

Chapter 4: Protean Power in Movement: Navigating Uncertainty in the LGBT Rights Revolution¹

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Few revolutions in rights have emerged as suddenly, and with such intensity, as the sweeping changes we have observed around LGBT² rights in the last two decades. In multiple states, these monumental changes have transformed many LGBT people from the proverbial “other”—often perceived as criminal and degenerate—into respected and sometimes even celebrated members of society. Coming out of the depths of the AIDS crisis of the 1980s, few would have predicted the major victories in rights many states afford LGBT people in 2017. From the passage of gender recognition in Colombia and Malta to same-sex marriage in Ireland and South Africa, the diversity of states that address such norms have surprised even the most pessimistic onlooker. As such, LGBT rights constitute an intriguing example of unexpected and transformative social change on a global scale.

What powers, then, have spurred this transformation? Indeed, the theoretical explanations for this striking revolution have often obscured the very real struggle that LGBT people—and the movements that represent them—have experienced on the ground. Too often have our theories focused on concepts closely tied to control power, such as conditionality and the diffusion of formal rules. What is obscured is the resistance that top-down diffusion provokes on the ground and the destabilizing polarization we also see surrounding LGBT rights globally. Undoubtedly, the LGBT rights revolution conforms to the broader characterization of such revolutions painted by Chris Reus-Smit (Chapter 3, p.1): “Revolutions in rights are always the product of struggle, generally long and sustained. Yet their triumphs come with a rush.” A movement’s struggle consists of the innovative practices and little surprises that come along the way, which taken together explain the big transformations we then remember. By taking protean power seriously, we refocus on the struggle, which has explained more of the path to tangible rights than a singular and homogeneous notion of top-down power. Analyzing movement struggle, as they navigate a complex world, aids our understanding, explanation and interpretation of power.

This chapter thus applies the concepts of protean and control power to understand transnational advocacy surrounding LGBT rights. Using the cases of the European Union (EU) and the Council of Europe (CoE), I rethink the hard mechanisms of conditionality—a type of control power—often associated with the successful transfer and diffusion of rights. Importantly, the control power driving these conceptions of sexuality as human rights can also lead to the inflation of threat in multiple

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² LGBT is an umbrella term referring to lesbian, gay, bisexual and trans people. I use the umbrella term while acknowledging that the issues of bisexual and trans people have been excluded throughout much of the history of the gay and lesbian rights movement.

domestic contexts.³ As such, control power, in the form of hard law diffusion, has had the effects of affirmation and refusal (without internalization), often provoking active resistance and sometimes increased repression. When it does, it changes the experience of actors on the ground, departing from conventional expectations and making their surroundings more uncertain. I argue that these local advocates, embedded in transnational networks, navigate these uncertain and complex terrains with practices of improvisation and innovation that are inherent to the concept of protean power. These actors are attentive to the realities that remain invisible from the top—realities that render control power ineffective on its own—and help to generate transformative change in world politics.

Faced with competing claims about new norms governing sexuality, especially those that problematically conflate sexual rights with the external imposition of “Western” power over “vulnerable” states, local advocates commonly improvise with a practice of translation. They step in where control power falls short to align “external” norms to local contexts. The product is initially movement survival, and sometimes ultimately transformative change, in response to a troubled “one size fits all” approach that can, at times, be counterproductive to the goal of rights recognition. It is the protean power generated by such improvisation that has sustained LGBT movements in times of seemingly insurmountable odds. While improvisation is a common practice in coping with operational uncertainty as activists navigate the unanticipated consequences of control power, its deeper form comes in practices of innovation during radical uncertainty. Radical uncertainty is present when advocates experience a world in which their local surroundings are uncharted *and* the underlying context of LGBT rights norms is indeterminant. During these times their innovations often feed back up to change the strategies for transnational human rights promotion. Indeed, for LGBT advocates the world in which they operate is constantly changing. Linking back to Seybert and Katzenstein’s Table 1.2 (Chapter 1, p.10), their mode of operation in any one cell is rather momentary, shifting between practices of improvisation, innovation, refusal and affirmation as new obstacles arise and terrains change. In most cases of LGBT activism, however, uncertainty characterizes at least one axis of movement operation (either in context or experience) and control and protean power interact. In sum, protean power and control power complement one another in a relationship that is continuously changing—sometimes alternating and always interacting—under various conditions of uncertainty.

In what follows, I introduce the European LGBT rights regime in Part 1; use that empirical case to discuss affirmation, refusal and improvisation (as effects and causes of power) in the region in Part 2; then, I take a step back from the intricacies of the case to reflect on broader processes under conditions of risk, complexity and uncertainty, and how they relate to LGBT power practices and effects in Part 3; before concluding in Part 4.

European LGBT Rights Regime

LGBT activism has a long history of generating protean power through niches that innovative actors have created. Centered in Wilhelmine, and subsequently Weimar, Germany, the initial—though small scale and without widespread public recognition—political mobilization around homosexuality dates back to the mid-1800s.⁴ During that time, pioneer activists like Karl Heinrich Ulrichs and Magnus Hirschfeld operated with no compass in a world where homosexuality was invisible in the public sphere. For Ulrichs, responding to the potential proliferation of anti-sodomy legislation that made his sexual

³ Picq and Thiel 2015.

⁴ Beachy 2014.

orientation illegal, as well as the social sanction that left him without employment prospects, innovation was the only option available.⁵ Innovation was central to this process, since the desires he understood had no name, prompting his writings—which were published and disseminated using pseudonyms in various pamphlets—on what he would call *urnings* (and later *homosexuals*).⁶ His efforts, therefore, offer an example of the *innovation* that produces protean power during *radical uncertainty*, for he was operating in a world where sexual minorities were publically invisible. Only through interactions with like people did he feel compelled to chart their existence. This ultimately gave his innovation of the *urning* identity the ability to generate movement power—by “offering previously unavailable modes of consciousness” (Emanuel Adler, quoted in Katzenstein and Seybert, Chapter 2, p. 10) and spurring mobilization and research around a new identity—once it was shared and received by others through his writings. Much in the same spirit of innovation, Hirschfeld’s later research centers focused on charting the existence of sexual and gender minorities and studying their proclivities. Both Ulrichs and later Hirschfeld had several near successes at repealing the Prussian anti-sodomy legislation (Paragraph 175) before it was ultimately enhanced by the young National Socialist regime in 1935.⁷ That regime extinguished the movement throughout Europe (except a small organization in Switzerland) and sent thousands of gay men to concentration camps. The innovative practices of activists like Ulrichs and Hirschfeld has informed many episodes of LGBT movement history, including the more contemporary one—as a case of *improvisation* during *operational uncertainty*—addressed in this chapter. The need for improvisation, in response to severe backlash and resistance, is equally apparent in later episodes of the movement.

It was after the Second World War, as part of a post-1945 rights revolution, that sexual minority rights first evolved on the periphery of the broader human rights regime, eventually attaining high political salience across many parts of the world in recent years. Reacting to unresponsive states that had long prohibited access to sexual minorities, LGBT actors in Europe sought out new sources of power outside of the state. Because sexual minorities existed in some form across societies, cross-border ties became of paramount importance to political action for post-war *Homophile* and post-Stonewall (1969) *Gay Liberation* activism. Recognizing that several elements of their situations were shared across borders, many activists generated unlikely transformative power by organizing transnationally. In 1978, an enduring transnational constellation emerged as the result of a nationally diverse activist meeting in Coventry, United Kingdom: the International Lesbian, Gay, Bisexual, Trans and Intersex Association (originally IGA, later ILGA).⁸ Due to uneven support among their respective states, ILGA activists—and a handful of pioneering states that supported their cause—began targeting European institutions as a venue to challenge the state powers that had previously closed the door to them. These activists were innovative, if not visionary, because they targeted an international organization (IO), the European

⁵ Anti-sodomy legislation was the early homosexual movement’s central battle. Beginning in 1868, leading up to German unification, Ulrichs spoke out against Prussia’s anti-sodomy legislation in fear that it would proliferate throughout unified Germany (via Prussia’s Para. 175). Catholic Bavaria, for example, had already decriminalized sodomy following the French revolution. Despite many near successes (both by Ulrichs and later by Hirschfeld and others), Paragraph 175 did become the law of the land in 1871 and was intensified in 1935.

⁶ From Uranus, Greek god of the heavens.

⁷ *Ibid.*

⁸ Paternotte 2012.

Community, more than a decade *before* it had the social mandate it would attain after the Maastricht Treaty of 1992.⁹ At the time, the odds of finding institutional allies from an economically focused IO, and on this contentious issue, were low.

Targeting the EU—and other IOs, such as the CoE and the Organization for Security and Cooperation in Europe—did eventually change the underlying international context by creating a place for sexual minority rights at the periphery of the broader human rights regime. Over time, the articulations of a norm that LGBT people are entitled to fundamental human rights, deserving of state recognition and protection, became increasingly clear in both the rhetoric and the legal framework of EU and CoE institutions.¹⁰ Article 13 of the 1997 Amsterdam Treaty introduced the first internationally binding law on the issue—it prohibited employment discrimination on the basis of sexual orientation. The 2000 Employment Anti-Discrimination Directive; the European Charter for Fundamental Rights; the 1993 Copenhagen Criteria; various European Parliament resolutions; European Court of Human Rights decisions; and European Court of Justice decisions further institutionalized the norm as part of European human rights values.¹¹ In more recent years, and especially for post-communist states that wish(ed) to join the EU and CoE, the “return to Europe” would mean adopting the universal understandings of the LGBT norm that European institutions now proffered. Having access to newfound institutional control mechanisms of support and sanction, European advocates began operating in a complex world where risk and uncertainty interact: a world of operational uncertainty, where protean and control power meet.

From Effects to Causes of Power

Affirmation and Refusal: Complying with and Resisting the LGBT Rights Norm

While advocates rely on these now dominant systems of knowledge that have legitimated LGBT rights norms in the European polity—especially in unresponsive states—the “one size fits all” interpretations of such rights have produced varied and unpredictable outcomes across states. On the one hand, the EU has used incentives, such as membership or enhanced political ties, to produce desirable rights outcomes in a calculable fashion. Indeed, such carrot/stick power has produced compliance outcomes: notably the introduction of employment anti-discrimination measures, which now exist across the 28-state polity. In a different area of civil liberties, the threat of reduced EU regional subsidies may have also compelled the Hungarian government to step back from its calls in 2017 to close the Central European University in Budapest. The CoE, which has also played an activist role promoting the LGBT norm, has produced major court rulings in defense of LGBT people.

⁹ Ayoub and Paternotte 2014.

¹⁰ Beger 2004.

¹¹ Swiebel 2009; Wilson 2013; Kollman 2009.

However, affirmation can abruptly shift to refusal, opening small niches for protean power during periods of operational uncertainty. More often than not, such predetermined diffusion models were met with considerable resistance as they were diffused across the CoE, the EU and their neighborhoods. Importantly, the control power driving these dominant conceptions of sexuality as human rights also resulted in the inflation of threat perception in multiple domestic contexts, making the situational experience of local LGBT advocates increasingly uncertain as new resistances formed. Opposing sectors of societies viewed these models as challenging the fixity of national identity, questioning their national sovereignty, values and self-understandings—even in a context as open to human rights as Europe, and more so in other regions with less established human rights frameworks. Often portrayed as foreign power over the domestic sphere, emerging counter-movements problematically conflated LGBT rights with “secular” or “Western” imposition.¹²

Reminiscent of the practice of refusal, hard law conditionality around sexual minority rights thus came with sudden shocks that could backslide the early successes of LGBT movements by mobilizing new social actors to challenge them. When such measures were introduced, many new member states responded by simultaneously banning public assembly and even proposing homophobic bills, such as ones that proposed to remove LGBT people from teaching in schools and constitutional bans on same-sex unions.¹³ State authorities did this both because of the recognition of uncertainty in society—and to reap political gains from them—and with the intention to further enhance it by questioning the validity of the norm. As a direct response to a European Court of Human Rights ruling against Russia, for example, Moscow took the opposite position and banned public assembly by LGBT people for 100 years. States have also introduced novel bills intended to protect “religious liberty”, sanctify marriage, oppose “gender ideology” and ban the promotion of homosexuality. Refusal by governments creates an indeterminacy surrounding the legitimacy of LGBT norms that also fuels the fomentation of societal backlash domestically. In response, at the societal level, rates of violence against LGBT people in other spheres of life often accelerated, and popular attitudes toward LGBT people often declined. Within the EU, the mean country scores measuring the approval of homosexuality dropped in the Czech Republic, Estonia, Slovakia and Slovenia in the European Values Survey waves before and after EU accession.¹⁴

In the EU’s neighborhood, Ukraine is the most recent example of this paradox, in which the power of strict conditionality is initially met with a mixed response of affirmation and refusal. In exchange for liberalized travel visas, it was compelled to adopt employment anti-discrimination measures with protections on the basis of sexual orientation. Yet such minimal compliance does not equate with the norm internalization goals set by the LGBT movement. After two failed attempts to pass such a bill in early November 2015, Ukrainian parliamentarians were obliged to make the third time “the charm”; begrudgingly they introduced the bill after immense pressure from state leaders and EU officials. Yet passing the bill came with the simultaneous practice of refusal. Political leadership across parties initially assured their citizens that Ukraine would not introduce any other rights for such minorities, and that tolerance toward LGBT people would not be internalized as part of Ukrainian national values. President

¹² See Kymlicka and Opalski 2002 on minority rights in post-communist Europe generally.

¹³ Biedroń and Abramowicz 2007.

¹⁴ *European Values Study 1981–2008* 2011.

Petro Porochenko declared that “family values will remain inviolable,” and the “speaker of parliament assured deputies that the law would not threaten ‘family values’, saying: ‘I hear some fake information which says that there may be same-sex marriages in Ukraine. God forbid, this will ever happen. We will never support this.’”¹⁵ In 2016, a march in Lviv was canceled after the state said it could not be protected, prompting activists to flee the city after right-wing groups attended the planned meeting shouting “kill, kill, kill.”¹⁶ Societal backlash also ensued, including an arson attack on a cinema during a screening of a gay-themed film in October 2014 as well as targeted attacks on activists.¹⁷ Amid safety concerns spurred by increased repression, Ukrainian LGBT activists opted to protest outside Parliament without the symbolic rainbow flag, a 1970s innovation of the American gay liberation movement that became a global symbol for LGBT people. Indeed, this refusal of typical LGBT symbols—largely because they buttressed the Russian Duma’s claims that pro-EU Maidan protestors were all “gay”—was so evident that an LGBT organization attributed a flash mob of protestors using the rainbow flag as a provocation organized by pro-Russian groups and the Ukrainian Security Service.¹⁸

The anti-gay politics of Vladimir Putin’s Russia, a member of the CoE, is equally exemplary of refusal, leading to indeterminacy. The state has used rhetoric of “traditional values” to present Russia as the international protectorate of the new postsecular morality politics, justifying the passage and diffusion of anti-“homopropaganda” laws that center on sexual “decadency” as deviant.¹⁹ This politics of traditional values has been used as a geopolitical tool with which to symbolically distance Russia from Western power. It explains why, as Bateson²⁰ has described, the Ukrainian “pro-Kremlin media was attempting to portray the pro-EU [Maidan] protests two years ago as a tantrum by LGBT people yearning to join ‘Gayropa.’”

Thus, while EU law—and the United Nations’ more recent rhetoric and declarations (cf. Hillary Clinton’s 2011 speech in Geneva)²¹—might lead us to take for granted that systems of knowledge place LGBT people squarely within universal human rights, this knowledge system does not go uncontested. Contentious debates destabilize new international narratives at local levels, and they can undermine the efficacy of such institutions to engineer change from above. Indeed, there is a multiplicity of centers of control from which such power can be exercised that make norms indeterminate. As the new Russian paradigm of “traditional values” politics exemplifies, refusal as a response to power also leads to what Symons and Altman call “norm polarization.”²² Such polarization refers to a process in which states purposively take contradictory positions on the same norm, leading to norm indeterminacy (see Chapter 3) at the global level. This heightens uncertainty—in this example, beyond operational and towards radical uncertainty—for LGBT advocates in states not firmly embedded in the trans-Atlantic community of states. It is not surprising, thence, that when the American President Barack Obama threatened the

¹⁵ BBC News 2015.

¹⁶ Ibid.

¹⁷ Kenarov 2015.

¹⁸ Ibid.

¹⁹ Wilkinson 2014.

²⁰ Bateson 2016.

²¹ Clinton 2011.

²² Symons and Altman 2015.

material consequences of cutting aid to Uganda for passing an anti-homosexuality bill, Ugandan President Yoweri Museveni replied he will then “want to work with Russia.”²³

Returning to the EU, empirical evidence suggests that hard law mechanisms are only part of the story when relating to the spread of sexual minority rights, and that they are dependent on local translation. If we look at the broader range of the LGBT rights agenda (anti-discrimination, decriminalization, partnership, parenting and hate crimes legislation), EU membership conditionality alone did not have a significant effect on advancing the movement’s goals.²⁴ Despite the wide array of formal pressure points associated with EU accession, top-down conditionality was not statistically correlated with transformative legal change. While it does predict changes in anti-discrimination legislation (which states were required to adopt in the three most recent accession waves), it does not predict wider shifts of incorporating LGBT norms into domestic legal frameworks. By contrast, the presence of activists engaged in the practice of norm translation did aid the adoption of the norm, which I elaborate on below.²⁵ The powers that have produced tangible and lasting change are not primarily associated only with control power. The work of activists has certainly been facilitated by EU rules and regulations, but processes of change rely on the actors that connect practices of control and protean power. Typically, during operational uncertainty, protean power occupies the spaces created by control power’s unanticipated consequences.

It is thus worth emphasizing that responses to the diffusion of LGBT rights norms are rarely calculable, even if LGBT international nongovernmental organizations (INGOs) and the institutions that support them hope to perceive them as such. Actors on both the international and domestic levels provide competing views of, and solutions to, the issue of LGBT rights. When LGBT rights first appear in popular discourse, they almost always provoke resistance. Thus, the top-down introduction of LGBT norms—however important that step may be—also produces a set of other unpredictable and undesirable outcomes, ones that control power alone cannot remedy. As the next subsection demonstrates, protean power operates in the periods of operational uncertainty I have outlined above.

Improvisation: Translation during Operational Uncertainty

Experiencing uncertainty with competing claims about new norms, local LGBT activists respond with a process of *translation*, adapting universal norms to distinct local contexts, and *innovation*, when no functioning models exist. This is especially crucial for audiences in which LGBT people have been previously isolated from the public sphere: as an unknown that, when initially visible, provokes resistance. Two types of uncertainty operate in these common scenarios: *operational* and *radical*. The first (operational) has to do with the uncertainty on the ground for local advocates that emerges from the clash of norms. They face the conundrum of what to do given resistance and backlash, painfully

²³ Ssebuyira and Kasasira 2014.

²⁴ Ayoub 2015, 306. EU conditionality refers to the rules with which prospective member states must comply. A statistical analysis shows how this dynamic plays out. In new EU member states (2004 and 2007 waves), both the application for membership and actual accession to the EU did not have a significant effect on the introduction of higher levels of LGBT rights.

²⁵ Confer findings for transnationally embedded LGBT organizations in Ayoub 2015, 306.

aware both of the expectations of prior legitimate models as well as their unanticipated consequences that they must now confront. The second (radical) is that uncertainty which is built into all levels of the system: both in the underlying context and in actor experience on the ground. It has to do with deep norm-indeterminacy surrounding rights at the domestic and international levels: domestic indeterminacy in response to “imposed” and illegitimate norms that clash with local sovereignty as well as international indeterminacy involving norm-polarization. Radical uncertainty questions the very existence of LGBT people and their rights; it typically operates when LGBT individuals first step into the light of local public visibility. Local LGBT actors focus on reducing operational uncertainty while also addressing the radical indeterminacies surrounding the norm to root the claim’s legitimacy.

During these periods of uncertainty, when political opposition intensifies, local LGBT advocates turn to innovation and improvisation to adapt to changing environments. In doing so, they help to interpret norms and create knowledge concerning the societal place of the group they represent. The degree to which this is done can vary from innovation during radical uncertainty (as the Ulrichs example above suggested) to some combination of refusal and improvisation during operational uncertainty. During operational uncertainty, this can mean that actors both dismantle and adapt common attributes of the universal norm, using their local knowledge to *translate* the norm in unique social and cultural terms.²⁶ Such translation comes into play when universal scripts clash with local ones. It is especially necessary in the case of LGBT rights, since majority populations often turn to traditional social conventions—ones that rarely provide positive etymologies of LGBT people—when “external” LGBT norms are made visible. Translation is the interactive top-down and bottom-up process in which actors package dominant conceptions of sexual rights for distinct audiences.²⁷ Advocates can balance engaging in translation while maintaining relations with outside actors (including other states and EU institutions) who provide valuable resources and support. Thus they creatively find spaces to exploit when control power from above produces unwanted outcomes.

An example of this process is the Polish LGBT movement’s consistent improvisation as it navigates among various competing groups in periods of intense backlash.²⁸ Provoked by the perceived imposition of new EU standards, Polish counter-movements framed sexual rights as “external” and incongruent with Polish national identity. This is an aspect of the controlling discourse of universal norms that can perversely limit room for local expression and fan the flames of resistance. During an intense period of politicized homophobia following EU accession, from 2004 to 2007, local LGBT actors worked to reconcile authoritative international demands and create appropriate local meanings for norms. This process is highly improvisational, and it produces protean power to shape new understandings of sexual minorities in the domestic sphere by moving them from the external periphery to connect them to

²⁶ Seckinelgin 2009.

²⁷ In the diffusion model, commands are obeyed and disseminated because of an impetus from their original source, overlooking the translation work that actors on the ground depend on. Indeed, one problem with the concept of diffusion is the image of particles moving into empty spaces. Conceptualizing the translation process inherent to protean power acknowledges that such empty spaces do not exist in world politics. In the translation model, activists are attuned to the realities that remain invisible to actors wielding control power from the top.

²⁸ Ayoub and Chetaille 2018.

domestic political debates. At the core of this process has been repackaging the norm according to different contexts and forms of emerging opposition.²⁹ The innovative nature of these movement actors is captured in the practice of translation. It describes how advocates reconcile external and internal understandings of the norm, constantly reshaping the norm's message.

Polish activists have long engaged in a process of translation that connects the universal LGBT norms championed by EU institutions to their local audiences. Leading up to Poland's EU accession, activists framed the issue as one of European values and responsibilities associated with democratization. When public assembly was banned in 2004 and 2005, activists used their transnational networks to mobilize European dignitaries to march in Poland. When these dignitaries were brought to the front of the illegal demonstrations by their respective embassies, the police were compelled to protect them, and thus they indirectly protected the Polish protestors that organized the march.³⁰ For the strategic local activists, this human shield technique was imperative at a time when any public assembly was outnumbered by often violent counter-demonstrations. It was a way to generate visibility for local LGBT people who could not safely march otherwise.³¹ During periods of Euro-optimism, the LGBT frame was primarily attached to the EU. Protestors donned t-shirts that stated "Europa=Tolerancja" and waved EU flags. Foreign dignitaries were told to refer to themselves as Europeans, which resonated with the wider political discourse of Poland's "return to Europe."³²

In a later post-accession period, when the anti-EU politics intensified, activists shifted gears. By emphasizing that LGBT people were precisely the aspect of "Europe" that was to be rejected, the emerging opposition surprisingly changed the focus of the LGBT movement to the nation. While the Polish cultural counter-movement is a loose conglomeration of religious, political and nationalist actors, their frames converged around an issue of the nation being "under attack" by external forces—largely in a differentiated response to the international human rights frames touted by the LGBT movement initially.³³ As Agnès Chetaille and I have traced across 20 years of Polish activism, the movement responded to its opposition strategically by emphasizing its Polishness in frames that signal a far more rooted politics of sexuality than before.³⁴ They used "Catholic" and (increasingly) "national" frames to root LGBT rights as Polish. For example, Poland's largest LGBT organization, the transnationally-linked *Campaign Against Homophobia*, changed its logo to mimic the national borders of Poland. In 2016, the organization co-developed a campaign called *Przekażmy Sobie Znak Pokoju* (Let us offer each other a sign of peace).³⁵ It adapted the locally resonate phrase—used by Polish bishops in a reconciliatory letter to German bishops in 1965, as well as by parishioners as a greeting during mass—placing it over a picture of two hands shaking, one hand adorned with a rosary and the other with a rainbow flag bracket. The campaign, displayed on billboards across the country, generated a firestorm of media

²⁹ Ibid.

³⁰ Ayoub 2015.

³¹ Ibid., 311.

³² Havel 1990.

³³ Ayoub 2014. While I focus on Poland in this example, scholars have charted similar counter-movement frames of "threat to nation" across new adopter states in Europe. Swimelar 2016; Mole 2016.

³⁴ Ayoub and Chetaille 2018.

³⁵ <http://www.znakpokoju.com/>

attention. Early signs seem to suggest a historic step forward in soothing the oil and water relationship between Catholicism and LGBT rights in Poland.

These tactics were contentious within and without the Polish movement, as activists remain hesitant to wash away the decades of harm they have experienced resulting from the church's vehement opposition. The tactic would also appear ill-conceived to some of the best practice handbooks and directives, emphasizing universality, composed by LGBT lobbyists and policymakers in Brussels (and in Amsterdam, Stockholm and Berlin). But Polish actors do so in an innovative way that has countered and coopted the arguments of the resistances that emerged in response to imported and sometimes coercive models of external LGBT activism.³⁶ At the INGO ILGA-Europe's 2016 summit, the early success of the controversial Polish campaign turned heads, with new calls emerging to replicate it in other domestic contexts. It is thus also an example of how protean and control powers are entangled. They both make room for and replace one another, constituting and reconstituting human rights norms.

As Table 4.1 illustrates with the work of Ayoub and Chetaille, activists were consistently improvisational in how they presented LGBT rights according to the changing context they functioned in.³⁷ Throughout this process, local actors borrow models that fit (e.g., human rights, democracy, European values) as well as altering and adapting them in an agile process of translation. This is done as they navigate what comes their way in a constantly changing environment of contestation. In the Polish case, frames have become increasingly rooted in response to nationalist local challenges. For the Polish activists, translation becomes an interactive top-down and bottom-up process in which actors present and package dominant ideas and master frames of sexual rights for distinct audiences.

Table 4.1. Innovative Framing by the Polish movement, 1990-2010

	1990-2001	2001-2004	2004-2005	2005-2010
I. Changing Periods of Uncertainty	Democratic Transition and the "Return to Europe"	Political Allies and European Accession	New Adversaries/ Opposition Intensifies	Movement Counter-Movement Interaction
II. Innovative Frame Attributes	External and Universal	External and Non-Contentious	Contentious and Diversified	Diversified, Rooted and Particular
III. Typing of Frames Used	<i>Human Rights:</i> universal principles of equality and rights; <i>Democracy:</i>	<i>Educational:</i> anti-discrimination, anti-homophobia; <i>Europeanization:</i> European values	<i>Defining Adversaries:</i> political parties, nationalist organizations	<i>Reclaiming Localness:</i> patriots versus nationalists; <i>National Turn:</i> religion, culture and memory

³⁶ Similarly, local Ugandan and Russian LGBT activists opposed the well-intended external activist calls for boycotts (of Western aid to Uganda, and calls for participation boycotts to Russia's Sochi Olympics) in response to state homophobia.

³⁷ Insights for Table 4.1 are derived from Ayoub and Chetaille's (2018) process-tracing work on the Polish movement's framing strategies.

Return to and
Europe responsibilities

Source: Adapted from Ayoub and Chetaille 2018.

While this example has drawn on Poland, LGBT activists throughout the world respond to ever-changing contexts of uncertainty. Even in the aforementioned Ukrainian case, activists today are debating and adapting the initial strategies they deployed two years prior.³⁸ In response to backlash and a rapidly changing domestic environment, local activists have pursued varied innovative strategies—including invisibility strategies to initially deflect the anti-gay opposition’s strategic use of universal LGBT symbols—that have engendered some positive change in recent years.³⁹ These successes include pride parades in Kiev, an activist conference, enhanced capacity building for civil society organizations and some elite political support in the domestic sphere.⁴⁰ The same dynamic of translation is true of countries with older LGBT movements. Kelly Kollman has shown, for example, how the LGBT norm, which is often presented in the language of “European values” in the EU, has been reframed according to context. British activists abandoned the frame entirely, framing it in national terms. German activists held on to the resonant frame, shaming Germany for “falling behind” European human rights standards. Dutch activists argued that LGBT rights were a forum for the Netherlands to play a norm-pioneer role in European and world politics.⁴¹ In other mainly non-European contexts, activists have rejected the terms “queer,” “gay” and “lesbian” entirely for their specific constituency. In the hopes of removing their “foreignness” or to strengthen their inclusivity, they prefer local language variants or other terms like “men who have sex with men” (MSM) or “sexual orientation and gender identity” (SOGI).⁴²

In sum, the LGBT rights revolution shows that control power, through the diffusion of formal rules and conditionality, can obscure the experience of local resistance and global polarization around LGBT rights. Uncertainty produced by the clash or misfit between international human rights norms with domestic values has generated protean power impulses for local LGBT activists who translate EU rules and regulations into different national contexts. Faced with emerging counter-movements and competing claims about new norms governing sexuality, local advocates, embedded in transnational networks, developed tools of norm translation to navigate this complex terrain. In the last decades, they engaged supranational institutions when their respective states closed access to them. And later, after successfully securing international support, they translated and localized the norm as it reentered the domestic sphere. In times of operational uncertainty, they looked for new allies and sought to reframe the norm in a discourse that resonated with local audiences and disempowered the frames used by their opposition. In this interactive process, the practices of LGBT advocates help protean power rise to complement and subsequently reshape top-down control power on their behalf.

Reflections on the Theoretical Framework

³⁸ Bateson 2016.

³⁹ Shevtsova 2017.

⁴⁰ Ibid.

⁴¹ Kollman 2014.

⁴² Seckinelgin 2009.

Practices of Power Under Conditions of Risk, Complexity and Uncertainty

Stepping back from the intricacies of the cases, this section draws from the empirical foundation described above to connect back to the ontological assumptions of Katzenstein's and Seybert's Figure 2.1 (Chapter 2, p. 6). In doing so, it navigates the interaction between control and protean powers as a theoretical exercise while also addressing counterfactuals of worlds functioning purely of risk or radical uncertainty. Empirically, this is a challenging task because there is ample and frequent movement across the length of Figure 2.1's spectrum, with most scenarios operating in-between the purest forms of control and protean power practices.⁴³ Indeed, I occasionally shift into the hypothetical to imagine a world for LGBT rights that functions at the extreme ends of the spectrum, when power wielders and power targets (roles that are malleable in the real world and often occupied by different actors from one scenario to the next) both operated in settings of calculable risk or radical uncertainty. While I do illustrate scenarios at the extreme ends, the majority of LGBT rights cases fall into the center of the figure, echoing a core argument of this volume: that we live in a world of complexity in which control and protean power are entangled. I should also note that operating in any one space along the spectrum is rather momentary for the LGBT case. For example, and as the Polish case demonstrated, a refusal response is usually met with one of improvisation, and both can continue simultaneously, with creative practices eventually being coopted by control power actors (though whether a model based on these practices leads to success in a new context is not given). In what follows, I begin at the far left of Katzenstein and Seybert's Figure 2.1 (*risk*) and move along the spectrum to the right (toward *radical uncertainty*).

Risk: A scenario of pre-accession conditionality comes closest to the example of risk at the far left of the spectrum. In it, a state conforms to pressure from the EU, and the INGOs that support it, on adopting some aspect of LGBT rights. The aforementioned case of anti-discrimination based on sexual orientation in the run-up to the 2004, 2007 and 2013 waves of EU accession is a useful example. Here there is a calculation made on both ends, because adopting the norm is tied to a clearly defined set of other material and social benefits that come with EU membership. Thus both the EU (as a power wielder) and state actors (as a target) can entertain a cost/benefit analysis in a world in which context and experience align. This is an example of the EU's power over the applicant state, and it has directly led to affirmation around some aspects of the LGBT norm. While much literature regarding rights diffusion assumes a power relationship of this nature, most power dynamics surrounding LGBT rights are far more complex. If power operates in moments of a calculable and risk-based world, they are short moments indeed. Affirmation can abruptly shift into backlash locally, which rapidly moves us further right on the spectrum to refusal, opening niches for protean power. It is in the following two scenarios that the interaction between or entanglement of the two kinds of power becomes most apparent.

Complexity (manifested primarily in control power practices): The more common scenario is one of complexity, in which the underlying context of the world and local actor experience are not in sync—as in the diagonal cells of Table 1.2 of Chapter 1. With the interaction still slightly favoring control power practices, the more uncertain the underlying context becomes, the more it opens a space for refusal. For

⁴³ The same can be said of the constant movement across cells in the related Table 1.2 of Chapter 1.

example, Russia's new paradigm of moral conservatism has changed the dynamic for power wielders supportive of LGBT rights, amplifying and (re)introducing contestation and indeterminacy around the norm at the international level. As discussed above, instead of an increasingly strengthened international norm, the movement is faced with international norm polarization. While this dynamic is still relatively new, since politics surrounding LGBT movements have been at the grassroots for much of their history, refusals toward LGBT politics are also regularly being played out at the international level. This involves one community of states refusing the values of another, making LGBT rights part of a geopolitics in which states coopt the values that align with "their" side. This can shake the experience of actors at the grassroots level, as their issue is debated, partly unchecked, at a very abstract universal level.

Complexity (manifested primarily in protean power practices): Moving further right on the spectrum, we come closer to a type of interaction that is common for the contemporary LGBT case. Here, templates of sympathetic IOs and human rights INGOs for how to provoke change in multiple domestic realms are contested locally. With uncertainty prevailing on the ground, states and their societies refuse "imposed" norms. This shifts the interaction further away from control power practices. Uncertainty is high in contexts where the LGBT rights norm is still unknown, because LGBT people themselves have been largely invisible on the ground. Such contexts invite a host of societal actors into a debate (e.g., a mix of political elites, religious institutions, nationalist resistance movements) when the norm first diffuses into the domestic space, leading to anti-LGBT resistance and subsequently new uncertainties experienced by local LGBT advocates in the domestic sphere. The approximate sequence is one of diffusion (state affirmation) followed by resistance (societal refusal) followed by translation (movement improvisation). As in the Polish example, here the impetus falls on local advocates, which usually multiply during these times, to translate the norm for a local audience. Innovative power practices involve translation, which can circulate up to sympathizing power wielders, in a world dominated by operational uncertainty.

Yet again, I want to note how *momentary* a world of complexity favoring either control or protean power is. Take for example the United States' (U.S.) criticism of Russia's handling of the Sochi Olympics, an example falling at the left space of complexity. While international condemnation met refusal when challenging Russian domestic policy toward LGBT people, local American actors could shift gears to condemn U.S. policy, which they said sounded hypocritical and hollow in its criticism of Russia, considering the long list of issues facing LGBT Americans.⁴⁴ Thus activists shift us right on the spectrum of Figure 1 towards the protean space of complexity. This may have contributed to reshaping the underlying context for advocates on the ground in the "the West," where states are now expected to live up to their discourse more than they were before.

Uncertainty: Further right, at the other extreme end, we enter a world of deeply radical uncertainty. Even when there is uncertainty among power wielders, states usually fall into one group or another in a world of regions. A unique example, however, might be a case like Uganda, which has a heated contest domestically around these rights, and power wielders also compete over it at the international level (i.e., the U.S. Obama Administration threatening to cut aid and Russia offering to provide it). At some

⁴⁴ Ayres and Eskridge 2014.

points in time, the Ukraine case also exemplifies a similar dynamic of being caught between Russia and the EU. Scenarios like these open ample space for innovation by activists, as both the underlying international context and the experience of actors on the ground are deeply uncertain. We could also think back to the late 19th and early 20th centuries when there were no “power wielders” (in the form of *de facto* powerful actors and institutions) to think of that supported the norm. By this I mean no would-be commands exist, let alone provide a model for how to achieve it at any level of analysis. In these cases, LGBT rights advocates have to (re)invent much of the rulebook from scratch, innovating new ways of claiming their rights and reconstituting social orders. From this vantage point, the innovation of Ulrichs during radical uncertainty is related—though a much more pronounced version—to the improvisation of Polish activists during complexity. Here protean power practices involve innovation that completely rethinks or recreates models at all levels, in a world that is radically uncertain for movement advocates. Such innovative practices that generate protean power almost always circulate back to change the underlying context of LGBT norm promotion at international and domestic levels.

Conclusion

This chapter has explored the concepts of protean and control power as they relate to the transnational advocacy networks surrounding the issue of LGBT rights. The case of LGBT rights embodies two aspects of unexpected change. The first concerns what the proponents of LGBT rights would consider positive. The sweeping changes surrounding the adoption of norms governing LGBT rights around the globe are truly surprising, and scholarship has grappled with the failure to predict it. At the same time, the second aspect of unexpected change concerns the resistance to these emerging norms. While backlash itself is common, and thus anticipated by movement actors, the various shapes it takes are not. In this sense, it is much like in the case of migration (Chapter 5), where border enforcers react and adapt to strategies of migrants, or in the case of anti-terrorism (Chapter 9), where states adapt to their failed attempts at control. The constellations of opposition actors and their methods of resistance are unique, unpredictable and ever-changing across domestic contexts. In many cases of resistance, the opposition is also connected to state actors at an international level, which the example of Russia’s normative opposition to LGBT rights makes explicit.

Identifying stagnant, or even central, nodes of power is thus challenging when we consider the diverse realm of contending actors at play in LGBT politics as well as the global polarization of the norm. Just as U.S. state power has been a force for some LGBT people in the Obama years, an array of U.S. non-state actors were responsible for introducing anti-gay bills to various regions in the first place (e.g., anti-gay activist Scott Lively’s involvement in early iterations of the notorious Ugandan ‘kill the gays’ bill).⁴⁵ Just as activists improvise to defeat domestic opposition, anti-LGBT counter-movements seek out and find new state and non-state allies. And just as states and counter-movements can refuse the promotion of the LGBT norms, so can local LGBT activists refuse and reshape the ways that states and INGOs advocate on their behalf. Thus, the actors exercising and generating power are always interchanging in a complex and uncertain world. Especially for a chapter on a vulnerable population, it is important to emphasize

⁴⁵ Bob 2012; Weiss and Bosia 2013.

this important point, that protean power is not only a tool for the “weak” or the “good”.⁴⁶ As Brigden and Andreas (Chapter 5) demonstrate so well, the protean power practices available to actors via improvisation is likewise available to the various contending actors in this dynamic story.

A core goal of this chapter has been to highlight such contestation in a world of complexity. The institutionalization of LGBT rights has shown recurrent, divergent understandings, even contradictions, of human rights at international and domestic levels. This has created opportunities for innovative political mobilization and the creative grafting of new rights onto local contexts.⁴⁷ That is, the control power exercised by the EU and CoE was a necessary (if not sufficient) condition to generate conflict between supranational rights and domestic norms, opening spaces for protean power through the introduction of additional uncertainties. Most episodes of LGBT rights diffusion and circulation are in the spaces where control and protean power interact. While the empirics surrounding LGBT rights advocacy drew heavily from the broader European context in this chapter, we observe a related dynamic of this contestation and indeterminacy in other world regions. As Ashley Currier has demonstrated, the universal underpinnings of LGBT rights norms have also clashed in Namibia and South Africa, where they have been portrayed as colonial and un-African.⁴⁸ Palestinian LGBT groups face a similar dilemma under occupation in advocating for gay rights while disassociating themselves from the “pinkwashing” politics of Israel’s gay rights promotion.⁴⁹

Navigating such uncertainty generates protean power, embodied in the innovative and improvisational practices that have always been paramount to LGBT advocacy. When international standards of human rights in Europe inadvertently provoked backlash, activists creatively reframed them, often rooting them locally with frames that had previously been seen as antithetical to LGBT rights norm promotion. Depending on the time period and context, different frames helped facilitate translation to the national level. This was evident in the Polish case, in which activists rooted the universal human rights claims by linking them to the frames used by their opposition.

In doing so, LGBT rights activists resist state repression and thus find the power to, more or less successfully, transform the state’s conception of human rights. Often their innovative practices also loop back to amplify uncertainty and influence the strategies of international institutions and INGOs, which may or may not find similar success when they are used again. Thus, the case of LGBT rights in Europe demonstrates how advocates navigate between international and local arenas, translating international norms to local realities. It is under conditions of complexity that most of these interactions between protean and control power occur.

⁴⁶ While this chapter focused on the protean power of human rights promoters, it addressed a multitude of different types of actors (for and against LGBT rights) practicing advocacy in different ways depending on their experience of the world as risky or uncertain. In fact, one set of actors that occasionally heightened operational uncertainty for activists on the ground were the well-intended IO and INGO allies that tried to advance the norm at the international level.

⁴⁷ Price 1998.

⁴⁸ Currier 2012. Paradoxically, colonial-Britain introduced anti-sodomy laws to Africa.

⁴⁹ Schulman 2012.

In sum, I have emphasized that LGBT rights advocacy predominantly operates in an incalculable and uncertain world that relies on an entanglement between both types of power. As this volume advocates, the case of LGBT rights compels those analyzing power to withstand the temptation of simplifying the world to such an extent that it appears to be readily controllable through risk-based strategies. We must acknowledge the existence of uncertainty and the space it gives to the emergence of protean power and highlight the dynamics of power that will always leave room to the disruptions that innovation creates for affirmation.

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