When States Come Out

In the last two decades, the LGBT movement has gained a momentum that is arguably unprecedented in speed and suddenness when compared to other human rights movements. This book investigates the recent history of this transnational movement in Europe, focusing on the diffusion of the norms it champions and the overarching question of why, despite similar international pressures, the trajectories of socio-legal recognition for LGBT minorities are so different across states. The book makes the case that a politics of visibility has engendered interactions between movements and states that empower marginalized people – mobilizing actors to demand change, influencing the spread of new legal standards, and weaving new ideas into the fabrics of societies. It documents how this process of “coming out” empowers marginalized social groups by moving them to the center of political debate and public recognition, and making it possible for them to obtain rights to which they have due claim.

Phillip M. Ayoub is Assistant Professor of Politics at Drexel University. Ayoub’s doctoral dissertation received the biennial 2013–2014 award for the best dissertation from the European Union Studies Association, as well as the 2014 Kenneth Sherrill Award for the best dissertation in the field of sexuality and politics, and the 2014 award for the best dissertation in the field of human rights from sections of the American Political Science Association. He is also the recipient of Cornell University’s 2011 Kahin Prize and co-recipient of the 2014 Esman Prize for distinguished scholarship. His articles have appeared in the European Journal of International Relations, Mobilization, the Journal of Human Rights, and Perspectives on Europe.
Advance Praise for *When States Come Out*

“This innovative book breaks new ground in the study of human rights, international relations, social movements, and identity politics. Phillip Ayoub provides a deep and rigorous multi-method analysis of a critical issue at the frontiers of the struggle for human dignity.”

Alison Brysk, Mellichamp Professor of Global Governance, University of California, Santa Barbara

“A revolution has swept across the countries of Europe, transforming LGBT persons from criminal degenerates into upstanding and even celebrated members of society. But the revolution has not changed all countries equally. Some have moved quickly to grant LGBT citizens the same rights and protections accorded to their fellows. Other countries have showed greater reluctance, and even now fall short of equal incorporation. Accounting for the overall trends and especially the enduring variations are Phillip Ayoub’s central tasks, and he fulfills them brilliantly in this masterful and incisive book.”

David John Frank, Professor of Sociology and Courtesy Professor of Education and Political Science at the University of California, Irvine

“When States Come Out is a masterful analysis of the domestic and transnational currents of Europe’s LGBT politics. Based on a rich trove of new qualitative and quantitative data, Ayoub’s compelling argument shows how and why the politics of visibility is at the center of the human rights and dignity movement.”

Peter J. Katzenstein, Walter S. Carpenter, Jr. Professor of International Studies, Cornell University

“This brilliant study provides a compelling answer to the question of what drives policy success of LGBT movements in particular and of social movements, more generally. Phillip Ayoub anchors his empirically rich, meticulously researched, and theoretically sophisticated argument in the idea that norm visibility is the key to policy success. This book is a must-read for scholars and activists interested in how marginalized groups gain agency and generate political change.”

Sabine Lang, Associate Professor, Jackson School of International Studies, University of Washington, and author of *NGOs, Civil Society, and the Public Sphere* (Cambridge, 2012)

“Why, like their counterparts in the United States, have some European Union states advanced LGBT rights much more rapidly than others in recent years? In *When States Come Out*, Phillip Ayoub marries a sophisticated theoretical framework to a wealth of empirical data to advance a compelling argument about the importance of transnational norms and the domestic politics of visibility to shaping real progress on the rights of sexual minorities. This is an important contribution not only to the literature on LGBT politics, but also to that on comparative social movements and the politics of social change more broadly.”

Robert Singh, Professor of Politics, Birkbeck College, University of London

“When States Come Out sheds new light on longstanding questions about the conditions under which weak, marginalized, and stigmatized groups are able to bring about political and social change. Focusing on the inconsistent diffusion of rights and recognition for lesbian, gay, bisexual, and transgender people across European Union states, Phillip Ayoub draws on a wealth of evidence to
demonstrate the important role of individual and collective visibility in provoking both recognition of but also resistance to justice and equality for LGBT people. His analyses lead to important and often surprising insights about the sources and consequences of both movement victories and setbacks, offering reasons for optimism at the same time as they deliver sobering reminders about continued persecution and barriers to justice.”

Dara Z. Strolovitch, Associate Professor, Department of Politics, Princeton University

“There are many well-trained scholars of social movements; many others who are experts on European transnational politics; and still others who specialize on the LGBT movement. But there is no one who has encompassed all three more elegantly than Phillip Ayoub has done in this richly documented, carefully researched, and intellectually inspiring book. More than a consummate exercise in comparative research, and more than an in-depth inquiry into the LGBT movement in both parts of Europe, it is also a profoundly enlightening inquiry into the factors that produce cultural openness to diversity and those that inhibit it.”

Sidney Tarrow, Emeritus Maxwell M. Upson Professor of Government at Cornell University, and author of Power in Movement (Cambridge, 2011) and The Language of Contention (Cambridge, 2013)
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(continued after Index)
When States Come Out

Europe’s Sexual Minorities and the Politics of Visibility

PHILLIP M. AYOUB

CAMBRIDGE UNIVERSITY PRESS
For my parents,
Reinhild and Anwar Ayoub
Contents

List of figures
List of tables
Preface and acknowledgments
List of abbreviations

1 Introduction 1
2 The politics of visibility and LGBT rights in Europe 21
3 Transnational movement: Opportunities, actors, and mechanisms 53
4 Complying with new norms: LGBT rights legislation 87
5 Internalizing new norms: Attitudes toward sexual minorities 127
6 Poland and Slovenia’s responses to international norms 158
7 Visibility in movement and transnational politics 199

Methodological appendix 225
References 247
Index 271
Figures

1.1 Variation in attitudes toward homosexuality across EU states  page 9
1.2 Variation in LGBT rights legislation across EU states 10
2.1 (In)direct and mediated channels of norm diffusion and compliance outcomes 37
2.2 Processes of internalization 43
2.3 Internalization outcomes based on conditions of threat and channels of visibility 43
2.4 Variation in attitudes toward homosexuality between new and old EU states 50
2.5 Variation in objections toward homosexual neighbors between new and old EU states 50
3.1 Influence of European institutions on state compliance 57
3.2 Influence of European institutions on societal internalization 58
3.3 Number of LGBT social spaces (restaurants, cafes, bars, and clubs) in Berlin and Warsaw, 1990–2004 68
3.4 Number of LGBT organizations (political, religious, and health groups) in Berlin and Warsaw, 1990–2004 68
3.5 “Solidarność Gejów,” Berlin, 2009 74
3.6 “Catholics We Love You,” Warsaw, 2010 78
3.7 European frames in Warsaw, 2006 78
4.1 Mapping the introduction of LGBT rights legislation in EU states, 1980–2010 89
4.2 Expected change in the predicted probability of passing LGBT legislation when norm brokers exist in new EU states 110
4.3 International dynamics of “passing” same-sex marriage 122
5.1 Mapping attitudes toward homosexuality in EU states, 1990–2010 129
Figures

5.2 Correlation between aggregate attitudes and combined channels in new EU states 144
5.3 Religiosity and perceived threat 150
5.4 National pride and perceived threat 150
5.5 Effect of pro-LGBT legislation on societal attitudes 154
6.1 The “defend the nation” frame 176
6.2 NOP symbols 185
6.3 Type of norm reception process described by respondents (%) 191

Every effort has been made to contact the relevant copyright-holders for the images reproduced in this book. In the event of any error, the publisher will be pleased to make corrections in any reprints or future editions.
Tables

3.1 Political opportunity structures, mobilizing structures, transnational actors, and mechanisms  
4.1 European LGBT organizations’ reliance on external funding sources  
4.2 Predicting pro-LGBT legislation in Europe, 1970–2010  
4.3 EU-12 determinants of year passing anti-discrimination, criminal law, and partnership legislation, 1970–2010  
5.1 Predicting tolerance toward homosexuality in the EU  
5.2 Predicting tolerance toward homosexuality in new and old EU states  
5.3 Predicting the effect of pro-LGBT legislation on tolerance toward homosexuality  
6.1 Transnational social channels and norm brokers  
6.2 Legal framework for LGBT people in Poland and Slovenia  
6.3 Church authority and national vulnerability in Poland and Slovenia  
6.4 Slovenian mobilization in the public sphere, 2000–2009  
A.1 Dependent and independent variables summarized (Chapter 4)  
A.2 Descriptive statistics and correlations (Chapter 4)  
A.3 Dependent and independent variables summarized (Chapter 5)  
A.4 Descriptive statistics and correlations (Chapter 5)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ACT UP</td>
<td>AIDS Coalition to Unleash Power</td>
</tr>
<tr>
<td>CCOO</td>
<td>Comisiones Obreras [The Workers’ Commissions]</td>
</tr>
<tr>
<td>CDU</td>
<td>Christlich Demokratische Union Deutschlands [Christian Democratic Union of Germany]</td>
</tr>
<tr>
<td>CEE</td>
<td>Central and Eastern Europe(an)</td>
</tr>
<tr>
<td>COC</td>
<td>Cultuur en Ontspanningscentrum [Center for Culture and Leisure]</td>
</tr>
<tr>
<td>CoE</td>
<td>Council of Europe</td>
</tr>
<tr>
<td>CSU</td>
<td>Christlich-Soziale Union [Christian Social Union of Bavaria]</td>
</tr>
<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
</tr>
<tr>
<td>ECtHR</td>
<td>European Court of Human Rights</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>EVS</td>
<td>European Values Study</td>
</tr>
<tr>
<td>FRA</td>
<td>European Agency for Fundamental Rights</td>
</tr>
<tr>
<td>GDR</td>
<td>German Democratic Republic (East Germany)</td>
</tr>
<tr>
<td>IGLYO</td>
<td>International Lesbian, Gay, Bisexual, Transgender, Queer Youth and Student Organization</td>
</tr>
<tr>
<td>ILGA</td>
<td>International Lesbian, Gay, Bisexual, Trans and Intersex Association</td>
</tr>
<tr>
<td>ILGA-Europe</td>
<td>International Lesbian, Gay, Bisexual, Trans and Intersex Association Europe</td>
</tr>
<tr>
<td>KPH</td>
<td>Kampania Przeciw Homofobii [Campaign against Homophobia]</td>
</tr>
<tr>
<td>KUL</td>
<td>Institute of Family Life and Culture, Slovenia</td>
</tr>
<tr>
<td>LGBT</td>
<td>lesbian, gay, bisexual, and trans</td>
</tr>
<tr>
<td>LPR</td>
<td>Liga Polskich Rodzin [League of Polish Families]</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Name</td>
</tr>
<tr>
<td>--------------</td>
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</tr>
<tr>
<td>LSVD</td>
<td>Lesben-und Schwulenverband in Deutschland [Lesbian and Gay Federation Germany]</td>
</tr>
<tr>
<td>MEP</td>
<td>Member of the European Parliament</td>
</tr>
<tr>
<td>NGO</td>
<td>nongovernmental organization</td>
</tr>
<tr>
<td>NOP</td>
<td>Narodowe Odrodzenie Polski [National Rebirth of Poland]</td>
</tr>
<tr>
<td>NUTS</td>
<td>Nomenclature of Units for Territorial Statistics</td>
</tr>
<tr>
<td>ONR</td>
<td>Obóz Narodowo-Radykalny [National Radical Camp]</td>
</tr>
<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
</tr>
<tr>
<td>PiS</td>
<td>Prawo i Sprawiedliwość [Polish Law and Justice Party]</td>
</tr>
<tr>
<td>RFSL</td>
<td>Riksförsbundet för homosexuella, bisexuella och transpersoners rättigheter [Swedish Federation for Lesbian, Gay, Bisexual, and Transgender Rights]</td>
</tr>
<tr>
<td>SDS</td>
<td>Slovenska Demokratska Stranka [Slovenian Democratic Party]</td>
</tr>
<tr>
<td>SLD</td>
<td>Sojusz Lewicy Demokratycznej [Polish Democratic Left Alliance]</td>
</tr>
<tr>
<td>SRP</td>
<td>Samoobrona Rzeczpospolitej Polskiej [Self-Defense of the Polish Republic]</td>
</tr>
<tr>
<td>TFP</td>
<td>The American Society for the Defense of Tradition, Family, and Property</td>
</tr>
<tr>
<td>TGEU</td>
<td>Transgender Europe</td>
</tr>
<tr>
<td>WWII</td>
<td>Second World War</td>
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Introduction

On the gray late spring day of June 19, 2010, Judith Butler, the renowned philosopher and public intellectual, took to the stage at the Brandenburg Gate to address Berlin’s Christopher Street Day parade. The annual event celebrates the visibility of lesbian, gay, bisexual, and trans (LGBT) identities, and that year it had again attracted almost a million guests from across the continent. A bird’s-eye view of the colorful throng of people on the tree-lined street that connects the Brandenburg Gate and the Victory Column – the Prussian military monument that Berlin’s gay community symbolically claimed as their own – clearly suggested that the organizers had achieved their goal of generating visibility. While some participants simply came to celebrate (though by making their identities visible, their presence was still political [V. Taylor, Rupp, and Gamson 2004]), others purposefully enhanced the colorful nature of the event by carrying signs and banners that articulated political grievances. Many of these statements championed or targeted the governments of foreign states.
reflecting political action that reached far beyond the city and the state. Butler stood before a crowd peppered with diverse national symbols – in recent years they have included a Swedish flag, a banner with the words Solidarność Gejów (“gay solidarity” in Polish), an image of Russian President Vladimir Putin’s face painted in drag, and floats foreign embassies and expatriate communities had commissioned.

The scene illustrates the transnational dynamics of a movement that has spilled over the borders of nation states, a dimension of visibility that is central to this book. Visibility for LGBT people often has its roots in transnational sources. Indeed, the Berlin parade’s name, Christopher Street Day, refers to the street in New York City where police raided the Stonewall Bar in 1969, subsequently spawning the gay liberation movement that moved LGBT people out of the closet and into the streets. With the parade’s audience spread across both halves of a once-divided city where the Berlin Wall stood, the location itself represented both persistence and change in the role transnational movements play in an integrating Europe. Berlin was the avant-garde city that housed the world’s first research center on homosexuality in 1897 but then stood aside in fearful silence as the capital of a state that brutally persecuted gay identity during the Third Reich. Today it symbolizes the unification of Europe, with Butler standing only meters away from where Ronald Reagan delivered his “Tear down this wall!” speech in 1987, and where countless East and West Berliners celebrated when the Berlin Wall did fall in 1989. Beyond the symbolic resonance of the location, the transnational makeup of the guests in Butler’s audience reflects the new dimensions of space, both local and transnational, for minority rights movements.

Butler, an American, was invited to receive the prestigious Zivilcouragepreis (Civil Courage Award), which local Christopher Street Day organizers give to recognize persons and organizations that combat discrimination against, and prosecution of minorities. Yet, unbeknownst to the organizers and onlookers, Butler would use the stage to reject the award. She had come to shed light on the invisibility of specific LGBT groups, which remained hidden among the spectacular masses before her, by publically distancing herself from what she called the “racist complicity” in the divisions between the increasingly commercialized parade and local immigrant LGBT organizations. What was clearly an event of great visibility also reflected, in Butler’s view, the invisibility of LGBT immigrants and people of color. While highlighting invisibility, Butler’s performance simultaneously demonstrated the discursive political power of making the invisible visible. With her words, she shed light on the
groups who are often left out of the discourses on LGBT recognition, recognizing that, in some states, these broader discourses have reshaped the lived experiences of only some marginalized groups that fall under the broad umbrella of LGBT categories.

Invisibility is not only a challenge for specific subgroups within LGBT communities, but also a broader issue across states and societies, among which the levels of recognition for sexual minorities vary tremendously. While Berliners in the hundreds of thousands could celebrate LGBT identities, four weeks later an even more transnational Pride event, the EuroPride in neighboring Poland, attracted a record 15,000 marchers. “Visitors from abroad said they’d come specifically because they’d heard the situation for gays in Poland was bad. ‘I wouldn’t go on a gay pride march in Brussels,’ said [an attendee] from Belgium” (Cragg 2010). The contested nature of the Polish event also distinguished it from Berlin’s Christopher Street Day parade. In Warsaw, the 15,000 marchers were accompanied by a 2,000-strong Polish police force necessary to fend off eight counterdemonstrations. Scenes such as this are common in contexts where LGBT issues are just beginning to enter the popular and political discourse. During the first parade in Podgorica, Montenegro, in 2013, 2,000 police officers protected 150 marchers from 1,500 counterdemonstrators (Economist 2014). At parades like the one in Berlin in 2010, there were no recorded protesters. The only additional demonstrations involved were other LGBT groups who organized their own parade to critique the commercialized nature of the main Christopher Street Day parade. Across Europe, the topography of LGBT recognition and (in)visibility in the public sphere is strikingly varied.

The politics of visibility and transnational movements

The subject of this book is how minority and marginal groups come to assert their rights in a transnational process that makes the invisible visible and, ultimately, transform the politics of states. Butler’s speech at Christopher Street Day – a performance that embodies the themes of (in)visibility, movement, and transnationalism – is part of that transnational process on behalf of invisible LGBT communities. By providing a theoretical lens through which to view it, I hope to make this process clearer. Butler’s presence at a local German event symbolizes a politics that cuts across borders, connecting people for mobilization in a movement and struggle that is so central to contemporary politics. Regardless of Butler’s intentions, or individual reactions to her political position,
her performance made it clear that a movement composed of diverse transnational ideas and actors places a high value on the power of visibility, within contentious politics, to diffuse new ideas into sociopolitical discourses.

This book thus explains how the politics of visibility affects relations among states and the political power of marginalized people within them. I show that the key to understanding processes of social change lies in a closer examination of the ways in which – and the degree to which – marginalized groups make governments and societies see and interact with their ideas. It is this process of “coming out” that leads to the sociopolitical recognition of rights that alters the situation for such groups. The attainment of rights by Swedish women, for example, originated in their demand for nationally subsidized childcare – active labor market participation facilitated their political emancipation. German women achieved less (and much later), as structural incentives to remain in the home kept them relatively invisible to the larger political culture (Huber and Stephens 2001, 125–6; Torstendahl 1999). Similarly, in 2006, the organizers of unprecedented episodes of immigrant collective action in the United States borrowed the term coming out to describe their mobilization. Fear of deportation had silenced undocumented immigrants for decades, but visibility gave them a voice as they began to engage political elites (Zepeda-Millán 2011). In a remarkable act of defiance, the Mothers of the Disappeared destabilized the predominant narrative of the Argentine military – who denied both that they had systematically disappeared “undesirable” segments of the population and, subsequently, that the disappeared had ever existed – by occupying the public sphere to declare, “Where are they?” (Brysk 2013, 63–5). The Madres made their children’s identities visible, attaining widespread international recognition and destabilizing the bedrock narrative of the Argentine state. In the 1990s, Queer Nation activists in the United States, frustrated with violent homophobia and political impotence in dealing with the AIDS crisis, used a related slogan to make visible their presence in society: “We’re here. We’re queer. Get used to it.” By contrast, invisibility has rendered marginalized groups weak in their efforts to demand change. Poor people’s social movements in the United States, for example, were eventually silenced in the wake of widespread incarceration (Piven and Cloward 1977). To be sure, history is rife with examples of “weak” groups influencing states, but only under conditions of visibility.

Visibility has engendered the interactions between movements and states that empower people, mobilizing actors to demand change,
influencing the spread of new legal standards, and weaving new norms into the fabrics of societies. For many marginalized groups, such visibility has its roots in both domestic and transnational sources. Consequently, I theorize two modes of the practice of coming out (as an identity marker and as a presence in the public sphere), demonstrating in Chapter 2 how opportunities for making norms visible through interaction can unfold at multiple levels. Coming out has heretofore been considered an individual experience, but Alexander Wendt’s (1999) formative argument—that states have malleable identities of their own—suggests that they too can come out by recognizing certain groups as part of their rights frameworks. Take, for example, the Swedish Peace and Arbitration Society’s creative campaign to mark the country’s territorial waters. In response both to broader Swedish opposition to Russian antigay propaganda laws and to reports of rogue Russian submarines in Swedish waters, the society transmitted from the territorial boundaries Morse code that proclaimed, “Sweden, gay since 1944” (A. Taylor 2015). The act illustrates that LGBT politics can merge with state identities, whether real or imagined, and play a role in contemporary world politics.

The politics of LGBT visibility encompasses a group that many observers have referred to as “an invisible minority,” but whose newfound presence and influence in many different nation states is a development that offers fresh opportunities for the study of sociopolitical change and the diffusion of norms. Indeed, it is quite remarkable that Catholic Ireland would adopt same-sex marriage by popular vote, or that the small island of Malta would become a trailblazer on trans recognition. The fact that, for example, so many states have approved same-sex unions “is not a mere coincidence,” as Kelly Kollman (2013, 3) has argued. It calls on us to take seriously the international dimension of these trends. While I analyze LGBT rights to develop the politics of visibility framework, the framework has powerful implications for other movements pertinent to political science and sociology, such as those I have mentioned. I use the LGBT case to explore how actors are mobilized across borders and explain why the outcome of their mobilization varies across national contexts.

Why, despite similar international pressures from European institutions, has the social and legal recognition of sexual minorities changed to such

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\( {\text{For example, Hillary Clinton referred to LGBT people as “an invisible minority” in her Human Rights Day speech delivered on December 6, 2011, at the United Nations in Geneva. Text: www.huffingtonpost.com/2011/12/06/hillary-clinton-gay-rights-speech-geneva_n_1132392.html}} \)
differing degrees and at such different rates across European states? My answer is simple but consequential: I argue that differing degrees of visibility have produced different outcomes for sociopolitical change across states. Building on theories of international relations and contentious politics that deal with international norm diffusion, this book focuses on variation in the changed legal status and societal perceptions of sexual minorities. Put most broadly, it explains changing ideas of the state and society in world politics, using the case of norms governing LGBT rights. In doing so, it deals with the existential conflict between various actors and the tension between two sets of norms: ideas that are new and international, and ideas that are rooted in the heteronormative nation and local tradition. The two sets of ideas usually do not coexist harmoniously. That said, I do not view domestic politics as passive, or reactionary to “progressive” international norms, nor do I suggest a false dichotomy between enlightened civil society and norm-violating governments (see Seybert 2012). Norm politics are never a one-way street, and many of the most forward-thinking proponents of LGBT rights are domestic actors within target states who champion the issue, often seeking out transnational ties to further their cause. Norm evolution does not stop once it reaches the international realm; echoing Lucia Seybert (2012), I argue that it continues through interaction with domestic spheres. Consequently, this book focuses on interactions between actors – both proponents and opponents of LGBT rights – at both domestic and transnational levels. “From the clash of identities and social systems we learn how worlds change,” as Alison Brysk (2000, 1) notes. The LGBT rights revolution provides an ideal platform from which to study such interactions.

How LGBT rights vary across Europe

My research question focuses specifically on Europe, the only region of the world with internationally binding protections based on sexual orientation, a region that is a leader on LGBT rights but nonetheless exhibits great variety in the degree to which its states adopt international norms governing LGBT rights. The fall of the Berlin Wall and subsequent European integration gave former Communist Bloc states unprecedented exposure to norms and institutions developed in response to the early politicization of sexual identity in several Western European states. The rapidly increased social and political interaction between new European Union (EU) member states in Central and Eastern Europe (CEE) with older member states provides an ideal methodological framework for
international norm diffusion theory, which stipulates that state and non-state actors spread ideas from areas where those ideas are more accepted to areas where they are not. I use the terms *first mover/leading* and *new adopter* to distinguish states that politicized LGBT issues relatively early from those where the issue has become politicized more recently.³ An *international norm* defines appropriate behavior for a specific set of actors (Katzenstein 1996, 5), standards that governments or nongovernmental organizations (NGOs) wish to export (Finnemore and Sikkink 1998, 891) or that receiving actors feel they ought to adopt or emulate. By *diffusion*, I refer to the spread of an innovation to a state or society, when the decision to adopt the innovation is influenced by some other state or society (Graham, Shipan, and Volden 2013, 676). In this case, diffusion is related partly to the processes by which people work to effect social and political change (that is, change in society, institutions, or the law), for instance building alliances, exerting pressure, and spreading and adapting knowledge across national borders (Roggeband 2010, 19). Diffusion can also include indirect interactions in which purposiveness is not necessary, such as the transmission of new ideas via the media.

In Europe, a number of transnational actors – the EU institutions, the European Court of Human Rights (ECtHR), and a transnational network of activists – have fostered change by propagating an international norm of LGBT rights and introducing, or at least amplifying, the issue in the domestic discourses of various European states (Kollman 2013). A recent example from Romania exhibits these trends. In 2010, the ACCEPT Association, a transnationally linked Romanian LGBT organization, brought a case against George Becali in the European Court of Justice (ECJ). Becali, a Romanian politician and owner of a soccer club, had made public statements opposing the transfer and employment in his club of a

³ Proponents of LGBT rights refer to the former as leading or first movers because they are generally endowed with more LGBT movement actors, more comprehensive LGBT rights, and more favorable attitudes. I distinguish leading/first movers from new adopters merely as a heuristic device to acknowledge differing levels of LGBT norm development across states. The distinction is not meant to conceal the intolerance and injustice that LGBT people still experience in states labeled as leading – for instance, the Netherlands holds a top spot in the leading category, yet 40 percent of Dutch respondents expressed discomfort at seeing two men kiss in public, as opposed to only 13 percent who objected to a man and a woman doing the same (Keuzenkamp and Ross 2010, 355–6). Nor is this distinction intended to deem new-adopter states of lesser worth or to “other” them as a new type of abnormality to “Western” scripts (Binnie and Klesse 2013; Kulpa and Mizielinska 2011; Stychin 1998). Finally, the labels don’t correspond with old and new EU member states. While older EU states are more likely to be leading states (see Figure 2.4 and Figure 2.5), there are exceptions, notably Italy and Greece.
soccer player rumored to be gay. The court’s ruling in favor of ACCEPT placed Romania’s implementation of the EU’s anti-discrimination directive under scrutiny and has already had far-reaching implications. It put LGBT rights on the agenda of the Romanian National Council for Combating Discrimination and encouraged proposed amendments to the country’s anti-discrimination act. Becali’s prominence has also spurred a societal discourse, with LGBT advocates hammering home a central message: “Homophobia has no place in sports, has no place in employment, and has no place in a European state” (Berbec-Rostas 2013, emphasis added).

The norm that LGBT people are entitled to fundamental human rights, and deserving of state recognition and protection, is clearly articulated in both the rhetoric and the legal framework of the institutions of the EU and the Council of Europe (CoE). Examples include: Article 13 of the Amsterdam Treaty, Article 49 of the Lisbon Treaty, the 2000 Employment Anti-Discrimination Directive, the EU Charter of Fundamental Rights, the 1993 Copenhagen Criteria, various European Parliament resolutions (e.g. European Parliament Resolution on Homophobia in Europe 2005/2666 and 2007/2543), ECtHR decisions (e.g. Bąckowski and others v. Poland, 1543/06), and ECJ decisions (e.g. C-13/94, P. v. S. and Cornwall County Council) (see Ayoub and Paternotte 2014; Mos 2014; Slootmaeckers and Touquet in press). Despite strikingly similar exposure to European norms and regulations, however, newly admitted member states differ greatly in both societal attitudes and in the introduction of legal protections for sexual minorities, challenging the direct top-down power of norms (Finnemore 1996).

Figure 1.1 shows the mean country value, on a scale of 1 to 10, for attitudes toward homosexuality across three periods (1990–1993, 1999–2001, and 2008–2010) in EU member states. The top graph includes the new EU-12 member states (2004 and 2007 waves) and the bottom, the original EU-15 member states. Figure 1.2 illustrates the variation in the adoption of pro-LGBT legislation across EU-27 member states. All states meet the

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1 I use EU-12 to refer to the twelve new states that came after the EU-15 (within the EU-27 enlargement). These should not be confused with the original EU-12 of the late 1980s and early 1990s.

2 The combined legislation score includes the following provisions: anti-discrimination in employment, goods and services, and constitutional recognition; recognition of hate crimes based on sexual orientation as an aggravating circumstance and/or prohibition of incitement to hatred based on sexual orientation; recognition of same-sex partnership for cohabitation, registered partnership, and marriage; recognition of same-sex couples’ parenting rights for joint adoption and second parent adoption; and sexual
How LGBT rights vary across Europe

How LGBT rights vary across Europe

Attitudes toward homosexuality
Mean values for new (EU-12) member states

Mean values for old (EU-15) member states

1. never justifiable
Mean of EU-12 in 2008
10. always justifiable

Source: European Values Study
Note: Excluding Cyprus due to missing data
Survey Question: “Please tell me for each of the following statements whether you think it can always be justified, never be justified, or something in between.”

FIGURE 1. Variation in attitudes toward homosexuality across EU states.

sexual minority protections the EU requires of its members (decriminalization of same-sex acts; the same age of consent for both opposite-sex and same-sex acts; no discrimination in employment; and, more recently, asylum on the basis of sexual orientation), but some states provide additional protections, for example, parenting and partnership rights.

offense provisions that specify an equal age of consent for same-sex and opposite-sex activity (cf. Table A.1, Appendix).
Introduction

Why countries grant or withhold LGBT rights

Most, though not all, EU states and societies find nonheterosexualities more acceptable today than they did in 1989, but the LGBT norm has permeated different domestic contexts at different rates. For example, some traditionally Catholic countries blaze new trails on LGBT rights, while some modern, wealthy democracies remain laggards. Existing theories for successful diffusion cannot adequately explain this discrepancy, though such theories – differences in international pressures, the fit between domestic and international norms, modernization, low implementation costs – are useful for a baseline understanding of how and why norms change in a multitude of states. From this baseline, my evidence suggests that the degree to which international norms resonate in a given state – and become internalized within it – depends on specific transnational channels and on domestic interest groups that make political issues visible. I show that the extent of a state’s openness to international organizations and information flows (the exchange of ideas and images with other countries) has demonstrable effects on diffusion because it allows new ideas to enter the domestic discourse. These social and political channels prime a context for diffusion by making the issue visible. Furthermore,
the degree to which domestic actors are embedded in transnational advocacy networks illuminates the issue and shapes the speed and direction of diffusion. These transnational actors mediate between international and domestic norms both to frame the message so it fits locally and to quell the perceptions of threat that some states assign to LGBT norms.

Yet states do not react to the external environment in the same way. A second component of my argument is that the degree of religious nationalism in the domestic sphere moderates the way international norms are received and internalized. The book reflects on the politics of the link between national identity and religion to argue that different perceptions of threat in distinct national contexts can influence responses to LGBT norms. I propose not that religion bars the advancement of LGBT movements, but that politicizing the historical antecedents of the popular idea of the nation can make religion a force for countermobilization. In sum, differing perceptions of threat define how distinct domestic realms receive international norms, and threat perception increases where religion is historically embedded in the popular conception of the nation. Whether resistance is effectual, however, is a separate question. Where sexual minorities become visible, contestation is common, if not expected, but rarely leads to the demise of the movement or sustained backlash in the public sphere (see also Bishin et al. 2015 on backlash). The evidence suggests that in high-threat contexts, resistance to the LGBT movement can be self-defeating, in that it can galvanize the movement and enhance both the visibility and the salience of the LGBT rights norm (O’Dwyer 2012; Ayoub 2014).

My findings suggest that norm visibility is necessary for diffusion – both to governments and publics – in world politics, since elites and publics within states do not always see or care about issues that first develop elsewhere. By norm visibility, I refer to the relative ability of publics and governments to see and interact with the ideas and images that define standards of appropriate behavior. By defining new standards of acceptability, these international sources of normative change introduce “new ways of understanding oneself” (Altman 1999, 563). This is true both for LGBT people and for societies at large. Norm visibility is critical for mobilizing the people who spread new standards and attitudes, for influencing the timing and likelihood of legal changes, and for determining the pathway to, and level of, internalization in society.

A unique aspect of the LGBT rights norm is that it is inherently contentious in most societies, to the point that it is often portrayed as violating
the moral foundation on which nationhood is structured (Stychin 1998). Even after the issue was initially politicized, first-mover states required decades to introduce legislation, such as protection against discrimination, akin to the legal protection won by other groups represented in the rights revolution. This calls into question why new EU member states have so quickly begun to digest this contentious LGBT norm – politicized only recently – at home and respond to it within their legal and social structures. The visibility explanation presented here assumes that these states want to identify as part of “Europe.” Europe perceives itself on the macro level as adherent to the rights revolution that has transformed world politics – and it perceives LGBT rights as among these newly won rights. Adopting the LGBT rights norm, then, is part of what it means to be a member of contemporary Europe. This conceptualization draws from scholars who argue that states adopt standards to remain or become legitimate (J. W. Meyer et al. 1997); however, I emphasize agency by arguing that deliberation, which comes with visibility, is a key mechanism for diffusion and change. For this process to happen, states must see that with which they are meant to conform. Efforts by new EU member states to identify with this community have driven the social movements that have made the norm visible. I will argue that the norm must be made visible in the domestic context before societies can deliberate on it and internalize it. The felt intensity of a norm varies across cases, depending on its visibility.

Alternative explanations

The spread of norms concerning the rights of sexual minorities complicates existing explanations about diffusion and social change, both arguments about international norms and those about domestic sociolegal

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6 LGBT rights are part of the broader rights revolution. Both the 2006 Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity and UN resolutions have established LGBT rights firmly within the discourses of the rights revolution. This marks a change from the 1960s and 1970s, when it was common for other movements to exclude LGBT people from this discourse (Skrentny 2002). This exclusion was partly related to discomfort at including LGBT people and fear that societies were not yet “ready” for homosexual and trans issues; these movements tended to sideline LGBT rights (Bernstein 2002, 546), though there were notable exceptions – for example, Huey Newton’s pioneering 1970 article on the intersection of race, gender, and sexuality (Newton 1970).
changes. The diversity of the states that today promote LGBT rights muddles previous theories about the domestic factors that affect recognition of these rights: religious-cultural context (Finke and Adamczyk 2008), economic wealth and modernity (Inglehart and Norris 2003), societal openness toward homosexuality (Badgett 2009), the development of the welfare state (Wilson 2013), the organizing capacity of domestic social movements (Adam, Duyvendak, and Krouwel 1998), the strength of democracy (Encarnación 2014), and the pluralization of sexual practice and meaning (including revolutionized gender hierarchies, and the separation of sex and reproduction) (Weeks 2007). Many of these arguments grew out of the experiences charted in first-mover states, such as the Protestant Nordic countries and the Netherlands, but became complicated in the new century. For example, at the time of writing this book more than twenty European states have adopted some form of same-sex union at the federal level, and few of them resemble the first movers in terms of the domestic factors listed above.

The idea that international norms diffuse successfully when they match domestic beliefs and understandings (Checkel 2001; Cortell and Davis 1996; Finnemore 1996; Keck and Sikkink 1998, 204) also does not hold among new adopters. Despite the contentious nature of LGBT rights, surprising “misfits,” such as more religious and less democratic states, have embraced them. Three of Europe’s most religious states – Catholic Spain, Portugal and, most recently, Ireland – have seen some of the most rapid social and legal change concerning these rights (Casanova 2009, 209). The small island of Malta, where 95 percent of the population self-identifies as Roman Catholic and more than half the population attends church services regularly (Harwood 2015), became a trailblazer on trans recognition. Furthermore, though Estonia and the Czech Republic are equally secular, Estonia is more intolerant than the Czech Republic, and attitudes among former East Germans are more unfavorable to LGBT people than in less secular western Germany. Other misfits include post-socialist countries such as Poland which, though it has democratized and complied with many costly EU regulations (Petrova 2012), has struggled to adopt basic measures to protect the rights of LGBT minorities. Within and outside Europe, the increasingly diverse set of states that adopt LGBT rights norms challenges us to think beyond the factors that explained changes in first-mover states.

David Paternotte (2015) eloquently summarizes several of these explanations.
I also find that universal “low-cost” norms elicit powerful reactions from states and societies. Scholars have argued that states should always take low-cost moral action (Kaufman and Pape 1999), especially when it helps facilitate access to the bundle of economic benefits that come with EU membership (Schimmelfennig 2007; Vachudova 2005). However, attempting to apply purely rational logic to state behavior around LGBT rights raises as many questions as answers. States can enhance their international reputations by recognizing and protecting sexual minorities, without direct monetary costs to themselves or to individuals. Yet some moral norms low in monetary cost are difficult to transmit. Equally puzzling are cases where state authorities stake their domestic reputations on recognizing and protecting sexual minorities despite the presumed political costs (see Putnam 1988 on two-level games in world politics). Then too, states such as Germany have opposed expanding EU anti-discrimination directives for LGBT people even though they would face no implementation cost because their domestic standards exceed EU requirements. Even when states commit to international human rights treaties simply to avoid criticism, I argue, these acts produce tangible outcomes, a stance in line with Beth Simmons’ (2009) challenge to the idea that human rights norms are hollow and costless. The uneven rate of diffusion across states is also puzzling, given that previous scholarship shows human rights norms are the most successfully and uniformly adopted norms in the EU accession process (Checkel 1997, 480) when accession states have similar material incentives. The fact that the same norm meets forceful resistance in some cases and not in others cannot be understood without thinking more carefully about varied state identities.

Furthermore, theories resting on a hard-law understanding of conditionality explain the diffusion of LGBT rights only insofar as they help to make the norm visible and legitimize it. Conditionality can also provoke unwanted responses and prompt anti-LGBT organizers to argue that the issue is being externally imposed. Thus, conditionality affects the diffusion of norms, but not in the way commonly theorized. Not only do the “soft” socialization mechanisms behind a visibility approach have a more positive effect on both compliance and internalization, as I show in Chapters 4 and 5, but hard-law conditionality may work indirectly, leading to backlash before the visibility that that backlash generates can fuel the salience of the norm (Chapter 6). In contrast to arguments based on conditionality, localization, and norm fit, I argue that contestation can lead to visibility.
Alternative explanations

The diffusion of LGBT norms also challenges the widely held assumption that modernization correlates with the adoption of post-material values, such as accepting homosexuality (Inglehart 1997; Inglehart and Norris 2003). While the first states to expand LGBT rights were often the wealthy states that modernization theorists expect to change (e.g. the Nordic states), many new adopters do not exhibit similar economic wealth (Chapter 4). The level of per capita gross domestic product (GDP) is not a robust or reliable predictor of change, because poorer states often adopt the norm before wealthier ones. Studies that combine data from dissimilar world regions in one model overemphasize the importance of economic wealth for social change (Inglehart and Norris 2003). Several of the field’s dominant explanations lose traction when we study a region bound by strong supranational institutional structures.

Contrary to expectations, LGBT actors have mobilized where domestic political opportunities are most closed, which prompts us to consider multilevel and transnational opportunities for mobilization. The high risk of LGBT mobilization may still prevent mobilization in “culturally closed” contexts (Blumenfeld and Raymond 1988), but activists have responded to roadblocks at home by looking elsewhere. For example, when state and local governments in Poland banned LGBT activists from public assembly in multiple cities, Polish activism continued because of opportunities beyond the country’s borders. The social movement field’s traditional political process approach, rooted as it is in the nation state, would predict otherwise. In fact, mobilization often intensified before states granted LGBT actors access to political participation, these actors acquired influential domestic allies, the state’s elite split, or the state’s resolve to repress mobilization declined (Kriesi 2004; McAdam 1999). The mobilization of LGBT minorities shows that the multilevel structure of the European polity can shift the opportunities described by this approach to new levels, including those outside the nation state (Sikkink 2005).

Another competing explanation is that the post-communist legacy has affected LGBT rights in many of the new EU member states. This line of scholarship proposes that the material and ideational bankruptcy of civil society in CEE, and the impact of the past on new institutions (Jowitt 1992), have restricted the development of LGBT rights there. Indeed, the Soviet reordering of relations at the legal, political, and social levels did influence state and societal behavior around sexuality, which was repressed and stigmatized in the Eastern Bloc, and aspects
of that legacy do manifest themselves in the contemporary politics of the region. That said, I take a more nuanced stance on the Soviet legacy (see Beissinger and Kotkin 2014). Post-communist states have gone their separate ways on a multitude of political and cultural variables (Darden and Grzymała-Busse 2006; Easter 1997). Indeed, one of the central puzzles in this book is that states emerged from communism to follow different paths on LGBT rights and attitudes toward LGBT people – variations that the post-communist legacy thesis cannot explain on its own. That the legacy of communism does not have a uniform grip on the relationship between the state and social perceptions of sexuality becomes quickly apparent with a cursory look at the sociopolitical data surrounding the issue. Notably, even the three Baltic states, once part of the Soviet Union, look different from each other, as do the states that once made up Yugoslavia and Czechoslovakia.

This book offers a new explanation not only for variation between old and new EU member states but also for variation within these groupings. Chapter 6, in particular, examines how the historical antecedents of the idea of the nation can prompt countermobilization fueled by religious nationalism, which is one factor that explains the differences among CEE countries. In doing so, it builds on what other scholars of LGBT politics have noted, that a deterministic post-Soviet thesis artificially homogenizes CEE countries (Kulpa and Mizielińska 2011). Sexual minorities had different histories in these countries before and after the Berlin Wall fell. The chapter also explains both the persistence and the decay of the post-Soviet legacy, something the thesis overlooks, by thinking through new experiences and factors that now play an active role in the region. Namely, as Beissinger and Kotkin (2014, 5–6) state:

While the social ramifications that flowed from the upheaval of communist collapse have been studied in great detail, the role of the outside world has often remained a blank spot or has been reduced to a focus on democracy promotion efforts. Relatively few scholars, for instance, have examined how postcommunist societies have been shaped (or not shaped) by … global cultural currents, or the role of possible models for emulation.

The outside world, I argue, matters a great deal for the politics of sexuality in Europe, and its influence varies according to how connected states are to it (via sociopolitical channels of visibility that transnational activist networks help to facilitate).

Finally, taking seriously the variation in compliance and internationalization across states also extends arguments of the World Polity
Considering how change occurs

School, which posits that a global civil society, comprised of organized and rule-like models, constitutes the capabilities and interrelationships of societal actors (J. W. Meyer et al. 1997). According to this school of thought, a global society advances not functional needs or actor interests, but rather general universal truths, which leads to a global isomorphism in institutions and norms (Soysal 1994). While this explanation can describe some changes surrounding sexuality – for example, reforms in incest law, bestiality law, and adultery law have often occurred without visible advocacy (cf. Frank, Camp, and Boutcher 2010) – the basic postulate requires refinement if it is to explain the diffusion of the more expansive LGBT rights norm. The postulate portrays global culture as secular and rational (J. W. Meyer et al. 1997, 154), slighting the tensions that derive from domestic norms when they are incompatible with international LGBT norms, as well as the substantial differences I identify between processes of compliance and internalization. Instead of expecting states and societies to respond to the external environment in the same way, I emphasize the contentiousness of global change by privileging agency, specifying the relational mechanisms, and charting the transnational channels and domestic differences inherent in processes of norm diffusion.

Considering how change occurs

I support the visibility argument by explaining differences in social attitudes and state laws concerning sexual minorities across European states (Figure 1.1 and Figure 1.2). Is change due to heightened exposure to individuals and groups in states that have previously adopted the norm? Under what domestic preconditions (of the recipient state) do international norms of sexual minority rights successfully spread, and to what degree will they be opposed? Who are the agents of change and how are they mobilized? Finally, what are the transnational pathways of diffusion? The outcomes I explore – my dependent variables – tap into two dimensions of international norm diffusion: change in the behavior of the state and change in the behavior of individuals within society. I analyze legal compliance and societal internalization as related but separate processes. (By internalization, I refer to a process by which certain behaviors come to feel inappropriate for one’s identity as one’s group develops new collective expectations [Abdelal et al. 2006, 697].) Distinguishing between these processes is essential, given that legal protections do not necessarily correlate highly with
decreasing levels of social stigmatization. Furthermore, the commonly used dependent variable – the socialization of state elites (e.g. Checkel 1997) – does not capture an attitudinal shift (or lack thereof) in most of society.

In this book, I look at both indices of norm diffusion – legal compliance and societal internalization – because norms are ultimately about changes in behavior. As Peter Katzenstein and Tim Byrnes (2006, 683) note, “The behavioral dimension is shaped by the regulative and constitutive effects of rules that operate at the individual level through internalization and habituation and at the collective level through various sanctioning mechanisms.” Since norms are difficult to observe directly, I look to two behavioral measures to analyze consequences of changed norms. To measure change at the state level, I collected and analyzed data on the number of LGBT rights laws adopted by states. These include protective and equality laws that go beyond decriminalization. To capture change at the individual level, I looked to survey data on social attitudes toward sexual minorities.

As the methodological description suggests, while my evidence and arguments have normative implications, my primary goal is not to evaluate the normative substance of LGBT rights norms. Many excellent studies in international relations and queer theory rightly question the normative content of the demands made by mainstream LGBT rights activists (R. Conrad 2014) and critique the power dynamics and western essentialism inherent in some forms of transnational activism (Amar 2013; Picq and Thiel 2015; Rahman 2014). While I am sympathetic to such arguments and call attention to them at various points in the text, a critical normative engagement of transnational LGBT activism falls outside the scope of this book. Instead, I observe that LGBT norms, regardless of the quality of their content, have spread to multiple domestic contexts, and I attempt to explain when and how that happens.

Throughout this book, I argue that a politics of visibility explains how and when “weak” groups bring about change in social and political systems, that the struggle for rights occurs through pathways of visibility, and that such visibility increasingly has transnational sources. While social institutions and actors can transform the lived experience of marginalized peoples, we know too little about why such groups have wielded power in some states and lacked power in others. A visibility framework provides answers.
Plan of the book

In highlighting the importance of visibility for change in world politics, the following chapters explore why the trajectories of sociolegal recognition for marginalized groups are remarkably dissimilar across states. Chapter 2 presents the intricacies of my theory about the causes of this variation and of change itself; it explores why and how visibility influences sociolegal change concerning sexual minorities. In it, I conceptualize a framework for how visibility influences the processes of both state compliance and societal internalization, and I reflect on the transnational channels of visibility, their interaction with domestic politics, and the resistances they can provoke. I close the chapter by summarizing my methods of inquiry.

Chapter 3 introduces the various actors and mechanisms at play in the transnational movement for LGBT rights. It explores how transnationalization influences the mobilization of marginalized people, focusing on the mobilization of norm entrepreneurs and on how they navigate transnational and domestic spheres to create a local resonance for LGBT rights norms. I call these agents norm entrepreneurs because they purposefully detach their causes from the confines of one nation, seek to influence popular and political support in more than one state, and contribute to the functioning of like-minded organizations in other countries (Acharya 2004, 248; Nadelmann 1990). Specifically, the chapter addresses the question of how marginalized actors are mobilized across borders and illustrates the visibility mechanisms that these actors employ in their attempts to influence state and society. I use the cases of Germany and Poland, within the framework of European institutions, to trace cross-border connections between norm entrepreneur and target state.

Chapters 4 and 5 present cross-national empirical findings on the central research question: why has the social and legal recognition of minorities changed to such differing degrees and at such different rates across states? Chapter 4 explores the varied adoption of pro-LGBT legislation in Europe. It analyzes an original LGBT legislation data set and employs event history and ordered logit modeling techniques to explain the timing, rate, and adoption of various LGBT rights laws in EU states across forty years. Chapter 5 considers the varied attitudinal shifts toward LGBT people in Europe. It uses multilevel random intercept models to

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8 The term norm entrepreneur is related to the term policy/issue entrepreneur used in research on interest groups (Baumgartner and Jones 2009), but shifts the focus to the transnational level.
explain the state’s contextual influence over individual attitudes toward homosexuality across three points in time, as well as the differences in societal attitudes across states.

In Chapter 6, the second qualitative component of the book, I use the case studies of Poland and Slovenia to compare differences in domestic norm reception and sociolegal outcomes, asking why the visibility of norms governing LGBT rights provoked resistance in one case and not in the other. I analyze how resistance is rooted in the relationship between religion and nationalism, explore how these factors interact with transnational channels of visibility, and explain the conditions under which visibility can improve the sociolegal situation for LGBT minorities.

Finally, in Chapter 7, I discuss my findings and summarize the role of visibility in movement and transnational politics. The chapter outlines those elements of my argument that are limited to Europe, as well as those that are generalizable to issues of global change on minority rights. It discusses the implications of my findings for theory and practice in world politics, as well as the project’s importance in light of current events, both within Europe and beyond.