Secular sources of religious authority in blocking the extension of religious and legal rights of same-sex couples in the Baltic States

Abstract: Despite stark differences in the religion-nation bond, levels of religiosity, religious affiliation, religious practice, the presence of religious education classes in public schools and in the inter-generational transmission of religious tradition (in all indicators, Lithuania is the most and Estonia the least religious), for all Baltic States there nonetheless exists a coalition of religious and political actors that disapprove of homosexuality. Their position effectively blocks the extension of religious and legal rights for same-sex couples. This study will assess the interplay of religious, ideological, social and political commitments within this traditionalist hetero-normative definition of marriage which enables religious institutions to maintain a disproportionate degree of social authority in otherwise highly secularized social and political contexts. Religious authority in public life is largely dependent on the connections that exist between religious institutions, social forces, cultural values and political ideologies. In Lithuania and Latvia, the legalization of same-sex status quo is likely persist not because of relatively weak LGBT activism and relatively low support for the legal recognition of same-sex unions (both of which are true also for Estonia), but primarily because the political class is overwhelmingly supportive of the protection of the traditional conceptions of heterosexual family. In Estonia, since the changes in governmental coalition in March 2014, the social authority of religious elites is being tested by a government (and Parliament), which seeks to adopt a gender-neutral Cohabitation bill.

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Introduction
By September 2014, no post-communist member state of EU has legalized same-sex marriages and no post-Soviet state has recognized legally the family life of same-sex unions (SSU) in any form. The paper studies the prospects of legal recognition of the family life of same-sex unions in Baltic States.

The paper is structured as follows: it starts with a discussion of the ways how to make theoretically and analytically sense of the legal recognition of same-sex unions within the paradigm of secularization of marriage. Thereafter it compares the levels of social and political secularization in Baltic States and analyzes the successes and failures of the attempts to introduce SSU laws by focusing primarily on the balance of power among the change and blocking coalitions formed by alliances of social, political, national, transnational and supranational actors and institutions.

1. Theorizing legal recognition of same-sex unions within the framework of secularization of marriage
The legal recognition of same-sex unions is a step from traditionalist\(^1\) hetero-normative definition of marriage (and of family) toward homo-normative definition of marriage (and of family), which testifies of the secularization of marriage only in cases, when this shift involves decreasing authority of religion, the authority of religious institutions is manifest in resisting to the related changes in social norms, is recognized and confronted by social and political actors in a coalition for change.

The successes and failures of the attempts to introduce legal recognition of SSUs are analytically understood to result from the balance of power between traditionalist and progressive social and political forces, where the former attempt to block extensions of the rights of same-sex couples supported by the latter. This distinction is heuristic (the blocking coalition could be named also ‘conservatives’ and the progressive coalition ‘modernizers’ or ‘liberals’) and analytical, which means that the research design does identify religious institutions, beliefs and practices automatically with the traditionalist camp, and the secular institutions and actors with the secularist ideas. Instead, the research design does not exclude secular actors from the traditionalist camp, religious actors from struggling for progressive change, and the possibility that both religious and ideological actors can be internally split over the issue.

The shift from hetero-normative toward homo-normative definition of marriage is analytically assumed to proceed on a continuum, where at the one end, heterosexual marriage is the only legitimate context for sexual relations and family life, and at the other end, homosexual identities are depoliticized and transformed from deviant others into ‘mirror images of the ideal heterosexual’ (Mepschen and Duyvendak 2012: 72, 73). Legally, the process of ‘homo-normalization’ starts from the decriminalization of homosexuality and ends with the inclusion of homosexuals “as full and equal citizens” whose intimate relationships and parenting relationships are protected on equal grounds with the heterosexuals (Sasha Roseneil et. al.: 2013).

\(^1\) Following the conceptualization of Fred Kniss (2003: 335), ‘traditionalism’ refers to the social conception of sacred that defines ultimate values on the basis of the moral authority of the collective tradition. Traditionalists assign a particular value to the nuclear family, which is perceived to be the most basic collectivity under a common authority. Accordingly, practices which undermine the nuclear family (e.g. promiscuity, homosexuality) are perceived as a threat.
In recent European history, the legal recognition of homosexuality has taken place as a steady incremental process consisting in three main phases (Aloni 2010: 114): decriminalization of homosexuality and equalization of the age of consent for same-sex and opposite-sex relationships; prohibition of discrimination on the basis of sexual orientation at various dimensions of social life (workplace, housing, protection from hate speech); granting of partnership and parenting rights. According to incrementalist view, each step in the process of homo-normalization facilitates the next step, while the latter are possible only, when the previous steps have been realized (ibid.).

In addition to legal changes, homo-normalization involves also cultural and religious normalization of same-sex family life. Cultural normalization aims at a situation where the social value orientations are overwhelmingly supportive of granting the partnership of homosexual couples a status equal to traditional marriage. Religious normalization refers to the situation within religious institutions where rituals such as marriage and other religious services are provided on an equal basis for to hetero- and homosexual couples, and the religious institution does not discriminate among its members on the basis of their sexual orientation. Lutheran Churches in Scandinavian states have a degree of autonomy in fulfilling the religious rights of homosexuals among their membership. In Denmark and Sweden, Lutheran Churches started to provide religious same-sex marriages shortly after their parliaments had legislated same-sex marriage. As of August 2014, Church of Norway, however, does not marry same-sex couples. As a result, the religious rights of homosexuals are more limited in Norway than in Denmark not because of state laws, but because of the related ‘policy choices’ of the church hierarchy.

As mentioned above, the shift from hetero-normative toward homo-normative definition of marriage is not a manifestation of secularization unless it involves decline of religious authority. In a paradigmatic Christian society, religious authority has been institutional: one religious institution (church) was specialized to a religion vis-à-vis all the other social institutions (Berger 1969: 123) and it exercised authority over other (political, economic, cultural, educational) institutional spheres (Chaves 1994: 757). In contemporary contexts, it is possible that religious institutions do not have any significant authority over the social definition of marriage at first place. Additionally, while the process of secularization is expected to strip the church of its regulatory power over society (Weber 1958; Berger 1969: 24; Dobbelare 1985: 377; Casanova 1994: 14-15), it does not mean that religion or religious actors are automatically resisting such changes. Religion can be both negatively and positively related to the processes of secularization (Smith 1974: 4, 7). The levels of religious practice and behavior may rise and decline during processes of secularization.

To sum it up, three aspects of secularization have to be noticed. First, secularization concerns only such types of religion, which have an authority in a given social, cultural and political context. In the policy area of laws regulating sexuality and marriage, the failing attempts to liberalize the legal norms indicate of low level of cultural secularization (Klausen 2009: 292) only in social environments, where traditionalist norms are positively connected to religious institutions and the cultural persistence of traditionalist norms involve also obedience to religious authority (Kniss 2003: 335). The absence of legal recognition of same sex unions may occur also in a highly secularized social and political context, which is traditionalist without being religious. After Soviet Union criminalized homosexuality in 1933/1934 (Zorgdrager 2013: 219), the established social norms originated from the social authority of Communist party and not necessarily from the Christian Church. In such cases, the criminalization of homosexuality may not be a valid empirical referent of desecularization, because religion was not among the authoritative representatives of the public ‘ethic’ (Klausen 2009: 296) at first place. In contrast, any liberalizing shifts in the legal protection of the family life of same-sex unions in contemporary Italy and Romania, Latvia and
Lithuania, where the traditionalist cultural norms are originating also from Christian churches, are valid evidences of secularization of marriage.

Second, the authority of a religious institution is based on the structures that link the religious system to the social system (Smith 1974: 5) and on the connections that exist between religious institution, social forces and political ideologies within a particular social context (Therborn 1999: 35-36). Religious authority declines when disconnected from social forces, cultural values and political ideologies, when the political and ideological allies of the church suffer failures or cease to support policy preferences of the church. For example, public authority of churches over the moral choices of the citizens can stem from the informal affiliation of religious institutions with ethnicity (Ben Porat 2013: 12). The historic link between religious belonging and national identity that connects church with the political culture is the main source of public authority of religious institutions in post-communist societies of Europe (Ramet 1997; Merdjanova 2000: 252, 257; Bruce 2002: 33).

Third, the authority of a religious institution consists in its ability to control the daily life of citizens (Klausen 2009: 292), which may be undermined not only due to the unfavorable connections to social, ideological and political actors, but also due to changes in practical preferences and everyday life choices among the population (Ben Porat 2013: 24). This authority of religious institutions may be undermined by universal spread of consumerism, which tends to undermine beliefs and practices not conforming well to the belief system of consumer culture and to contribute to ‘commodification’ of religion (Turner 2012: 1064). The advance of commodification tends to embrace everything and to transform “the whole of culture, sexuality, and human relations” (Baudrillard 1998: 192). The processes of commodification can stir up progressives and traditionalists of both religious and ideological motivation. Progressives seek to adjust laws (and cultural norms) to the changes in the patterns of social practices. Traditionalists attempt to reverse or keep in check changes occurring in social environment.

When the discursive conflicts emerge over the changes in binding legislation relative to marriage and sexuality, parties struggle over the boundaries and meanings of the socially sacred norms (Stout 2010). As a result of such struggles, the patterns of religious authority increase, persist or are undermined.

2. Social and political secularization in Baltic States

In all dimensions of secularization, Lithuanian society and politics is the least secular, the Estonian society and politics as the most secular and the ethnic Estonians particularly are the least religious among dominant ethnic groups of Baltic States.

Religious cleavage in party politics

The cultural link between national identity and the dominant church is strongest in Lithuania, where Catholicism has consistently been connected to national aspirations before and after Soviet period as well as during anti-communist dissidence in Soviet Lithuania (Johnston 1992: 140). In Lithuanian party politics, the left-right divide had a strongly religious-secular character (pro-socialist left and pro-Catholic right) before the First World War, during the Interwar Republic and also during post-Soviet decades.

In contrast, Latvian and Estonian Lutheran Churches have been weakly connected to political nationalisms (Johnston 1994: 27; Bruce 1999: 271-272) which has been one of the reasons, why Estonian and Latvian nationalisms have tended to emphasize language, cultural heritage and civil rights rather than religion (Martin 2014: 7). As Estonian and Latvian Lutheran Churches have been weakly related to national identity, they have been largely absent from nationalist struggles (Bruce
2000: 41-43), and have tended to abstain from political processes in the post-Soviet period as well. In general, party politics in Estonia and Latvia relies less on religious-secular cleavage than in Lithuania.

The lower level of political secularization in Lithuania is also manifest in the success of parties, which have appealed to religious/secular divide amongst the electorate or have been perceived to stand for the interests and values of traditional churches. In 1990s, the Lithuanian Christian Democratic Party stood for religious values and for the Catholic Church (Krupavicius 1998: 490) and was the second largest party in terms of membership and the third most important party in the party system. It has also performed well since 2008, when a faction of the party merged with the large conservative party Homeland Union. Thereafter, Homeland Union-Lithuanian Christian Democrats won parliamentary (2008) and European elections (2009) and is at present the second largest party in Lithuanian parliament. It has established itself as a party which emphasizes Christian family values, nationalism, religious and culturally conservative social agenda, and favors the inclusion of the elites of the Lithuanian Catholic Church to the processes of political decision-making (Duvold and Jurkynas 2013: 132, 146).

In Latvia, Christian parties have remained mostly small and electorally unsuccessful. However, during a period from 2002 until 2011, Latvia’s First Party occupied from 8 to 10 seats (out of 100) in Latvian parliament (since 2007 in a merger or coalition with other parties), had a significant representation of religious ministers among the founders and high-ranking leaders of the party, enjoyed a broad support of traditional (Lutheran, Catholic, Orthodox and Baptist) and new Charismatic churches, and was committed to combat the “atheization of society” and to protect Christian values (Teraudkalns 2011: 13; Freston 2004: 44). Finally, in 2011, the party lost parliamentary representation. In 2006, Latvia’s First Party initiated a bill in Latvian parliament aiming at banning any mention of homosexuality in the mass media (Smith-Sivertsen 2010: 459). The bill was not approved by the Latvian parliament.

Religious cleavage has least manifested in Estonian party politics, where national parliament has not included a party which has stood distinctively for the interest of the Church or primarily for religious values. In Estonian party system, the only party perceived to speak for the Christian values, has been Estonian Christian People’s Party (it changed its name to Estonian Christian Democrats in 2005). However, since its foundation in 1998 until 2012, when it run into bankruptcy and was dissolved, it never succeeded to pass the 5% electoral threshold. Despite electoral failures, the electoral lists of this party included proportionally the highest percentage of clergy (primarily from Baptist, Methodist, Pentecostal and Free Churches, but also some high-ranking ministers from Estonian Evangelical Lutheran Church) running for parliament. Its program was explicit in its commitment to interpret social and political processes according to the Word of God and in its aim “to create a better society based on Christian values and to apply these values at all levels of society”.

**Religiosity, religious affiliation and religious practice**

The religious sphere in Baltic societies is dominated by three confessions – Catholicism, Orthodoxy and Lutheranism. Lithuanian Catholicism is the only confession in Baltic societies, which in its society owns the allegiance of an absolute majority of the population. Lithuanian population has retained most the beliefs and practices of the traditional institutional religion and has the highest level of religious affiliation (Table 1). The general level of church-related
religiosity in as linearly declining among ethnic Estonians as it is either persisting or even rising among Lithuanians.

The results of World Values Surveys of 1999 (Table 1) demonstrate that Estonian population is least connected to institutional religion in terms of religious affiliation (25%), have most of those who never attend religious services (38%) and least of those (11%) who regularly participate in religious services. In each indicator, the levels of religious affiliation and practice were higher in Lithuania than they were in Latvia. Estonian population is the most alienated from church institution in the whole Europe, where it at times scores lowest also in other indicators of religion.

### Table 1. Religious affiliation and attendance (World Values Surveys, 1999)

<table>
<thead>
<tr>
<th></th>
<th>Lithuania</th>
<th>Latvia</th>
<th>Estonia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do you belong to a religious denomination?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Which one?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catholic</td>
<td>92.5</td>
<td>33.2</td>
<td>1.6</td>
</tr>
<tr>
<td>Protestant</td>
<td>2.9</td>
<td>36.2</td>
<td>53.8</td>
</tr>
<tr>
<td>Orthodox</td>
<td>3.5</td>
<td>28.3</td>
<td>41.0</td>
</tr>
<tr>
<td>Attend religious services once a month</td>
<td>31.5</td>
<td>15.1</td>
<td>11.1</td>
</tr>
<tr>
<td>Never attend religious services</td>
<td>16.0</td>
<td>34.6</td>
<td>37.8</td>
</tr>
</tbody>
</table>


When respondents were asked about their religious beliefs one by one in World Values Survey of 1999 (Table 2), the levels of belief were highest among Lithuanian respondents in each and every category, including even the belief in reincarnation, which is not conforming to the set of beliefs that characterized traditional Christianity. Most telling indicator of the persisting religious authority, however, is the belief in hell, which was not widespread among Estonian (16%) and Latvian (28%) respondents, but was shared by two thirds of Lithuanian respondents (68%).

### Table 2. Religious beliefs (World Values Survey, 1999)

<table>
<thead>
<tr>
<th>Belief in...</th>
<th>Lithuania</th>
<th>Latvia</th>
<th>Estonia</th>
</tr>
</thead>
<tbody>
<tr>
<td>God</td>
<td>86.5</td>
<td>79.5</td>
<td>51.4</td>
</tr>
<tr>
<td>Life after death</td>
<td>79.0</td>
<td>45.3</td>
<td>36.2</td>
</tr>
<tr>
<td>Hell</td>
<td>68.1</td>
<td>28.4</td>
<td>16.3</td>
</tr>
</tbody>
</table>

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2. In 2011 Housing and Population Census 19 percent of ethnic Estonians admitted religious affiliation (down from 24% in 2000 census). From 2000 to 2011, the percentage of self-identified Lutherans (overwhelmingly ethnic Estonians) declined from 13.8% to 10.0%, while the proportion of the Orthodox (mostly Russian-speaking minorities) rose from 12.8 to 16.0% (Känd 2002: 292).

3. In Lithuania, the proportion of those who never attend religious services declined from 27% in 1990 (European Value Survey) (Ališauskiene and Schröder 2012: 7) to 16% in 1999. According to Lithuanian census of 2011, only 6.1% of the population did not attribute themselves to any religious community (down from 9.5% in 2001 census) (Ambrozaitiene 2013).

4. In Eurobarometer 2006 survey, Estonia scored lowest among EU-25 member states in the levels of weekly attendance of religious services (2.5%), praying daily (12.4%) and self-identification as religious person (28.3%). (Smith 2009: 61-63)
Inter-generational transmission of a religious tradition

The inter-generational variations in religious belonging, belief and practice are largest in Estonia, where 2011 Census demonstrated that more than 50,000 out of 108,513 residents who identified themselves as Lutherans were aged 65 and older. Among ethnic Estonians aged 15 to 29, only 4.9% identified themselves as Lutherans. As 41% of 15 to 29 years old Russians living in Estonia identified with a particular religious community (overwhelmingly Orthodox), the interpretation of the data in the Table 3 has to take into account that the cross-generational variations among Estonian respondents include both Russian-speaking Estonians (about one third of the population) living in Estonia and ethnic Estonians, and that the intergenerational discrepancies among the latter are very likely to be larger than seen from the data of World Values Survey of 1999.

Table 3. Inter-generational variations in religious affiliation, belief and practice (World Values Survey, 1999)

<table>
<thead>
<tr>
<th></th>
<th>18-30</th>
<th>30-39</th>
<th>40-49</th>
<th>50-59</th>
<th>60-69</th>
<th>70+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estonia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belonging to religion</td>
<td>14.2</td>
<td>25.8</td>
<td>19.2</td>
<td>22.5</td>
<td>31.9</td>
<td>47.9</td>
</tr>
<tr>
<td>Believing in God</td>
<td>42.5</td>
<td>49.0</td>
<td>43.5</td>
<td>51.0</td>
<td>58.0</td>
<td>75.3</td>
</tr>
<tr>
<td>Believing in life after death</td>
<td>42.8</td>
<td>45.4</td>
<td>30.0</td>
<td>32.5</td>
<td>24.6</td>
<td>38.9</td>
</tr>
<tr>
<td>Attending religious services weekly</td>
<td>1.9</td>
<td>3.9</td>
<td>1.2</td>
<td>2.7</td>
<td>7.5</td>
<td>7.5</td>
</tr>
<tr>
<td>Latvia</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belonging to religion</td>
<td>44.3</td>
<td>52.2</td>
<td>55.0</td>
<td>62.3</td>
<td>70.4</td>
<td>80.3</td>
</tr>
<tr>
<td>Believing in God</td>
<td>74.5</td>
<td>77.6</td>
<td>79.4</td>
<td>80.6</td>
<td>83.1</td>
<td>83.0</td>
</tr>
<tr>
<td>Believing in life after death</td>
<td>53.0</td>
<td>44.3</td>
<td>43.4</td>
<td>36.0</td>
<td>44.9</td>
<td>48.9</td>
</tr>
<tr>
<td>Attending religious services weekly</td>
<td>5.0</td>
<td>4.0</td>
<td>2.7</td>
<td>6.5</td>
<td>10.3</td>
<td>14.0</td>
</tr>
<tr>
<td>Lithuania</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Belonging to religion</td>
<td>72.0</td>
<td>75.2</td>
<td>74.0</td>
<td>92.8</td>
<td>95.1</td>
<td>94.6</td>
</tr>
<tr>
<td>Believing in God</td>
<td>80.0</td>
<td>78.9</td>
<td>88.8</td>
<td>89.5</td>
<td>93.8</td>
<td>95.6</td>
</tr>
<tr>
<td>Believing in life after death</td>
<td>76.9</td>
<td>74.0</td>
<td>70.1</td>
<td>71.8</td>
<td>92.6</td>
<td>93.9</td>
</tr>
<tr>
<td>Attending religious services weekly</td>
<td>7.3</td>
<td>5.4</td>
<td>8.8</td>
<td>20.9</td>
<td>40.3</td>
<td>51.1</td>
</tr>
</tbody>
</table>


Thus, particularly among ethnic Estonians, the inter-generational difference in religious affiliation, belief and practice reflects not only a gap between the younger and the older, but also a gap between three generations – “grandparents, parents and youth”. At the other extreme, in Lithuania, the inter-generational differences in religious affiliation, belief and practice are almost non-existent. The Latvian data demonstrates almost as large inter-generational gap as in Estonia, with the qualification that the overall levels of religious belonging, belief and practice are higher in all age clusters in Latvia than in Estonia.

Religious education classes in public schools

In Lithuania, nearly 98% of pupils of the primary schools attend classes of religion (Ralys 2010: 127), which (according to the Article 17 of the Lithuanian Law of Education) are provided
exclusively by the religious communities or churches of traditional religions for the children whose parents (or guardians) have chosen these classes (for their children). In contrast, the religious education classes in Latvia and Estonia are non-confessional or ecumenical in content, dependent on the choice of the parents of primary school pupils, and on the choice of pupils in secondary schools. In practice, the public education of Latvian and Estonian youth does almost not include any classes of religious education. About a decade ago, religious education classes were provided in about 1 out of 10 schools in Estonian (Valk 2007: 209) and these classes were taken by about 1% of pupils. The situation in Latvia is pretty similar (Filipsone 2005: 58, 60).

3. Religious and secular actors in the traditionalist coalition blocking the extension of religious and legal rights for same-sex couples

Despite the significant differences in social and political secularization, in the policy area of the rights of same-sex couples, the attempts to recognize legally the family life of same-sex unions has found almost as staunch religious, social and political resistance in Lithuania as in Latvia or Estonia. In all Baltic States, social value orientations as well as elites of the dominant religious traditions – Catholicism, Orthodoxy and Lutheranism – tend to disapprove homosexuality, and religious or legal recognition of same-sex unions (in the form of partnership, cohabitation or marriage).

Cultural traditionalism

The levels of cultural traditionalism (e.g. social value orientations primarily supportive of traditionalist values) are relatively high in all Baltic States, although slightly lower and more decreasing in Estonia than in Latvia or Lithuania. According to World Values Survey (1999), 78% of Lithuanian, 77% of Latvian and 57% of Estonian respondents considered homosexuality ‘never justified’. In 2006, when Eurobarometer monitored the extent to which societies in EU-25 support the introduction of homosexual marriages throughout Europe, this option was supported by 12% of respondents in Latvia (which was lowest level among member states of EU of that time!), by 17% in Lithuania and 21% in Estonia, respectively (European Commission 2006).

<table>
<thead>
<tr>
<th>Year</th>
<th>Lithuania</th>
<th>Latvia</th>
<th>Estonia</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>7,0</td>
<td>16,9</td>
<td>27,2</td>
</tr>
<tr>
<td>1998</td>
<td>18,0</td>
<td>37,1</td>
<td>52,5</td>
</tr>
<tr>
<td>2008</td>
<td>28,5</td>
<td>43,1</td>
<td>59,0</td>
</tr>
</tbody>
</table>

Source: Eurostat (2010).

The relatively widespread “unconcern” for legal and religious recognition of family life of same-sex couples does not automatically mean that people in Baltic societies are strongly attached to traditional family in other dimensions of sexuality and morality. The percentages of live births outside of wedlock are linearly rising in all Baltic States (Table 4). The trend is most developed in Estonia, where children born outside of wedlock constitute an absolute majority. Unlike to Lithuania, where un-married heterosexual partnerships are perceived not to fall into the category

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5 This data is derived from <www.worldvaluessurvey.org>, online data analysis.
of ‘family’, Estonia population does not exclude one third of heterosexual couples living together in de facto unions without being married from their understanding of family. Despite the cultural acceptance of heterosexual couples living together without being married, the overall number of same-sex couples is very low in Estonia. In both Latvian and Lithuanian societies, the level of anti-gay prejudices is high (Mole 2011; O’Dwyer and Szczwarz 2010; Duvold and Aalia 2012: 44), while in Estonian society the negative attitudes towards homosexuality have slightly declined over past two decades.

European institutions and LGBT activism on the progressive side

Progressive coalition includes besides domestic and transnational movements that struggle for the extension of LGBT rights, also supra- and international institutions which influence domestic policy debates and their outcomes, and instruments governments use to recognize same-sex couples (Paternotte and Kollman 2013: 513, 527).

Approximately about 2010 (Olm 2013), the progressive normalization of same-sex sexualities reached a point where EU “law” adopted a principled position regarding the legal protection of the “family life” of same-sex couples (Borg-Barthet 2012: 359). Thereafter, the harmonization of domestic legislations on SSUs has become a major concern and unresolved issue for the EU, because as long as the same-sex couples are not legally recognized in all member states, the “families of same-sex couples do not enjoy the same free movements rights as opposite-sex couples” (Borg-Barthet 2012: 361).

The European “law” on same-sex unions does not mandate every signatory country of Council of Europe or member state of EU to recognize legally same-sex marriages, but a principled position of the EU institutions and of European Court of Human Rights expects European states to recognize legally the family life of same-sex couples in one form or another (family, partnership, cohabitation). Both European Union and European Court of Human Rights are committed to a principle whereby all human rights apply to homosexuals as they apply to heterosexuals. This ‘European norm’ is not followed by a significant group of EU member states.

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6 In Lithuania, majority of respondents to the 2010 poll did not consider a single father or mother with children to constitute a ‘family’ and less than four percent thought that same-sex couples living together can be called a “family”. (Duvold and Aalia 2012: 44)

7 In Estonia, according to the 2011 Population and Housing Census, 34.5% of the people aged at least 15 lived with a legal spouse and 15% lived in a de facto union (Olm 2013: 104). Despite the limited legal protection of the opposite-sex de facto cohabiting couples, they are considered families (Olm 2013: 111).

8 According to the census of 2011 in Estonia, only 428 persons admitted to be cohabiting with a same-sex partner (Olm 2013: 104).

9 In 1990, more than three quarters (76%) of the respondents to World Values Survey thought that homosexuality is never justified, in 2010 the corresponding indicator was 48% (Realo 2013: 55).

10 The emphasis on the “conditionality” of accession criteria during the period from 1998 to 2004, when eight (out of eleven) post-communist member states accessed to the EU, focused on the protection of homosexuals from violence and discrimination, but did not lay much focus on the laws on same-sex unions. During that period, EU “law” on homosexuality was focused primarily on the decriminalization of consenting same-sex relations, rights of assembly and labor laws.

11 Until 2010, the ECHR protected the relationship of a same-sex couple under the clauses of the protection of private life and according to the principle of margin of appreciation, which granted a degree of discretion to contracting states. Starting from Schalk and Kopf v. Austria (2010), the ECHR has recognized the right of homosexual couples to family life under Article 8 of the ECHR (Olm 2013: 108). The commitment to this principle is confirmed also in two recent cases adjudicated by the ECHR: Aleksejv v. Russia (2010), and Vallianatos and Others v. Greece (2013).

12 EU commitment to a principle whereby all human rights apply to homosexuals as they apply to heterosexuals is manifest in the “Guidelines To Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons” of 2013, which states: “LGBTI persons have the same rights as all other
(mostly post-communist) which do not provide specific legal protection to a family life of same-sex unions.

In several resolutions, European Parliament has demonstrated an expectation to member states to recognize same-sex families and has condemned policies whereby same-sex couples are excluded from conceptions of ‘family’. Resolution of the European Parliament (24 May 2012) “on the fight against homophobia in Europe” mentioned instances of violation of the freedom of expression and freedom of assembly of homosexuals in Latvia and Lithuania. In 2009, when Lithuania adopted a ‘Law on the Protection on Minors’, which sought to protect children from negative influences by limiting various types of information that might otherwise be available to them, including information that “promotes homosexual, bisexual and polygamous relations” (Duvold and Aalia 2012: 42), this move was condemned by the European Parliament which responded with a resolution “on the Lithuanian Law on the Protection of Minors against the Detrimental Effects of Public Information”.

In 2006, a couple of weeks after Latvia had constitutionally limited marriage to heterosexual couples, the European Parliament called for “tough action” against Latvia on the grounds of Article 13 of the EU Treaty, which had given the EU an authority to combat homophobia.

The accession of Baltic States to EU in 2004 opened up a “window of opportunity” for changes in policies regulating sexuality for LGBT activism. As European Union was known to be committed to equal treatment of heterosexual and homosexuals and to protection of sexual minorities (O’Dwyer and Schwarz 2010: 221), the national publics of the Baltic States were soon split between those willing to use this situation for changing the legal, cultural and social status quo, and others increasingly alarmed about potential transformations concerning the social regulation of sexuality and the rising level of sexual permissiveness. In general, the pro-gay activism has remained relative weak and largely unable to confront the hegemonic anti-gay mobilization, which was boosted in all Baltic States during a decade after the accession to EU.

**Political actors in a blocking coalition**

In Lithuania, political initiatives to introduce bills recognizing family life of same-sex unions have been unable to effectively counteract the anti-gay rhetoric and moral agenda of the Catholic Church and its political ally Homeland Union/Lithuanian Christian Democrats (Duvold and Jurkynas 2013: 146), which after forming a governmental coalition in 2008 made homophobic discourse hegemonic in the Lithuanian parliament (Duvold and Aalia 2012: 40, 43). Additionally, MPs in Lithuanian parliament have been overwhelmingly condemning homosexuality (Stan and Turcescu 2011: 113). The most radical MPS have even recently compared homosexuality to individuals — no new human rights are created for them and none should be denied to them. The EU is committed to the principle of the universality of human rights and reaffirms that cultural, traditional or religious values cannot be invoked to justify any form of discrimination, including discrimination against LGBTI persons.” The Council of the European Union, “Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons”; 24 June 2013, available at http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/137584.pdf. Earlier, the same principle was affirmed by Council of the European Union, 17 June 2010, “Toolkit to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual and Transgender (LGBT) people”, available at http://www.consilium.europa.eu/uedocs/cmsUpload/st11179_en10.pdf.


necrophilia and paedophilia (ILGA-Europe 2013: 140-141). Importantly, the homophobic attitude is not confronted by the present center-left Lithuanian governmental coalition (Labor Party, and Order and Justice Party), which also expresses commitment to Christian values and willingness to protect people from legislation initiatives coming from Europe (including those that are related to sexual minorities) that contradict with the Lithuanian character.\(^{15}\) As of the beginning of 2013, the only party in Lithuania which publicly expressed support for legal recognition of same-sex partnerships was a relatively small parliamentary party, Liberal Movement of the Lithuanian Republic (ILGA-Europe 2013: 142). Therefore, homophobic discourses are hegemonic in both Lithuanian society and politics. Lithuanian political class tends to support the position of the Roman Catholic Church against homosexual behavior (Stan and Turcescu 2011: 112), and there exists “no domestic political or social forces willing or able to counteract the efforts to establish homophobic notions in Lithuanian legislation and society” (Duvold and Aalia 2012: 43).

In Latvia, right after the accession to EU in 2004, pre-empting the pressure coming from European institutions, which expect member states to recognize the family life of same-sex couples in some form or another, Latvia introduced a constitutional bar to same-sex marriage in 2005 (entered into force in 2006).\(^{16}\) The first Riga Gay Pride Parade in July 2005 led to a multi-confessional protest (Hoppenbrouwers 2006: 90), where leaders of Latvia’s Evangelical Lutheran Church, Roman Catholic Church, Orthodox Church and Baptist Congregation warned about the potential for the moral degradation of Latvia, if gay parades were to take place.\(^{17}\) Similar to Lithuania, Latvian anti-gay rights coalition includes religious elites, the parties relying on religious appeal (Latvia’s First Party) and also secular social actors and political forces anxious about the preservation of national traditions and demographic community (O’Dwyer and Schwartz 2010: 239). Similar to Lithuania, also Latvian parliament lacks any significant (left-wing) party advancing gay rights (Mole 2011: 554) and besides gay activists, “there has been little desire to reconsider existing sexual norms or to emulate Western Europe’s” (O’Dwyer and Schwartz 2010: 236).

At present, governments and legislatures in Latvia and Lithuania face neither a clear-cut social demand nor a political incentive to recognize SSUs (the dominant parties may risk losing the support of constituencies when they do not preserve the status quo in this policy area).

Estonian political elite, however, has been split over the prospects of legal recognition of same-sex unions since 2009, when Ministry of Justice started to prepare the draft of Cohabitation Act, which will grant same- and opposite-sex couples a right to conclude a cohabitation contract which covers issues related to property, inheritance and care obligations toward each other (Olm 2013: 109). Until the Spring 2014, the draft Cohabitation Act did not find sufficient support from parties of the right-wing governmental coalition, but stirred up a social reaction from a group consisting mostly from lay Catholics who formed the Foundation for the Protection of Family and Traditional Values in 2012 and collected 38,000 signatures to the public call for protection of traditional family values which they handed over to the Parliament in May 2013. Finally, after the right-wing coalition government was replaced by the coalition of Social Democrats and Reform

\(^{15}\) Two parties in the ruling coalition express their anti-LGBT agenda. 3 June, 2014, www.lrt.lt.


Party in March 2014, on 17 April 2014, 40 members of Estonian parliament submitted a Cohabitation bill regulating financial, inheritance, care and visitation rights for cohabiting couples regardless of their sex. It is highly likely that the bill will be adopted by parliament in Autumn 2014 and will enter into force on 1 January, 2015.

Thus, while Lithuanian governmental boards and committees consult in the policy are of gender and sexuality preferably with pro-family and pro-Church associations instead of gender-oriented NGOs (Duvold and Aalia 2012: 44), the Estonian political class is testing the social authority of the religious elite, which has largely lost its positive connections to the ruling elite in this area of public policy.

The dependence of the authority of the dominant churches on its connections to the political class

Since the accession to EU, the negative attitudes of the Lithuanian Catholic Church toward homosexuality and same-sex marriages have found an increasing support from the Lithuanian political class (Stan and Turcescu 2011: 112). In both Latvia and Lithuania, traditional churches are the strongest, most outspoken and often perceived to be the most powerful social forces opposing changes in the “sex/gender” order (Waitt 2005: 167, 170; Mole 2011: 543; Stan and Turcescu 2011: 98). Also in Estonia, all major (if not virtually all) religious traditions are actively rejecting proposals seeking legalization of same-sex unions.

In Estonia, discourse over the rights of same-sex unions has been virtually the only public debate, where the largest religious institutions have intervened into the processes of lawmaking by participating in public debates with an intention to influence the public opinion and represented the kind of interest that is publicly recognized as an interest of religious institutions. Despite relatively meager degree of social authority of churches in Estonian and the customary tradition of political quietism of the Lutheran church, the public statements of Council of Estonian Churches as well as of the Estonian Evangelical Lutheran Church were strongly rejecting the need for a Cohabitation Act and were taken into account by the Estonian government, which postponed with the adoption of the Cohabitation Act until Spring 2014.

Religious rights of the homosexuals

All three dominant religious traditions in Baltic States – Catholicism, Lutheranism and Orthodoxy – are strongly disapproving of the extension of the legal protection of same-sex couples so that their intimate relationships will be valued on an equal grounds with the heterosexual couples.

The negative attitude of the Orthodox toward homosexuality is least controversial and the negative attitudes of Baltic Lutheran Churches requiring most explanation, because traditionally Orthodox societies are regularly the least approving homosexuality, while predominantly Protestant societies tend to be most approving. At present, there is no culturally Orthodox country in Europe – East or West (Greece, Cyprus) – which has legally recognized same-sex

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18 Council of Estonian Churches (www.ekn.ee) represents not only the numerically largest and historic Christian denominations of Estonia, but also Christian denominations of more recent origin – Estonian Evangelical Lutheran Church, Union of Evangelical Christian and Baptist Churches of Estonia, Estonian Methodist Church, Roman Catholic Church, Estonian Christian Pentecostal Church, Estonian Conferences of Seventh-Day Adventists Church, Estonian Congregation St. Gregory of the Armenian Apostolic Church, the Estonian Apostolic Orthodox Church, Estonian Orthodox Church of Moscow Patriarchy, and Charismatic Episcopal Church of Estonia.

19 The comparative study by Aleksander Štulhofer and Ivan Rimac demonstrated that four of the five least homo-negative countries were predominantly Protestant, while four of the five least accepting countries (Lithuania, Romania, Ukraine, Russia, and Belarus) were Eastern Orthodox (Štulhofer and Rimac 2009: 27).
unions. Traditionally Orthodox Romania was the last of the current EU member states to decriminalize homosexual conduct fully in 2001 (private homosexuality was decriminalized in 1996) (Kochenov 2007: 483).

Despite the principled homophobic positions proclaimed by universal Catholicism, traditionally Catholic societies of Europe are split within post-communist region (Hungary and Slovenia have recognized legally same-sex unions, while Poland and Lithuania have not), but no more in Western Europe, where besides Italy, which is on the verge of passing laws allowing for same-sex marriage, all traditionally Catholic countries offer legal protection of same-sex unions or marriages.

The most puzzling are the traditionally Lutheran societies, which are split between the European West and the East in terms of both social values and the value orientations of the national Lutheran churches. In contrast to Lutheran Churches in Denmark and Sweden, which have not only adjusted to changes in social value orientations, but have introduced also religious ceremonies for same-sex couples in their churches, the Lutheran Churches of Estonia, Latvia and Lithuania are clearly opposed to any expansion of religious or legal rights of same-sex couples. In a joint statement in November 2009, they denounced those member churches of the Lutheran World Federation, which “approve of religious matrimony for couples of the same gender” and “ordain non-celibate homosexual persons for pastoral or episcopal office”. Earlier, in March 2007, in reaction to the decision of the Swedish (Lutheran) Church to bless same-sex partnerships in church services, Archbishop of Estonian Evangelical Lutheran Church, Andres Põder confirmed that "homosexual behavior is a sin” and blessing of the partnership of the same-sex couples is inconceivable in Estonian Lutheran Church.

Alternative explanations

The success and failure of the attempts to introduce SSU laws can be explained not only by the struggle between domestic and international social and political actors for the emergence of a new kind of social consensus, but also by policy legacies of the Communist period and by the attained level of economic affluence.

Policy legacy of the Communist period

As the European empirical pattern of legal recognition of same-sex unions and same-sex marriage has proceed in accordance with the small changes theory (incrementalism) outlined above, the legal recognition of registered partnerships in Slovenia (2006) and in Hungary (2009) were preceded by significantly earlier decriminalization of homosexual conduct (in 1960s in Hungary and in 1976 in Slovenia). The time span since the decriminalization of homosexuality in post-
Soviet Baltic States (1992) is significantly smaller and the situation of homosexuals in the Soviet Union was far more repressive than it was in communist Czechoslovakia, Hungary or Yugoslavia. Consequently, it is reasonable to expect that the prevailing pattern of legal recognition of same-sex unions and marriages in traditionally Catholic and Lutheran societies of Europe will be followed also in Baltic countries. Against this background, however, the public discussions over rights of association of homosexuals and free expression of homosexuality seem to be passed stage in Estonia, which is closer to legal recognition of family life of same-sex couples than are Latvia and Lithuania, where homophobic sentiment are more spread among religious, social and political elites, and legislative debates focus more on homosexuality within public education and the rights of association of homosexuals.

**Shift from materialist to post-materialist value orientations at higher level of affluence**

Next to cultural and political legacies, the enactment of SSU legislation is also conditioned by the level of socioeconomic development. Several studies confirm the existence of correlation between economic modernization and cultural value shifts from materialist, traditional, authoritarian and survival value orientations to post-materialist self-expression and tolerance values, where the former limit sexual relationships to the nuclear family and heterosexual marriage, and the latter tend to reshape both religious orientations, gender roles, sexual norms and patterns of cohabitation (Inglehart et al. 2004: 9-10). At higher levels of economic security, more permissive and tolerant attitudes towards sex, abortion and homosexuality replace traditional norms that formerly regulated the institutions of marriage, the relations of gender and the norms of sexuality (Štulhofer and Rimac 2009). According to this explanation, the likelihood of legal recognition of family life of homosexuals depends primarily on the dynamics of the economic development and on the resulting sense of material security. Hence, the adoption of pro-gay legislation is dependent on the rising level of economic welfare.

In April 2014, parliament in Malta legalized same-sex unions and gay adoptions despite vocal and vehement opposition of the Catholic Church and of the low level of social support to such a move. Also post-communist Hungary and Slovenia have recognized legally same-sex unions despite the relatively low level of social acceptance for homosexuality. In principle, parliaments in member states of European Union can pass such laws without significant social support and demand from below. Outside of European Union, however, high levels of social approval toward homosexuality are regularly present also at the moment of adoption of SSU laws. Additionally, the Western countries (in both Europe and in North America), which have legally recognized same-sex unions and marriages, have typically had also religious institutions either supportive or internally split of this move. The lack of significant social demand as well as the absence of religious actors on the ‘progressive side’ in Baltic States may also be due to the lower level of economic welfare.

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24 Renáta Uitz has argued that the related legal changes in Hungary and Slovenia are “clearly not driven mainly by changing social attitudes or by a new social consensus which overwhelmingly accepts gays and lesbians”, because “...animosity towards gays and lesbians remains tangible” (Uitz 2012: 252).

25 For example, the first countries in South America to legalize same-sex civil unions (Uruguay in 2007) and same-sex marriage (Argentina in 2010) were the only “high tolerance” countries in this region (over 50% of respondents “approved homosexuals being permitted to run for public office” on a scale of 1 to 10 with responses 7 and higher). (Encarnación 2011: 104, 115).
Conclusion

In all Baltic States, there exists a broad coalition of both religious and political actors that disapprove homosexuality and the extension of religious and legal rights for same-sex couples in three main ways: 1. legal recognition of the family life of same-sex couples is missing; 2. culturally prevailing perceptions exclude same-sex couples from the category of ‘family’; 3. the religious rights of homosexuals are limited not because of state laws, but because of internal regulations of religious institutions and policy choices of the religious elites. At the moment, the prospects for legal recognition of same-sex unions are high in Estonia, where the ‘blocking coalition’ has lost most of its allies in the Estonian parliament, while the social and religious anti-gay campaign is still hegemonic and unsurpassed by the pro-gay social activism.

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