The Poland case shows that the EU should not be inhibited from putting pressure on member states over gay rights.

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Does the EU help or hinder gay rights movements in post-communist Europe? **Conor O'Dwyer** *assesses the impact of EU intervention in the case of gay rights in Poland. He argues that Europeanisation perspectives, in which a country's policies are assumed to be shaped before and during accession by EU conditionality, offer a fairly poor account of how gay rights have developed in the Polish case. Rather, Poland experienced an immediate backlash against EU pressure over the issue, which polarised opinions and indirectly strengthened the position of pro-gay rights activists. Given that such a backlash can have positive effects, the EU should not be inhibited from exerting pressure in the face of domestic opposition.*

At first glance, gay rights would seem an area of political life largely untouched by Eastern Europe's democratic transition and integration into the EU. We read, for example, of Pride parade bans in Poland in 2004 and 2005, violent attacks on parades in Hungary in 2007 and Serbia in 2010, and Lithuania's laws against "homosexual propaganda" in schools. It is easy to conclude that deep taboos about homosexuality – which predated but were then amplified under communist rule – keep gay rights firmly off limits in the public sphere. If we then consider the role of the EU in all of this, we might be tempted to see it as negligible at best and damaging at worst. Rather than promoting liberal democratic values and minority rights in its new member states, it may seem that the EU only inflames social prejudices. Go to observe a Gay Pride event anywhere in the region, and you will find counter-protestors denouncing "Euro-Sodom" and cultural imperialism from Brussels.

This article argues, however, that the broader picture in post-communist Europe is one of increasingly organised and influential gay rights movements. Nowhere is this better illustrated than in Poland. Here, as elsewhere, activism has been hindered by communism's legacies of weak civil society and state repression of homosexuality. (In addition, Polish activists face an unusually influential church hierarchy.) As elsewhere, activism bears the indelible imprints of the EU. Rights groups frame demands with reference to EU norms of diversity and non-discrimination. Likewise, gay rights opponents frame the debate in EU terms, though naturally, they construe EU norms as a threat to national identity. Gay rights have the flavour of a European project, for better and for worse.

However, the EU's imprints on this issue are *not* those we would expect from the familiar perspective of Europeanisation theory, with its emphasis on conditionality and social learning as drivers of political change. Conditionality explains such change in terms of adaptation to external incentives: to become an EU member, states must adopt EU norms. We should expect change when conditionality's leverage is maximal, i.e. before and during accession. Yet in Poland, the biggest shifts in gay rights politics have occurred significantly after accession. Social learning theorists, meanwhile, expect change as new member-states become persuaded of the appropriateness of EU norms, i.e. when these norms resonate domestically. Clearly, this is *not* a good description of the path of gay rights politics in Poland.

If we divide recent Polish history into pre-accession (1989-1997), accession (1998-2004), and post-accession (2004-present) periods, we see a pattern in which EU intervention – real or threatened – reshapes the political opportunity structure for activists, alters how homosexuality is framed, and acts as a catalyst for activist networks to mobilise. Social movement theory offers more useful lessons here than Europeanisation theory. First, polarisation strengthens activism. Activists become more organised when they face political backlash from the right. Second, polarisation increases issue salience. Third, EU conditionality is of limited direct impact but, by shaping the landscape in which social movements pursue their goals, enormous indirect impact.

Space is too limited to describe recent Polish history in detail, but I will review a few key moments to illustrate these arguments. In the pre-accession period, the political opportunity structure was defined by the *absence* of binding EU conditionality. Gay activism did not provoke a backlash politically; in fact, it didn't provoke any attention at all. Homosexuality was framed in terms of Church teaching. Even regarding HIV/AIDS, the Church set the frame, characterising AIDS patients as sufferers deserving help, but avoiding discussion of the mode of transmission. In a sign of their weakness, even the nascent gay rights groups adopted this framing. The activist network was sparse, uncoordinated, apolitical, and, by the late 1990s, in decline.

In 1998, the European Parliament warned that it would block the accession of any country that "through its legislation or policies violates the human rights of lesbians and gay men." Accession politics counterposed a new framing of homosexuality – one of European law and human rights. The emerging framing contest mapped easily onto a broader debate about identity that polarised Polish politics in the early 2000s — that between the upwardly mobile, educated, urban citizens of "Poland A," who took a secular and cosmopolitan view of national identity, and the older, less-educated, churchgoing denizens of "Poland B." These identified the nation with Catholicism. In 2001, Poland B became an electoral force as the new parties Law and Justice (PiS) and the League of Polish Families (LPR) entered politics. Gay rights soon became highly salient, as EU requirements regarding equal treatment provoked defiant responses from Poland B's politicians. The once moribund activist network became denser, more professional, self-consciously political, and national in scope.

The greatest organisational development of the Polish movement has been after accession, though at first it appeared that it was fighting for its existence. From 2005-2007, Poland experienced its most nationalist government since 1989, key members of which made the "homosexual lobby" their target. This polarisation was nowhere more evident than in the Pride parades. These had been small, Warsaw-based, and relatively peaceful affairs before 2004. Almost immediately after Poland's entry into the EU, PiS leader and Warsaw mayor Lech Kaczyński banned the city's parade. Yet, even in the face of bans and administrative chicanery, Prides continued to be organised, and spread to other Polish cities. Activists also fought back in the courts, overturning the Warsaw ban in the European Court of Human Rights.

This period of intense polarisation was punctured in 2007 when Kaczyński's government collapsed in a corruption scandal. New elections brought the implosion of the far right as LPR failed to reenter parliament. For the remaining parties of the right, one lesson has been that anti-gay politics is not a winning electoral strategy. Meanwhile, Poland's recharged movement has made a series of breakthroughs since 2007 – from being the first post-communist country to host Europride, to electing openly gay rights activists, first to city government and then to parliament in October 2011.

Poland's gay rights movement offers a new perspective on how transnational actors like the EU can foster rights in "difficult cases." Poland's experience suggests that fears of backlash against international pressure are not only overstated, but misunderstand the consequences of such a backlash. Ultimately it can strengthen rights advocacy; thus, there is an important rationale to apply the full pressure of conditionality on applicants and new members to live up to their minority-rights obligations.

Protest at 2009 Pride march in Kraków, Credit: Christopher Walker (CC-BY-SA-3.0)

For a longer discussion of this topic, see the author's recent article in East European Politics.

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