

"Queerly Beloved, We are Gathered here Today....": An Examination of the Extension of Rights to Sexual Minorities in Latin America

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Abstract

Given the history of the region, the extension of rights to sexual minorities in Latin America may be somewhat unexpected. That being said, the “domino effect” of both negative and positive rights to the LGBT community has been quick and progressive in comparison to other regions. An interesting theoretical gap emerges when in trying to explain the extension of rights in the region, considering the historically strong influence of the Catholic Church as well the role of “machismo” as an informal institution. Using a historical institutionalist framework, this paper argues that the recent “domino effect” of rights being extended to sexual minorities in the region can be best explained by significant changes to the political opportunity structure, which include: the transition to democracy, the framing of the issue in terms of citizenship and human rights, the shift to the left in the region which allowed for strategic alliance building, and finally, the decreasing ability of the Catholic Church to act as a veto-player in terms of the policy process in the region.

“People going to rise up and get their share...Finally the tables are starting to turn, talkin’ about a revolution” – Tracy Chapman

Introduction

The issue of rights being extended to sexual minorities has long been one of contention in Latin America. With that being said, perhaps, surprisingly, the extension of rights to sexual minorities is happening very quickly in a region which has been classically known for “machismo” culture as well as the strong influence of the Catholic Church. Recently the region has seen a “domino effect” of rights being extended to the Lesbian, Gay, Bi-sexual, and Transgender (LGBT) community. At the time of writing, various different rights have been extended to people throughout the region. For example, all of the Spanish speaking countries in the region as well as Brazil have de-criminalized homosexuality, and further, a number of countries have created and enacted anti-discrimination laws. Of note, in 2010, Argentina gained international recognition when it became the first country in Latin America to legalize, not only same-sex marriage, but also a host of other rights that came with it such as: pension/inheritance rights, and adoption rights. Since 2010, equal marriage rights have been extended to the LGBT community in: Brazil, Colombia, Uruguay, and provinces of Mexico. Equal marriage bills are currently going through the judicial process in some other countries in the region. With this in mind, focusing only on the countries that have extended rights, this paper seeks to examine why there has been a “domino effect” of rights being extended to LGBT people in Latin America. In

answering this question, this paper argues that the recent “domino effect” of rights being extended to sexual minorities in the region can be best explained by significant changes to the political opportunity structure, which include: the transition to democracy, the framing of the issue in terms of citizenship and human rights, the shift to the left in the region which allowed for strategic alliance building, and finally, the decreasing ability of the Catholic Church to act as a veto-player in terms of the policy process in the region. This paper will first provide an extensive literature review, will move on to explaining the core arguments of the paper, and finally, will conclude whilst noting implications of this research, and highlighting further research questions for the field.

Latin American Specificities

To begin, this paper will examine the important contextual issues that one must take into consideration when studying Latin America. First of all, as should already be apparent, this paper takes the position that formal institutions are extremely important to the study of public policy in any context. However, this paper takes the position that studying only formal institutions and ignoring contextual elements such as: history, time and informal institutions, will leave any study of Latin American policy, essentially, incomplete. Finding significant agreement with Jordi Diez and Susan Franceschet’s ground-breaking theoretical framework for studying public policy in Latin America, this paper recognizes that, “many of the informal rules of politics in Latin America reflect power relations or historical and cultural legacies that remain hidden from view in frameworks focused on formal institutions or actor-centered models” of the processes of policy (Diez & Franceschet, 2012: 7). When looking at public policy in Latin America, then, one must take into consideration: the state and state-society relations, the role of institutions (both formal and informal), and the effect of socio-economic inequalities (Diez & Franceschet, 2012: 8). The importance of the state in the policy process requires little explanation; that being said, the state is particularly important Latin America as many countries suffer from state weakness, in terms of both state autonomy and capacity (Diez & Franceschet, 2012:12). Therefore, the state’s ability to act independently and perform basic functions like implementing policy cannot be presupposed when studying Latin America. There are countless examples of powerful actors infiltrating the policy process and having a significant impact on the policy outcome. To keep examples relevant to the topic at hand, the Catholic Church often acts as a powerful veto player when it comes to policy regarding, so-called moral issues. Further, it is important to keep in mind that even if powerful actors do not influence the policy process, one cannot assume that the state will be successful in implementing the policy due to a shortfall of capacity. A common example of weak state capacity is evident in the common Spanish phrase, “Obedezco pero no cumplo” (I obey, but I do not comply). A pertinent example of obeying but not complying is evident in terms of the impunity of individuals found in violation of anti-discrimination policy. The inability of some states to enforce and implement policies must be taken seriously when studying Latin America.

Two other contextual elements as laid out by Diez and Franceschet, include: the importance of informal institutions, and the impact of inequality on the policy process. Gretchen Helmke and Steven Levitsky define informal institutions as, “socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels” (Diez & Franceschet, 2012:18). It is important to take into account “informal institutionalization” ...but, as Helmke and Levitsky warn, scholars should not equate informal

institutions with notions of culture of with mere, “behavioural regularities” (Diez & Franceschet, 2012:19). Instead to be considered an informal institution, the behaviour must be, “patterned, rules-bound, and rooted in shared expectations (rather than shared values) about how others will behave” (Diez & Franceschet, 2012:19). The informal institution of particular importance to the arguments of this paper is machismo, which is, quite simply, the belief that a man should be strong and aggressive. This informal institution has deeply impacted the strategies, and further, the successes and/or failures of social movements in Latin America. The last contextual element that must be taken into consideration when studying public policy is the, “staggeringly high levels of income and asset inequality” present in the region (Diez & Franceschet, 2012:20). It is important to take socio-economic inequality into consideration for three reasons: “it creates the conditions that both give birth to and reproduce certain informal institutions, it shapes public opinion in ways that undermine the politicization of problems related to inequality, and finally, inequality shapes who participates in public policy and those who do not” (Diez and Franceschet, 2012: 20). According to Pierson and Skocpol, even if power inequalities are modest initially, they can become deeply entrenched and reinforced through institutional practices and dominant ways of political thinking (Pierson & Skocpol, 2002:700). Inequality is particularly important to the arguments of this paper as it functions to deprive progressive social movements and advocacy groups of a broader social base to mobilize for policy change (Diez & Franceschet, 2012:21). Inequality, therefore, hinders the ability of the poor and marginalized to engage in the kind of collective effect that could put their concerns on the government’s agenda.

Social Mobilization Theory Literature Review

It is now important to highlight some of the most pertinent literature to the theoretical subject at hand. As the main arguments of this paper flow around the idea of a political opportunity structure, this paper will now examine some of the major theoretical contributions made by scholars who study social movements. For the purposes of this paper social movements will be defined as, “collective challenges based on common purposes and social solidarities, in sustained interaction with elites, opponents, and authorities” (Paternotte et al, 2011: 4). This paper also accepts Sidney Tarrow’s now famous thesis that, “people engage in contentious politics when patterns of political opportunities and constraints change and then, by strategically employing a repertoire of collective action, create new opportunities, which are used by others in widening cycles of contention” (Tarrow, 2011:145). By political opportunities, Tarrow is referring to, “consistent – but not necessarily formal, permanent, or national – dimensions of the political struggle that encourage people to engage in contentious politics” (Tarrow, 2011:145). As far as political constraints are concerned, Tarrow is referring to “factors – like repression, but also like authorities, capacity to present a solid front to insurgents – that discourage contention” (Tarrow, 2011, p. 145) Pertinent to the arguments of this paper, the concept of political opportunity structures emphasize resources that are external to the group (Tarrow, 2011: 146). It is not necessarily that political opportunity structures “produce” social movements, but rather that provides a, “set of clues for when contentious politics will emerge” (Tarrow, 2011: 145). It is also important to note that Sidney Tarrow accounts for change to political opportunity structures and constraints, saying that, “these changes...provide the openings that lead resource-poor actors to engage in contentions politics” (Tarrow, 2011:146). The key idea here is that both state structures and political cleavages create relatively stable opportunities for social movements (Tarrow, 2011:147). It is the social movement’s interaction with the state that is of particular interest to the arguments of this paper. For Tarrow then, political opportunity structures are

made up of four dimensions: formal access to political institutions, presence of influential allies inside state institutions, shifting political alignments, and cleavages among elites” (Paternotte et al, 2011:219). To summarize the arguments of this paragraph, contentious politics is produced when political opportunities, “broaden, when they demonstrate the potential for alliances, and when they reveal the opponents’ vulnerability” (Tarrow, 2011:148).

An important and common strategy of social movements is to ‘frame’ issues to in a way that makes them attractive to a wider base of support, which can create a change in the opportunity structure available to movements. This paper uses David Snow’s definition and theoretical framework to describe the process and importance of frames. The term ‘frame’ denotes, “schemata of interpretation” that enables individuals to, “locate, perceive, identify and label occurrences within their life space and the world at large” (Snow, 201:250) This paper makes the argument that the LGBT movements used many different parts of the frame alignment process in their framings of: identity, citizenship, and human rights. To understand why these frames, especially, citizenship, were incredibly potent, one must take into consideration the importance of the transition to democracy in the region. As Mayer Zald notes, social movements almost always, “draw upon the larger societal definitions of relationships, or rights, and of responsibilities” to highlight both what is wrong and why there is a need for change (Zald, 1996:267).

Democratization as a Critical Juncture

This paper identifies the transition to democracy in Latin America, as a ‘critical juncture’ as to why the frames of citizenship and human rights have been extremely potent, as well as being crucial for understanding why there has been an extension of rights to sexual minorities. As Johnston and Almeida note, “no study of Latin American protest would be complete without reference to the veritable wave of democratization that swept the region between 1979 and 1990” (Johnston & Almeida: 11). This paper takes the position the transition to democratization created a significant change to the political opportunity structure available to movements because it removed a number of constraints. Therefore, not only did political rights represent a significant category of protest, the democratization of Latin American states was a structural influence that had important effects a wave of new protest movements (Johnston & Almeida, 2006: 12). Charles Tilly also speaks about the structural impact of democratization when he says, “democratization in itself promotes formation and proliferation of social movements...as it encourages the establishment of other institutions (political parties) whose presence facilitates social movement claim making” (Tilly, 2004:137). In terms of the impact of democratization, Diez and Franceschet’s research has shown that an increased ability by various sectors of society, including, importantly, “previously marginalized ones”, to gain access to the decision and policy making process (Diez & Franceschet, 2010:15). It is clear the transition to democracy impacted both the strategies of the movements and the overarching political opportunity structure.

To show the significant change to the opportunity structure this paper will now briefly examine the history of LGBT social movements in Latin America shortly before, during, and after the critical juncture of the transition to democracy. It is important to note that detailed histories of LGBT movements scarcely exist in academic literature, and, this problem is significantly compounded when added to a region that is widely ignored by the discipline of

political science. Perhaps, shockingly, detailed historical accounts of LGBT movements, of particular interest to this paper, in Colombia and Uruguay, simply do not exist in academic literature at this point in time. Therefore, this paper will focus on the movements that have been fairly well-documented, which are the movements in Argentina and Brazil, and will not delve very far into the histories of the movements in other countries that have extended rights, such as: Colombia, Uruguay, and provinces of Mexico. It is important to take both context and history seriously when studying social movements as often critical historical and contextual junctures provide valuable information for explaining contemporary phenomena. This paper recognizes that the history of all of the LGBT movements in Latin America are not exactly the same, however, finds that focusing on two countries gives a sufficient background to understanding the importance of the transition to democracy.

The transition to democracy was welcomed by LGBT activists in Latin America because of the brutal repression and harsh tactics during the experience of military rule. For example, In Brazil, the US backed coup d'état in Brazil in 1964 initiated twenty-one years of authoritarian rule, wherein, Brazilian generals, "outlawed opposition parties, arrested leaders, purged radical unions, and imposed tight controls over the press" (Green, 2011:74). This dramatically altered Brazil's large LGBT subculture, as both closeted and open members of the community were arrested (Green, 2011:74). The repression continued from 1968 to 1973 as the military controlled government waged, "a campaign of state terrorism against the opposition and minority groups", which left thousands arrested, tortured, or "disappeared" (Green, 2011:74). After the Stonewall riots in 1969, some activists began to re-organize in Brazil, however, the movement was stifled, as under the strict moralistic guidelines of the military dictatorship, all references to homosexuality were muted by the press" (Green, 2011:74). Further, during the years of military rule, paramilitary units formed which were attached to the armed forces and the state apparatus more broadly. Known as death squads these groups assisted the military in, "extra-legal activities, including the kidnapping and torture of opponents of the dictatorship" (Green, 2011:78). Of particular relevance to this paper, one such unit, the *Cruzada Anti-Homosexualista*, carried out campaigns to "clean up what they deemed to be immoral behavior, specifically homosexuality" (Green, 2011, p. 78).

The Argentine LGBT movement experienced much of the same fragmentation that the Brazilian movement faced during the military dictatorship. The brutal regime that emerged out a military coup d'état in 1976, "prohibited all forms of collective action as it set out to 'cleanse society' through the elimination of 'subversive' left-wing opposition" (Diez, 2011:15). In June of 1982, "a paramilitary group known as the *Comando Condor* declared its intent to 'wipe out' homosexuals" (Brown, 2002:121). The presence of paramilitary units, much like in Brazil, significantly stifled the movement's ability to organize, mostly out of fear of imprisonment and/or death. The threat to sexual minorities was real as during the military dictatorship, many people simply went missing, and this was especially true for the LGBT community as, "more than 400 or more lesbians and gay men had been disappeared" (Brown, 2002:121). Sometimes the disappearing of individuals involved 'death flights' wherein, "drugged political prisoners would be stripped naked and flung, one by one, out of an aircraft flying over the ocean" (Argentina's Grim Past, 2005: 2). These blatant human rights violations had a significant impact on the LGBT movement as the, "harassment, imprisonment, torture, and murder of homosexuals became government policy during the darkest period of Argentine history" and, as such, "the

movement completely disappeared” (Diez, 2011:15). The harsh and oppressive tactics used by the military dictatorship in Argentina led significant fragmentation of LGBT organization.

Growing frustration with military rule in both of the countries paved the way for the subsequent transitions to democracy. Democratization presents an important critical juncture for the movements, as during the transition, “ordinary people were seen to have opened up political space demanding democracy” (Hagopian, 2007:16). The call for political space was particularly important to the movements as it allowed for a significant amount of re-organization without the constraint, or better yet, fear of uncertain consequences. During the process of democratization in Latin America the modes of transition had a significant impact on the type of regime that emerged. In regimes, in which there was a managed transition, where the military had significant say, and civil society did not have much of an input, a restricted, more closed, form of democracy was put into place (Diez, 2011:34). Examples of the military controlling the transition can be seen in the cases of countries like Brazil and Chile. As one activist notes, “here in Brazil, things were always done from the top down...the masses were never the subject of action, but they have always been the object of action” (de la Dehesa, 2010:1). This was not the case, however, in Argentina as, “civil society, organized into social movements, emboldened the opponents of the dictatorship and restrained any intentions on the part of the military elites to institutionalize a limited form of democracy” (Hagopian, 2007:16). The relative open form of democracy that was established in Argentina may explain why a myriad of rights were extended to sexual minorities more quicker in Argentina, as opposed to the slower process that occurred in Brazil. Arguments of path dependency make sense in this context as well as a closed form of democracy worked well with the paths previously laid out by the military dictatorship. Regardless of open or closed forms of democracy, though, what makes the transition to democracy a critical juncture, is the fact that political space was opened up for the movements to foster growth, re-organize, and strategically frame rights-based claims in the broader context of democratization. Therefore, it is clear that the transition to democratization dramatically changed the political opportunity structure in the countries, which allowed for a different type of interaction between the state and social movements.

The return to civilian rule in Latin America allowed citizens to more openly participate in the democratic process. That being said, significant questions arose about who was, and who was not, a citizen. In other words, who had and could demand rights from the state, and who could not. As John Stuart Mill notes, “the rights and interests of every or any person are only secure from being disregarded then the person interested is himself able to and habitually disposed, to stand up for them” (Hagopian, 2007: 24). To be able to stand up for rights, though, one must be considered a citizen of the nation which grants these rights. T.H Marshall defines citizenship as, “a status bestowed upon those who are full members of a community that carried with it a basic human equality” (Hagopian, 2006:29). Marshall, elaborating on recognized components of citizenship, was the first to move past simply civil and political rights and introduced the concept of social rights. It is perhaps important to note that the LGBT community, after the return to democracy, did not have: civil, political or social rights. The re-emergence of activism was due in part to continued rights-based repression under the democratically elected government. For example, in terms of civil rights, three months after Raul Alfonsin was sworn in as President of Argentina, “approximately 50 activists were detained in a gay club” (Diez, 2011:16). As for political rights, “up until 1990, a law (albeit) unenforced was on the books in Buenos Aires” that essentially banned LGBT people from voting (Encarnacion, 2011:107). In terms of social rights,

Marshall defines these as including, “a range of rights from a modicum of economic welfare, the security to the right to share to the full in the social heritage, and to live the life of a civilized being according to the standards prevailing in society” (Hagopian, 2007: 29). It is also useful to highlight Isiah Berlin’s concept of ‘positive’ and ‘negative’ rights. When explaining negative liberties, Berlin states, “political liberty in this sense is simply the area within which a man can act unobstructed by others” (Berlin, 1969:3). The extension of negative rights has been seen in almost all of the countries in Latin America in the form of the de-criminalization of homosexuality. By ‘positive rights’ Berlin is referring to, “the wish on the part of the individual to be his own master” (Berlin, 1969:8). Extensions of positive rights have been seen in some countries in Latin America taking the form of partnership rights. Citizenship, then, in its fullest form includes: civil, political, social, positive and negative rights. Understanding ‘full’ citizenship, social movements in Latin America have been able to frame their demands in the context of equality of citizenship and human rights.

Framing the Issue

LGBT movements in Latin America have been successful in using the very potent ‘equality of citizenship’ and ‘human rights’ frame while interacting with the state apparatus. Following democratization in Brazil, activists participated in not only consciousness raising activities but also, “sought to achieve full citizenship rights for gays, lesbians, and travesties” (Green, 2011:78). For example, as de la Dehasa notes, there was an evident increase in, “framing sexual rights as an extension of both universal human rights and liberal citizenship” (Dehasa, 2010:132). The idea of the extension of rights as being a human right was particularly potent during the 1980s AIDS crisis in Brazil. Government officials were forced to respond to groups such as *Grupa Outra Coisa: Acao Homossexualista*’s call for government programs to help deal with the crisis that deeply affected the LGBT community (Green, 2011:77). In 1992, an AIDS reduction program was put into place in Brazil because of pressure from civil society, with growing successes of the program and continued ‘human rights’ based pressure from the movement, the government eventually decided to extend universal access to free medications, including antiretroviral drugs, through the PNDA (Daniliauskas, 2011; Simões and Facchini, 2009). The strategic framing of the Brazilian LGBT movements demands on the state in the context of human rights were clearly very effective as significant rights were extended to sexual minorities.

In Argentina, the LGBT social movement led mostly by, *Comunidad Homosexual Argentina* (CHA), framed their discourse creatively as, “not just a legal matter but rather a human rights issue” (Encarnacion, 2011:106). The movement’s framing of its struggles in the context of the need to, “deepen democracy through the respect and expansion of human rights” in effect, “shaped the articulation of its demands and activities” (Diez, 2011:16). Fittingly, the motto of the CHA was, “the free exercise of sexuality is a human right” this view holds that members of the LGBT community are, “entitled to freedom from discrimination by virtue of being human” and accordingly, what is being advanced with LGBT rights is then, “humanity rather than a gay agenda” (Encarnacion, 2011:106). The first ad placed by the CHA was in *Clarín*, (the country’s most widely read daily) which read, “with discrimination and repression there is no democracy” (Diez, 2011:16). The ad further stated, “there will never be true democracy in Argentina if society permits the existence of marginalized sectors and the methods of repression that still in place” (Encarnacion, 2011:107). The framing of LGBT rights as human

rights was an effective method of articulating demands on the states, as in 1992, the Argentine government saw fit to grant the *CHA personeria juridica*, a legal status required to lobby state agencies” (Encarnacion, 2011:107). The movement’s use of strategic frames clearly helped legitimate and ‘get results’ for the community.

Moving on to more contemporary issues and looking more-so at the extension of positive rights, this paper will now examine the use of the “human rights” frame in discourse relating to civil unions and same-sex marriage. As the extension of positive rights is a more modern phenomenon, more information about other countries that have extended rights is available. Therefore, this paper now expands its scope to include the experience of activists in Uruguay. In Uruguay, Julio Bango, a Member of the Lower house, amongst pressure from the LGBT social movement, formulated the same-sex marriage bill. In the lower house, speaking out in support of his bill in a strategically framed way, he said, “this is not a homosexual or gay marriage law. It is a measure to equalize the institution independent of the sex of the couple,” (BBC, 2013). The use of the ‘equality’ frame is clearly evident in this example. Also speaking out in favour of the bill, one activist noted, “I have all the rights and obligations of everyone else. I pay my taxes and fulfill my responsibilities, why would I be discriminated against [in terms of marriage rights]?” (BBC, 2013). Strategic framing’s of: ‘full citizenship’, ‘equality’ and, ‘human rights’ were effectively used by both the author of the bill and activists within the social movements.

In Brazil, the ultimate decision of whether or not to extend positive rights to sexual minorities came down to a court decision. However, of note, at the first National LGBT Conference, President Lula Inácio Lula da Silva spoke candidly about the issue, frame-bridging the issue of same-sex marriage as more-so an issue of citizenship rights saying...

“there is only one way for, step by step, society to recognize the [LGBT] movement: each time we must fight more, walk with our heads held high, fight harder against prejudice, denounce more firmly arbitrariness. Only like this will we be able to win over the entire citizenship so that everybody can walk the street with their heads held high, without anybody wanting to know who we are, only that we are all Brazilians and we want to build this country without prejudices” (Corrales & Pecheny, 2010).

An explicit and strategic reference to human rights, equality, and citizenship is evident in this statement. This quote fits well with Augusto Varos’ thesis that, “the social movements of civil society are fundamental for giving support to the demand for the diffusion of greater degrees of liberty for excluded social groups, that is, to support democratization itself” (Hagopian, 2007:40).

The availability of public space after democratization Argentina allowed for LGBT social movements to begin framing their demands as human and positive rights, in the form of civil unions, from the government. The first demands for civil unions were made at the provincial level in Buenos Aires. With increasing pressure from civil society, particularly, the LGBT movement, Hebe Flores, a Member of Parliament, submitted a proposal to the legislature that aimed to create a category of ‘civil union’ (BBC, 2013). Civil union was defined as, “the free union of two individuals who live together in a public and stable relationship, analogous to marriage, regardless of their sex or sexual orientation (International Gay & Lesbian Human Rights Commission, IGLHRC, 2002). The ordinance was quickly approved as Time Magazine notes, “the historic vote—29 to 10 with no abstentions—took place after five hours of vigorous

debates” (Goni, 2010). In interviewing state legislators in Buenos Aires, Jordi Diez finds that, “the framing of the policy around an issue of citizenship rights resonated with larger sectors or society and seems to have been critical” in the policy change (Diez, 2011:18). The framing of civil unions as an issue of full and equal citizenship is imperative to understanding the extension of rights.

With the passage of civil union rights in the Province of Buenos Aires, some activists within the movement advanced the position that civil unions were, in fact, not a function of equality, and more broadly, not a function of full citizenship in a democratic state. Groups such as *Federacion Argentina de Lesbianas, Gays, Bisexuales y Trans (FALGBT)* argued that, “inequality is irreconcilable with full citizenship rights” in terms of their, “pursuit of same-sex marriage” instead of “civil unions” (Diez, 2011:18). Civil unions, according to members of the LGBT movement, represented an uneven guarantee of rights, and as such, a second class of citizenship. Finding limited support at a National level in Argentina, two men took the issue of same-sex marriage to court, wherein, the Judge found that, “a ban on same-sex marriage violated Argentina’s constitution” and further, “laws limiting marriage to a man and woman violate the constitutional rights of equality” (New York Times, 2010). It is essential to note that although the couple who brought forward the case in Argentina was granted a marriage license the ruling was not nationally binding. Therefore, the fight for full equality became the main motivation of the LGBT movement. Eventually under significant pressure, two Members of Congress from the Justice Party and the Socialist party drafted an equal marriage bill, in close collaboration with FALGBT (Diez, 2011:23). Perhaps, critically, President Cristina Fernandez de Kirchner, showed much support for the bill as soon as it was drafted saying, “it would be a terrible distortion of democracy if we denied minorities their rights” (Global Post, 2011). It is clear that the framing of the same-sex marriage bill as being about full and equal citizenship and human rights was very effective at infiltrating the state apparatus.

The ‘Pink Tide’ as a Critical Juncture

This paper now examines the shift to the left in the regions in question as being a ‘critical juncture’ in understanding why rights have been extended to sexual minorities. As Omar Encarnacion explains, “for the gay movement, an association with the left has meant acceptance into the political mainstream” (Encarnacion, 2011:122). According to Juan Marsaij, in Brazil, “leftist parties are significantly more supportive of LGBT rights than are other parties” whereas “opposition to the acceptance of sexual diversity is more concentrated right-wing parties (Marsaij, 2012:133). Among leftist parties in Brazil the Partido dos Trabalhadores (Workers’ Party), has had the closest relationship with the LGBT movement, dating all the way back to the transition to democracy (Marsaij, 2012:133). In Brazil, the combination of stronger ideological positioning by state deputies, the greater presence of the left in the state assembly, and the actions of GLT leaders and allies fighting for change has led to some significant results – namely, “the approval of important pro-LGBT legislation” (Marsaij, 2012:14). An example of importance of the shift to the left is evident when looking a bill that aimed to recognize the right of same-sex partners of public employees to a pension. The bill passed through the House after vigorous debate, however was quickly vetoed by the Governor. With continued pressure from the LGBT social movement, and a majority of left-wing deputies in the house, in a rare and impressive effort, the state assembly overrode the governor’s veto (Marsaij, 2006). This speaks well to Omar Encarnacion’s idea that interaction with Leftist parties has, “increased political

clout with which to influence social policy” (Encarnacion, 2011:112). More recently, the election of Luiz Inacio Lula da Silva of the PT in 2002 has triggered significant changes to the political opportunity structure in Brazil. As previously discussed, President Lula was very empathetic to the ‘human rights’ and equalization of citizen cause, going so far as to speak at first National Conference of LGBTTI people’s, whilst throwing his support behind the cause. It is clear that the shift to the left created unique opportunities for the social movement in Brazil to interact with the state in a more meaningful way.

Somewhat differently, in Uruguay, adopting pro-LGBT rights worked to restore an, “area of radicalism” which was lost with the embrace of, “bourgeois-capitalist democracy” (Encarnacion, 2011:113). This was possible because of the ‘critical juncture’ of the election of Uruguay’s Broad Front (FA), a coalition of left-wing parties that completely embodies social progressiveness in the region. Jose Mujica, the FA’s leader and current President of Uruguay, who has been described as, “a roly-poly former guerilla, who...grows flowers on a small farm and swears by vegetarianism” has placed Uruguay at the vanguard of LGBT rights in Latin America (Encarnacion, 2011: 113). Jose Mujica has long been an advocate for the extension of rights to sexual minorities, and as such, the election of his left-wing coalition has allowed changes to various laws including, “same-sex marriage, child-custody rights, permitting gay adoptions, repealing a ban a gays serving in the military, and finally, allowing transgender youth as young as twelve to change their names” (Encarnacion, 2011:113). The shift to the left in Uruguay created significant opportunities for the LGBT social movement to form alliances and push effectively for the extension of rights.

In Argentina, the election of left-leaning president Nestor Kirchner in 2003, was a ‘critical juncture’ of opportunities for the LGBT social movement to mount pressure on the government. The election of Kirchner meant the implementation of, “a number of redistributive economic policies, progressive social measures, and human rights initiatives” (Vanden & Prevost, 2012:433). Further, the trend of social progressive policies continued with the election of Nestor Kirchner’s wife, Cristina Fernandez de Kirchner, in 2007. Importantly, the presence of Peronista’s and other left-wing senators in the legislature helped the LGBT movement gain ground in getting rights-based bills onto the government’s agenda. For example, when the same-sex marriage bill was introduced to the Senate, a Peronista senator strategically compared the discrimination closeted LGBT people face to the oppression imposed by Argentina’s military dictatorship decades ago, saying, “what defines us is our humanity, and what runs against humanity is intolerance” (Encarnacion, 2011: 109). Beyond the presence of left-wing parties in the House of Assembly, support of other left-wing groups within civil society, has also been imperative to the success of the LGBT movement in Argentina. In a joint letter to legislators, no fewer than 73 human-rights organizations, including the famous Madres de la Plaza de Mayo, advocates explained that, “denying marriage on grounds of sexual preference is a form of discrimination prohibited by the constitution, and creating a separate institution (civil union) is a flagrant violation of human rights” (Encarnacion, 2011:108). Perhaps, more important than the presence of left-wing Peronistas, and advocacy of left-wing groups in civil society, was President Cristina Fernandez de Kirchner’s unwavering support of various bills that would extend rights to sexual minorities. According to The New York Times, the President very much made the fight for equal rights the battle of her political career (New York Times, 2010). The frame-alignment process between the ‘people on the ground’ and of the President and Peronista’s, of framing the issue as one of both democratic and human rights, was essential to the success of the bill. It is

clear that the presence of left-leaning parties and advocacy groups, as well as a President who was deemed a ‘human rights crusader’ presented a critical juncture in explaining the success of the movement (New York Times, 2010).

Decreasing Power of the Catholic Church as a Critical Juncture

In a region of the world that has been traditionally dominated by the Catholic Church, it is, perhaps, surprising that rights have been extended to sexual minorities. The Catholic Church is a fervent defender of “machismo” culture and traditional understandings of gender and marriage (Corrales, 2010:23). In terms of the political opportunity structure available to social movements, part of the change discussed in this paper has to do with the decreasing influence of the Catholic Church to act as a veto-player in moral policy in the region. Many scholars agree that organized religion poses one of the most powerful political obstacles to sexual rights (Corrales, 2010: 20). It is widely known that the Catholic Church is vehemently opposed to the extension of rights to sexual minorities, particularly, in terms of same-sex marriage rights (Corrales, 2010: 20). It is also important to make clear that this paper does not assume that the Catholic community is a static group of people who all have the same views on issues pertinent of this paper. It is important, though, to understand the historical influence the Church has had on policy dealing with moral issues. As Javier Corrales notes, “Churches often serve as veto players, objecting to non-heteronormative behaviors, if not in a person’s life, at least in the policy realm” (Corrales, 2010:22). The doctrinal position of the Catholic Church generally translates into an open rejection of LGBT rights. For example, in surveys of gay pride participants in Santiago and Buenos Aires, scholars found that, “33.1 percent and 24.6 percent of respondents, report having been discriminated against by the religious community” (Corrales, 2010, p. 20). To further this point, among the broad findings of the 2008 *AmericasBarometer* survey of public opinion in the region, is that, “levels of intolerance towards homosexuality are highly correlated with levels of religiosity” (Encarnacion, 2011:114). However, although, opinion surrounding homosexuality may still be somewhat determined by a person’s relationship with the Church, in most countries, “Catholic parishes are moving in the opposite direction: becoming less interventionist in public policy, less concerned with topics of sexuality relative to other issues, and/or less institutionally strong in terms of influencing politics” (Corrales, 2010:11). The decreasing influence and intervention of the Catholic Church in the policy process created a significant change to the political opportunity structure which has allowed for the extension of rights to sexual minorities.

In terms of the extension of rights to sexual minorities in Argentina, though the Church may be less institutionally strong, there were various attempts at influencing the policy process. Opposition from the Church came mostly in terms of the proposed extension of positive rights, in the form of partnership rights, to sexual minorities. With the introduction of the same-sex marriage bill into the House of Assembly, Argentina’s most senior Roman Catholic Bishop referred to the bill as not, “a mere legislative bill” but as a “machination of the Father of Lies that seeks to confuse and deceive the children of God” (New York Times, 2010). In an attempt to sway ‘undecided legislators’, the Snoyd of Bishops, spoke out against the bill, arguing that, “this is not a private matter or a matter of religious choice, this a reality rooted in the very nature of humanity, which is male and female” (Time Magazine, 2010). The Church’s frame amplification of making the issue about the well-being of society is a good example of the

Church trying to interfere with the policy process. In what subsequently turned into a “battle of frames”, the President of Argentina responded to the comments of the church saying...

The truth is that it's worrisome to listen to expressions such as 'God's Battle', 'The Work of the Devil', things which actually bring us back to the times of the Inquisition, to Medieval times, it seems to me. Particularly coming from those who should promote peace, tolerance, diversity and dialogue...I believe it's fair – it's fair – to recognize this right for minorities. And I believe it would be a terrible distortion of democracy if the majorities – the actions of those majorities – denied rights to those minorities...”
(Translated Argentine Newscast, 2013).

In the end, the strategy of framing the proposed bill as a plan to destroy humanity was not successful for the Church, as the bill passed through Senate after 15 hours of debate with a vote of “33 to 27” (New York Times, 2010). It is clear that although the Catholic Church tried to influence the policy process, the lessening institutional stronghold it had over the legislature, deeply impacted the success of the bill. The Presidents staunch defense of the extension of rights did not allow for the Catholic Church to interfere with the policy process surrounding the issue.

In Brazil, a country where 65 percent of people identify as Catholic, the Church maintains a powerful influence over public opinion (Corrales, 2010: 22). For example, shortly after the introduction of the civil union bill, Church leaders spoke out against the bill calling it an infringement of the right of religious freedom (New York Times, 2009). Following the introduction, a proposed amendment to the bill was introduced in the legislature that would, “allow a religious body to decline to officiate at marriages of those “who violate its values, doctrines, and beliefs” (Reuters, 2010). Whilst this proposal was being debated, in a surprising turn of events, a popular Priest in the country, spoke out defending homosexuality, saying, “We should simply be considered as gendered beings and not as “homosexuals” or “bisexuals” since love can spring at all these levels” (Gay Star News, 2010). In response, the Catholic Church quickly excommunicated the Priest saying that he, “injured the Church with grave statements counter to the dogma of Catholic faith and morality” (Reuters, 2010). In an attempt to “save face” the archbishop of Rio De Janeiro Dom Orani Tempesta, told *O Globo* that, “the church in Brazil and in the world, wants to preserve the rights of all, the well-being of all, the dignity of all...these are financial issues, they're working tougher, building together, but this is not a family” (CS Monitor, 2011) The back and forth from the Church was not successful, however, as the civil union bill passed in the province. Following this, the Brazilian court ruled that the right to civil unions must be extended throughout the country (CS Monitor, 2011). Even though the Catholic Church tried to influence the policy process, its weakening ability to act as a veto-player in terms of moral issues eliminated significant constraints to the movements, and therefore, changed the opportunity structure significantly.

Conclusion and Implications

In conclusion, this paper has examined the ‘domino effect’ of the extension of rights to sexual minorities in Latin America. In trying to explain why there has been a rapid and significant change in the region, this paper identified the cause of these fluctuations as occurring because of changes to the political opportunity structure. This paper also aimed to provide a substantive literature review that considered the important historical and contextual issues that one must keep in mind when studying Latin America. This paper pointed to critical junctures in

time that contributed to the success of the LGBT movements as: the transition to democracy which allowed for strategic framing, the shift to the left, and the decreasing influence of the Catholic Church. Though successful in identifying some reasons as to why rights have been extended, this paper does not claim to have been exhaustive. Many other factors, perhaps less so than those mentioned in this paper, have contributed to the extension of rights in the region, such as: the increasing judicialization of rights-based claims, the cohesiveness of a broader LGBT transnational advocacy network, and the role of international institutions like the UN. Another important issue that this paper has not touched on is the fact that although there have been changes to the law, rates of violence against LGBT people in the region are continually increasing. Arguments of path dependency are relevant here as it can be argued that societal norms have simply not been able to catch up to changes in the law. The rising rate of violence that comes with changes to the law presents a significant theoretical gap which should be examined by scholars in the future. This paper also focused mainly on the extension of rights to Lesbian, Gay and Bisexual peoples, to the exclusion of members of the Trans* community. There have been significant rights extended to Trans* peoples in the region and this presents another area of research that needs to be further examined by the scholars. Overall, this paper has argued that the ‘domino effect’ of rights being extended to sexual minorities can be explained by a significant change to the political opportunity structure that includes: the transition to democracy, the strategic framing of demands in the context of full citizenship and human rights, the shift to the left, and the decreasing influence of the Catholic Church on the policy process.

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