of communist-era attitudes towards homosexuality include Chetaille (2011), Graff (2006, 2010), and Owczarzak (2009, 2010) on Poland; Renkin (2007) on Hungary; Gould (2015) on Slovakia; Gould and Moe (2015) on Serbia; and Sperling (2014) on Russia – to offer a partial list. We may also consider scholarship on the reassertion of church authority in the political sphere under the rubric of legacies approach. After all, as Grzymała-Busse (2015) and Turcescu and Stan (2005) have shown, the fate of the various “national” churches under communism has shaped how they engage with homosexuality since 1989. Grzymała-Busse argues that the immense moral authority that communism (unintentionally) endowed on the Polish Catholic church did not lead it to engage as actively in antigay mobilisation, as might have been expected. Poland certainly did have an antigay backlash in the mid-2000s, but its chief fomenters were hard-right political parties such as the League of Polish Families. Romania offers a contrast here; the Romanian Orthodox church was decimated under communism, but it has since re-energized, using much of its new vigour to combat what it sees as the threat of homosexuality (Buzogány 2008; Turcescu and Stan 2005).

A second major approach among scholars is that focusing on the construction of LGBT identities, a perspective that takes its inspiration from Queer Studies. The use of the plural (“identities”) here is not only necessary but deserves special emphasis. Especially in Eastern Europe, the term LGBT is contested and does not constitute one identity. As noted earlier, even using the terms “lesbian” and “gay” is relatively new, though they have now largely replaced the previous term of choice, “homosexual.” Though transgender identity exists and can claim its own activism and scholarship, it is not universally accepted by gays and lesbians in the region. Kuhar and Takács (2007) serves as a good example of this approach. This book brings together a diverse field of contributors from academia (mainly in sociology and anthropology) to activists. The chapters are diverse in choice of sources, which span from film to personal testimonials to the print news media, and in methodologies, which range from participant observation to content analysis to survey analysis. Most, though not all, of the contributors are based in the countries that they analyse.

Despite this diversity, it is possible to identify a few common propositions across the contributors. First, there is a consensus that a distinctive “local” framing (or set of framings) of LGBT identity has emerged in the region since 1989. Though these scholars acknowledge the considerable role of European integration processes in raising the issue’s salience, they consistently and strongly argue that local identities are not the same as Western European or even US ones. This claim highlights the role of legacy, and especially communist legacy, in the formation of identity. To highlight the communist legacy is not, of course, to trace contemporary identities to the communist period. Scholars of this school typically stress how today’s LGBT movements
overcame “medicalised” definitions of sexual orientation prevalent under communism to adopt LGBT (even queer) ones today (Sokolová 2005).

The third major approach evident in the scholarship is that focusing on the transnational dimension of LGBT politics. As noted earlier, this branch focuses primarily on LGBT politics through the lens of European integration. Among political scientists based outside of the region, it is fair to say, this has become the predominant approach. Ayoub and Paternotte (2014) is an excellent example of this EU perspective and illustrates some of its primary themes and contributions (see also Ayoub 2016; Ayoub and Paternotte 2012; Buzogány 2008; Graff 2008; Holzhacker 2012; Kochenov 2007; O’Dwyer and Schwartz 2010; O’Dwyer 2010, 2012; Slootmaeckers, Touquet and Vermeersch 2016). First, there is the question of how the EU itself came to be associated with LGBT rights. Given the strength of this association, it is useful to be reminded that the EU is in fact relatively new to this issue, and it is important to distinguish between actual EU influence and perceived EU influence. As Ayoub and Paternotte write in their introduction to the volume, they aim to explain the origins of

the “special relationship” that unites issues of sexuality and Europe . . . addressing the paradox that, while being marginal within EU policies, LGBT rights have become a powerful symbol of Europe, featuring centrally in debates ranging from foreign relations to economic trade.

(2014, 3)

While defining what counts as marginal from a policy perspective may be debatable, the larger point of the symbolic importance of gay rights to the EU’s image is unquestioned. It is so often argued by gay-rights opponents that the EU is responsible for foisting a homosexual agenda on them that one might imagine the EU’s commitment to this issue to be absolute and its tools for promoting this agenda vast. In the more paranoid versions of this thinking, the promulgation of gay rights is seen as a central EU objective, as in the remarks of Alexei Pushkov, chairman of the Russian Parliament’s Foreign Affairs Committee, regarding Ukraine’s Maidan protesters: “Of course, this means the expansion of the sphere of the so-called gay culture, which has now turned into the official policy of the EU” (quoted in Ayoub and Paternotte 2014, 1).

In reality, the EU’s own path to the issue of gay rights is relatively recent, and its instruments of influence are circumscribed. First, explicit mention of sexual orientation within the EU’s governing treaties did not occur until 1997, with the Treaty of Amsterdam. In 2000, EU Directive 2000/78 mandated the adoption of antidiscrimination policies in the labour market in member-states and applicants, with explicit mention of sexual orientation. In addition, the principle of non-discrimination on the basis of sexual orientation received explicit mention in the Charter of Fundamental Rights of the European Union, also enacted in 2000 (Waaldijk, 2006). The legal codification of gay-rights norms by European institutions has since broadened through the jurisprudence of the European Court of Justice (van der Vleuten, 2014), but protections against discrimination on the basis of sexual orientation are still at root primarily a labour-market issue. Especially in the new post-communist member-states, such antidiscrimination provisions often proved politically controversial; however, the arguments against them always had a “slippery-slope” quality – as being a first step on the road to gay marriage, adoption, and so on.

In addition to promoting gay-rights norms through legal conditionality in the accession process, the EU also promoted such norms indirectly through support for the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe). This transnational advocacy group is headquartered in Brussels and produces what are now highly detailed monitoring reports on the legal frameworks and societal atmosphere in member-states
and potential member-states. The most visible form of this monitoring is the now yearly Rainbow Index, which serves as a kind of clearinghouse for ranking LGBT-rights frameworks as the Freedom House does for democracy.\footnote{Conor O'Dwyer} ILGA-Europe also consults with and coordinates LGBT groups throughout Europe, serving as a resource for tactics and expertise. For example, ILGA-Europe provided strategic advice to Slovak rights groups in the run-up to the February 2015 referendum on same-sex marriage. In this way, it functions very much as the kind of epistemic community that scholars of norms diffusion such as Keck and Sikkink (1998) have analysed. It should also be emphasised, however, that ILGA-Europe is a relatively new organisation (established in 1996), which has only received direct EU funding since 2000 (Ayoub and Paternotte 2012). Thus, a certain caution must be exercised in analysing the EU’s influence over the politics of homosexuality in Eastern Europe. It is often difficult to separate \textit{de jure} EU influence from perceived EU influence. Or to put it slightly differently, “Gayropa” is more a construction by critics of homosexuality than it is a description of reality.

This tension is reflected in the scholarly literature. While academics were quick to appreciate the relevance of the Europeanisation framework for gay rights – and especially antidiscrimination norms – it is also hard not detect an almost palpable sense of disappointment in much of this scholarship.\footnote{Conor O’Dwyer} One need not read any further than the title of Kochenov’s (2007) analysis of the EU’s eastern enlargement – “Democracy and Human Rights – Not for Gay People?” – as a reflection of this disappointment. Further examples of this disappointment may be found in a number of other studies of the politicisation of homosexuality in the years immediately before and after EU accession – (see Buzogány [2008] on Romania and Hungary and O’Dwyer and Schwartz [2010] on Poland and Latvia). The thrust of this scholarship is that EU conditionality was a powerful instrument for forcing legal change (albeit primarily in the labour market), but that, since post-communist states gained membership, the leverage via conditionality has largely evaporated – and with it the impetus for further legal change.

Conclusion

Gay rights highlight the tension between traditional conceptions of national identity, which typically are hostile to homosexuality, and transnational (especially EU) discourses on minority rights. Examining the debate over homosexuality provides a new and compelling perspective on the rapidly changing conceptions of national identity, citizenship, and belonging in post-communist societies. As I have argued here, the literature on LGBT rights and rights activism in Eastern Europe is still very much a nascent one. This situation is all the more striking given how politicized this once taboo issue has become in the region over the last decade. Nevertheless, the outlines of at least three strands of theorizing are emerging: a legacies approach, an identity-based approach, and a transnational diffusion approach. Each has generated important insights; however, as yet most of the scholarship has taken the form of single-country studies.\footnote{Conor O’Dwyer}

Integrating these insights and applying them in a more explicitly comparative framework is the next step for scholars. This will be important not just for a better understanding of the politics of homosexuality after communism but also for theorizing the causal pathways by which European integration continues to alter domestic politics both after accession and over different waves of accession. The former Yugoslav republics serve as particularly rich sites for considering the latter point, as they include examples of first-wave post-communist EU entrants (Slovenia), more recent ones (Croatia), and ongoing applicants (the rest). Recent work by Ayoub (2016), Bilić (2016), Mikuš (2011), and O’Dwyer (2012) has begun to tackle this challenge by focusing more narrowly than Europeanisation scholars usually do on the nature of activism and social movements in the context of integration. Such research directly engages the gap between
international norms and the everyday practice of rights, contributing to a broader comparative literature on transnational activism (Bob 2012; Tarrow 2005). Those scholars focusing on the former Yugoslav republics tend to draw pessimistic conclusions about the impact of transnational advocacy on local rights activism. As Bilić provocatively put it, the post-Yugoslav space forms a kind of imperialist “laboratory” for contemporary social, economic, and political engineering and in that sense it offers us an important, but understudied, perspective for exploring both the affinities and the tensions between “new” social movements and EU accession.

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Scholarship on the East Central European cases, on the other hand, tends to see more positive effects on local activism from contact with transnational norms (Ayoub 2016; O’Dwyer 2012). Common across these newer works, however, is the view that the EU is a disruptor of patriarchal and homophobic norms; the debate continues as to whether its sponsorship of rights norms ultimately empowers or alienates local gay–rights movements.

Notes
1 See for example, Rothschild (1977) and Walicki (2000). This historical echo is not lost on contemporary gay–rights activists in the region, who have likened the position of today’s LGBT with that of interwar Jews. See Czarnecki (2007).
2 Similarly, I will follow the increasingly common convention of using the term “antigay” to include all forms of prejudice based on sexual orientation.
3 In this way, Romania resembled the Soviet Union and Serbia (Kahlina 2015), which also criminalized homosexual relations (Gessen 1994).
4 As examples, consider Barany’s work on the Roma (2002) and Sperling’s (1999) on the Russian women’s movement.
5 For similar cross-national attitudinal research, see also Gerhards (2010) and Takács and Szalma (2011).
6 See also Ramet (2006).
7 See also Kulpa and Mizielinska (2011).
8 Another transnational organisation active in supporting LGBT groups in the region was the Open Society Institute, now called the Open Society Foundations.
9 The index can be found at http://rainbow-europe.org.
10 Probably the most concise statement of this framework and the one that has informed its application to gay rights in Eastern Europe is Schimmelfennig and Sedelmeier (2005).
11 Ayoub (2016) is a notable exception.
12 See also Mikuš (2011).

Bibliography


