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# The Lesbian, Gay, Bisexual, Transgender Transnational Advocacy Network in the EU: Accommodative Spaces and Unobjectionable Norms

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# Abstract

This is a study on transnational advocacy networks in the context of an accommodative EU multi-level governance system. Using the gay and lesbian network in the EU, I argue that transnational advocacy networks are successful in policy introduction (i.e. the inclusion of anti-discrimination clause in the Amsterdam Treaty) when they use leverage politics, accountability politics, symbolic politics, frame the issue effectively, and highlight issue characteristics involving bodily harm and equality among other things. Additionally, influence in issue creation and agenda setting, discursive positions and institutional procedures, and whether the new norm being developed and cultivated is related to an unobjectionable norm are also key factors to a successful transnational advocacy network such ILGA-Europe.

Key Words: Transnational advocacy networks, unobjectionable norm, gay and lesbian rights, multi-level governance, Council Directive 2000/78/EC

# Abbreviations

TAN Transnational Advocacy Network

GLBT Gays, Lesbians, Bisexuals and Transgender

ILGA International Lesbian and Gay Association

NGO Non-governmental Organization

IGC Intergovernmental Conference

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## **1 Introduction**

## 1.1 An Overview of the Study

Lesbians, Bisexuals, Gay and Transgenders<sup>1</sup> in Europe, those within the European Union specifically, has seen a positive change of their status since the 1970's. Sexual minorities in the European Union have witnessed the de-criminalization of homosexual offences, changes in ages of consent, the termination of sodomy laws, their protection from coercive state practices and also the upholding of their freedom of speech and assembly. More recently, LGBT's in the EU succeeded in seeking protection from discrimination in the form of the 2000 EU directive prohibiting discrimination in the workplace on the basis of sexual orientation (Berger 2004, 1). However, these successes do not indicate a uniform acceptance of sexual minorities in the Union. In a survey among Europeans, 9% of Dutch people believe that homosexuality is wrong, followed by France at 13%, 16% percent in Italy and 21% in the United Kingdom (Fetto 2002, 16). In addition to the diversity of acceptance, LGBT groups face vocal opposition from people in political offices. In Italy for example, Gianfranco Fini from the National Alliance declared that homosexuals are unfit to be teachers! (Queer Resource Directory). The successes of LGBT groups in the EU is puzzling because these positive changes occurred despite negative rules and attitudes as well as open hostility from politicians at the member state level. In the case of Germany, the government is not hostile but unwilling to grant more rights (Interview).

While the importance of the EU is intuitive in figuring out the puzzle concerning LGBT successes, it is also important to note that these changes have gone hand in hand with the increase of social movements arguing and demanding participation rights both nationally and transnationally (Berger 2004, 1).

This Master's thesis will examine the role of the LGBT transnational advocacy network in affecting European Union policies. The characteristics of the EU polity itself will also be investigated to expose its possible contribution to the positive reforms in the social, legal, political and economic spheres in the lives of LGBT's.

## 1.2 Purpose and Research Questions

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<sup>1</sup>I will from now onwards refer to this group as LGBT's.



This Master's thesis has two main purposes: one empirical and one theoretical.

(I) Empirically, the study intends to examine: (i.i) the efficacy of a transnational advocacy network in affecting policy making in the EU and, (i.ii) whether the characteristics of the EU itself contribute to the capacity of transnational advocacy networks to affect change.

(ii) The theoretical aim is to provide a clear framework that bridges the ideas put forward by proponents of multi-level governance (represented here by, Hooghe, Marks, Jachtenfuchs and Kohler-Koch), the study of transnational advocacy networks (drawing mainly from the work of Keck and Sikkink) and the negotiation school (mainly from Elgstrom) to better our understanding of a TAN's success in the EU.

Keeping these aims in mind, I ask the following questions:

1. *Under what conditions are transnational advocacy networks effective in policy introduction? What role/s do/es the EU's system of governance play in determining the outcome of a TAN's campaign?*

2. *How do we connect multi-level governance and the proposition of Keck and Sikkink and negotiation to provide a clear framework in the study of transnational advocacy networks?*

### 1.3 The Plan of the Study

This master thesis is a study of transnational advocacy networks and the possible role of the European Union polity in their success. Since one of the goals of TAN's is to affect policy introduction, the following steps must be followed. The first part is a conceptualization of the European Union's system of governance. Secondly, I will discuss the policy making process in the European Union. The third part is a continuation and specification of the EU policy-making process as contestation of norms wherein the contestation of norms occurs through the negotiation process of which, I draw mainly from the work of Elgstrom. The last part of these section is a discussion of Keck and Sikkink's study on transnational advocacy networks. The basic aim in this section is to draw out fundamental tenets of these theories as a guide to understand TAN's as well as the European Union's role in the successes of these TAN's.

Following the theoretical part, I will present the case and evaluate the case through the lens provided by the abovementioned theories. Given that an additional component of this thesis is to develop a clear

approach to the study of TAN's, I will test these fundamental tenets whether they are at work in the case of the success of the LGBT's in the Union.

I will end this study with a conclusion and provide a holistic but short framework in the study of TAN efficacy.

## 1.4 Delimitations

I have chosen to highlight LGBT victories such as Article 13 of the Amsterdam Treaty prohibiting discrimination based on sex, racial or ethnic origin, religion, disability, age or sexual orientation and more recently, the release of the 2000 Directive prohibiting discrimination in the workplace on the basis of sexual orientation. Given these two victories, I limit this study between 1997 until 2000 and focus on the network's actions on these two issues but I may also give more recent examples to show that some activities done during that time period are still practiced by ILGA-Europe. Given the time parameters, this study defines LGBT success in terms of policy introduction more than policy implementation. I will touch lightly on the subject of policy implementation but the focus here is policy introduction given that policy implementation takes time and that in terms of the EU workplace directive in 2000, the subtle yet important variations of its implementation alone requires more resources for finding country-specific materials and individuals to draw information. Moreover, this study focuses mainly on the EU 15, information regarding the new members of the EU is beyond the scope of this study simply because these countries did not have official membership prior to the Amsterdam Treaty in 1997 and the workplace directive in 2000. The network in focus of this study does not only lobby in the EU level, they also lobby the Council of Europe (COE). I limit my case within the European Union mainly due to the fact that the 'victories' identified in this thesis is in the realm of the European Union polity.

## 1.5 Relevance

It is the author's opinion that although there is a large and growing literature regarding the growth and proliferation of transnational networks, very little work has been done regarding the case of the gay and lesbian networks in the EU. On one hand, when a study is devoted to gays and lesbians in the European Union, one finds that these works center on the legal aspects of the network organization. On the other hand, these studies focus on exploring the entrenched heteronormative structure of the European Union. While these studies are certainly very helpful in addressing the lack of work in terms of LGBT's in the European Union, I find these studies to be out-of-focus simply because it ignores the fact that gays and lesbians have indeed taken great strides in making their lives better in a society that has traditionally excluded them from participating on equal footing vis-a-vis other groups.

## 1.6 Method and Sources

Although a statistical approach *can* be used to measure the efficacy of the LGBT transnational advocacy network in the Union by relying mainly on the number of legislation favoring sexual minorities, variables that would need to be considered in such a study are extremely difficult to quantify. These variables would include the degree of openness of EU institutions vis-a-vis member states, level of influence of transnational actors in negotiations to name a few. The case study method is favored here because it provides for a “detailed consideration of contextual factors” (George and Bennet 2005, 19). In terms of the theoretical aim this thesis, the case study method is particularly useful in testing hypotheses and developing theory (*ibid*).

This Master thesis is in the business of exposing causal mechanisms that contribute to the success of transnational advocacy network. Drawing mainly from George and Bennet, causal mechanism is defined as;

*“...ultimately unobservable physical, social or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information, or matter to other entities. In doing so, the causal agent changes the affected entity’s characteristics, capacities, or propensities in ways that persist until subsequent causal mechanisms act upon it (2005, 137).”*

In order to expose the causal mechanism or mechanisms at work in the identified phenomena, this research employs the method of process tracing. The propositions of multilevel governance and policy-making in the European Union are utilized as background factors of the study. In terms of the propositions by Keck and Sikkink concerning transnational advocacy networks (1998) and Elgström’s work on norm negotiations, George and Bennet state that “all the steps of the case must be predicted by a hypothesis”(2005: 207). Process tracing is valuable here because it allows the researcher to consider alternative channels through which the outcome could have occurred thereby making it a possibility of “mapping out one or more potential causal paths that are consistent with the outcome and the process tracing evidence in a single case (*ibid*).

As for sources, I have utilized existing literature in the study of transnational advocacy network, multi-level governance and Elgström’s norm negotiation. I have also devoted much of research time sifting through EU documents, the International Lesbian and Gay Association’s compilation of yearly reports and their very own newsletter from 1995-until the present. I have also made email interviews with various members of ILGA-Europe including one of the key lobbyist during the formulation of Article 13 of the Amsterdam Treaty. I shall start with multi-level governance in order to properly conceptualize the EU-polity as an accommodative structure.

# 2 Theory

## 2.1 The European Union as a Multi-level System of Governance

The governance perspective is effective in understanding the development of the EU polity in three different ways. First, the governance perspective links policy making and institution building. Secondly, the competition for political power is accounted for in the analysis. Thirdly, “it allows for discussion of the normative issues of good political order for the EU without losing contact with empirical research on how political life in the EU actually functions” (Jachtenfuchs and Kohler-Koch 2005:97).

Governance according to Jachtenfuchs and Kohler-Koch is “a continuous process of setting explicit goals for society and intervening in it in order to achieve these goals” (2005:99) ( see also Kohler-Koch 1993, 2002; March and Olsen 1995; Zürn 1998).

Taking this definition into account, governance in this sense is about goal-setting, making decisions, and implementing policies for groups who may or may not agree to these goals, decisions and policies. However, the type of governance in the European Union is far from settled. On one side, you find scholars proposing that EU processes are largely member-state control and on the other, proponents point to the complex, cross pillar, inter-institutional governance structure that empowers other actors other than the member state.

This sub-section is a comparison between the multilevel and state-centric conceptions of the EU-polity.

### 2.1.1 State-centric vs. Multilevel Governance System

According to the state-centric model, *the state is the most important actor* in terms of decision-making in the European Union. Whereas multi-level governance posit that EU institutions have varying degrees of freedom, the EU institutions in a state-centric model are agents of the state. Decision-making in the EU level, whether intergovernmental or through EU institutions reflect member state preferences. European Union institutions are *rationally* utilized by member states.

Moravcsik, proposes that “ EC institutions...increase the efficiency of interstate bargaining. The existence of a common negotiating forum, decision-making procedures, and monitoring of compliance reduce the costs of identifying, making, and keeping agreements, thereby making possible a greater range of cooperative arrangements (1993: 507)”.

State-centric approaches, specifically liberal intergovernmentalism posit that instead of the state being disempowered in terms of decision making in the European Union, *the state is actually strengthened*. Given that transaction costs are reduced through common institutions, the state is able to pursue other interest that they may not have achieve without these institutions.

Another state-centric conception is a *fixed arena for political interest competition* largely at the member-state level. While multi-level governance conceptualizes political interest competition at different levels, state-centric models specifically liberal intergovernmentalism proposes that interest formation at the member state level determines state behavior in any international fora. Given the LI conception of interest formation, interest representation and competition, the state is envisioned to be the only legitimate channel to influence the European Union. So instead of the connectedness of political arenas put forward by multi-level governance, state-centric approaches stress the *nestedness* of these political spaces of contestation at the member state level.

In contrast to the state-centric model, according to the multi-level governance model, *decision-making competencies are shared*. European Union institutions like the Commission, The Council and the European Parliament have influence independent from the member state in policy making especially in the daily politics of the Union. The multi-level governance perspective does not rid of the member-state influence completely but the independence of these policy actors in the European level must also be investigated to help explain European level policy making.

In addition to the sharing of competences, the multi-level governance perspective posit that *collective decision-making in the EU level diminishes the control of member states*. Marks, Hooghe, and Blank posit that ‘lowest common denominator outcomes are available only on a subset of EU decisions, mainly those concerning the scope of integration’ (1996: 346).

Multi-level governance envisions political arenas not as nested but rather *interconnected* avenues of interest competition. The state does not monopolize the links between domestic and European actors (Marks, Hooghe and Blank 1996:346). Multi-level governance takes into account the fact that subnational actors try to penetrate or influence policy making both at the member state level and the European level. In trying to influence the policy making process both at home and the European level, subnational actors create partners with other groups with similar interests. However, it is important to state here that multi-level governance model does not necessarily rid of the importance of the state in the European Union. Instead, the propositions of liberal intergovernmentalism applies mainly through the determination of the scope of integration. I reserve my argument that the EU is a ‘permissive’ and accommodative structure for transnational advocacy networks after the section on norms in order to

present a more holistic treatment of the background factors.

The next section is concerning policy-making in the European Union. I find this section necessary because the main goal of any transnational advocacy network is to affect policy-making. I focus mainly on Heretier's claims in policy-making in the face of deadlock because it offers insights as to how policy is introduced despite multiple veto points and the multiplicity of different actors and different interests. Following the policy-making section, I draw on Elgstrom to elaborate on norm emergence and norm negotiations. After the norm section, I will present the consequences given a multilevel system, the implication of Heretier's claim that subterfuge, "the use of informal strategies and process patterns to circumvent political impasses" (1999:1) 'make Europe work' and the role of norms in the EU polity.

## 2.2 Policy-Making in a Multi-Level Governance System

Conceptualizing the European Union as a system of multi-level governance suggests the inherent openness of the political structure and the multiplicity of effective actors in the system. However, this type of conceptualization of the political structure, though extremely fundamental, is rather broad. It is necessary to specify how policies are introduced in this type of governance system. Moreover, a multi-level system of governance is not an assurance that policies are continually being passed without resistance. Actors with different goals interact in any type of governance model and the threat of deadlock is always present.

The state-centric model, specifically liberal intergovernmentalism posit that interests (therefore policy preference), is formed in the domestic level and decision making in the European Union is intergovernmental. However, this proposition only strongly applies to 'history-making decisions'. In the words of Heretier, "...in the inconspicuous, everyday policy-making...the lines of interaction are tangled and criss-cross levels of decision-making, the public and private spheres and national borders" (1999:14).

### 2.2.1 The Threat of Deadlock and EU Policy-making

Scharpf posit that if the domestic levels of governments have control over central policy making, the decision making process will result with sub-optimal policy results. In the article 'The joint decision-trap: lessons from German Federalism and European Integration', Scharpf claimed that "the central government is not free to respond creatively to external demands, or to anticipate future consensus; it's actions are determined directly by the immediate self-interests of member governments" (1988: 255). Governments will only cooperate if their gains by cooperating is higher than non-cooperation. Governments, in this sense, play a rational game in which their agreements to policies depend on how

much they gain from cooperation or non-cooperation. In terms of policy change, it is likely that an actor will oppose the change if it reduces his/her gains or agree to the change if he/she is compensated. However, adequate policy compensation is very difficult because the losses involved are non-quantifiable and because their magnitude and future occurrences are uncertain (Heretier 1999: 15). This essentially means that the majority of agreed upon policies cannot, or would have difficulties in changing because of the existence of actors who prefer and actors who would reject it. Such a situation is very critical because these policies might not hold up in a future characterized by a very different policy environment. Moreover, the threat of deadlock is worsened by the fact that actors, both private and public, not only worry about the distributive effects of their actions but also the possibility of losing competences as well as the cost of adjusting to new supranational measures (*ibid*).

Heretier claims that deadlock arise in a system of multilevel governance if, “under conditions of consensual decision-making, individual actors are unwilling to acquiesce to the proposed solution, be it dues to a loss of benefits, a loss of decisional power, or the cost of instrumental adjustment” (1999: 16). As an institution characterized by its openness to a variety of actors and the multiplicity of veto points, the EU continues to produce substantive policies that are continually affecting and changing member states, non-state entities and even itself. The following section is a theoretical account how the European Union and its actors continue to produce policies despite the general threat of deadlock. In this section, I draw mainly from Heretier’s assertion that subterfuge ‘make Europe work’.

### 2.2.2 Avoiding Deadlock

From the perspective of bargaining theory, there are four basic alternatives to avoid deadlock. The first alternative involves extending the issues being negotiated. In such a scenario, actors link one issue to another and present the coupled issue as inherently connected to each other. In the bargaining table, actors give-up or soften their position on one issue and in return benefits in another. The second alternative to avoid deadlock is through compensating the losers in their acquiescence. This alternative presupposes that the gains for ‘winning’ is such that it allows for compensating the losers. Heretier claims that these two alternatives are at work when sub-national units are won over by offering them trade-offs in decisional rights and allowing these units to participate in supranational organization or providing additional infrastructures (1999:17). The next classical alternative in avoiding a stalemate is through altering their preferences. In such an instance, actors with differing interests strike a compromise by changing the goals they bring into the bargaining table. Heretier posit that in a multi-level governance system, forming a compromise is more difficult if parliaments and parties are involved in decision-making at the national and the subnational level because the compromise, which is subject to a majoritarian decision, have to reworded in simple ‘yes’ or ‘no’ ( 1999:17). The fourth alternative is to settle for a framework decision. This type of alternative enables actors to avoid a stalemate by wording the document in vague and general terms and in doing so, allows the actors with conflicting views to interpret the decision according to their interests (*ibid*).

In addition to these alternatives, institutional arrangements facilitate successful bargaining in a multi-level governance system. When commitment to a policy is made at the supranational level, this commitment eases negotiations with national and subnational actors. On the other hand, negotiating at the national arena prior to the supranational arena makes the decision making process a little difficult. Heretier also claim that the availability of alternative decision-making arenas speed up the process because of the threat of 'exit' among negotiating actors. Though the threat of exit is effective in some instances, she warns that this type of alternative cannot be used too extensively because it could destroy the mutual trust and credibility among actors and would render future negotiations extremely difficult. Heretier also suggested that international strategies can be utilized to "modify the constraints in the European decisional process and to create policy options which previously did not exist, as failure to reach an agreement would imply a loss to action opportunities in any external relationship" (1999:18). However, the expectation of action does not imply that it would automatically promote decision-making in the national level and the decision-making process would not speed up if negotiations are stalled due to distributional issues. Lastly, she points out to sociological theory wherein organizations take into consideration the diverging views of the actors through general political discussions and proceed to satisfy these diverging interests selectively with concrete actions (1999:19). This approach can be called 'separating the talk, from the action'.

### 2.2.3 Policy Introduction

The purpose of this section is to look at various explanatory strands for policy introduction. Drawing mainly from Heretier, I will look at policy introduction from the perspectives of bargaining theory, sociological organization theory and lastly, interorganisational theory.

At first instance, the bargaining table seems like an unlikely source for policy introduction. In the most general way, bargaining is characterized by rational actors who come to a negotiation arena with specific interests. But if one were to classify the type of bargaining being practiced, policy introduction becomes a possibility. The first type of bargaining is distributional bargaining. This type of bargaining is "an adversarial process to divide up the pie" (Heretier 1999:20). If the negotiation does not end up in a stalemate, for example due to issue linkage, the result tends to favor the status quo—not a likely place for new policies to come out from. Sebenius, in the article "Challenging conventional explanations of international co-operation: negotiation analysis and the case of epistemic communities", claim that the "co-operative potential of a situation is not realized because of technical or strategic uncertainty, a lack of creativity, and communication" (1992: 327).

The second type of bargaining is labeled as a problem-solving oriented bargaining. This type of bargaining goes beyond maintaining the status quo. Instead, it increases joint opportunities for everyone by developing new policy solutions, in short, making the pie bigger before cutting it (Heretier 1999:20). A problem-solving oriented bargaining situation results to the introduction of new policies because it



allows the participants to learn and explore new dimensions of the issue at hand (Sebenius 1992). In reality, when decision-makers practice problem-solving oriented negotiation behavior, they consider their alternative before coming to the negotiation table (Heretier 1999:20). Sebenius stresses that informal approaches are used in the beginning such as plans of actions which non-binding but gives the participant a 'vehicle' to do research, monitoring, and assessment (1992). However, Heretier asserted that communication does not always promote problem-solving behavior. In fact, new information concerning the issue can be a source of contention among the participants (*ibid*). In addition to problem-solving negotiation, switching negotiation arenas can also result to policy introduction. By adding the element of uncertainty, the determination to oppose the policy at hand is weakened and increases the possibility of engaging in a constructive bargaining (Heretier 1999:21). The existence of international organizations can also lead to policy introduction. On one hand, national governments who are eager to introduce a new policy would point out to the international organization's policy demands. On the other hand, national governments would point out domestic needs to initiate policy at the international level. This behavior is typical of Putnam's two-level games—or in lay man's terms, "*my hands are tied*".

Whereas bargaining theory offers explanations of policy introduction through negotiation and institutional means, sociological organization theory's explanation of policy introduction focuses on the incorporation diverse and inconsistent policy demands into the organization as well as the insulation of innovative activities from the general political debate (Heretier 1999:23). The incorporation of inconsistent policy demands occurs when organizations structurally represent these demands in the organization to meet conflicting expectations. 'Insulation' happens two ways; first, the political debate over policy goals takes attention away from the actual policy-making, secondly, without the noisy debate, the special policy unit in charge is able to innovate (Heretier 1999:22). As for interorganisational and bureaucratic theories, both point to the importance and power of the actor that control and broker the interactions between other actors. This power comes from the uncertainty brought about by the multiplicity of actors (*ibid*). An organization with a large bureaucratic capacity for research and information coordination plays the 'gatekeeper' role in the interaction ( Heretier 1999:23). The Commission in the European Union in this sense is a 'nodal point' of interaction. In bureaucratic theory, the Commission is a self-interested bureaucratic body that is continually expanding it's role in the polity and because of it's position as a key nodal point of interaction and the 'gatekeeper' it is able to control interactions that could favor it's policy position (*ibid*).

So far in this master thesis I have conceptualized the European Union polity as a system of multi-level governance. Since one of the overarching theme of the thesis is the efficacy of transnational advocacy networks to modify, alter or add clauses to EU policies, a discussion concerning policy making in the European Union is necessary. I chose to highlight the work of Heretier in this section because her assertion that despite the threat of deadlock and the multiplicity of veto points, policy-making in the European Union is steadily expanding (1999:1). The creative use of policy strategies whether formal or informal (subterfuge) enables policy actors to push their interests despite the threat of stalemate (*ibid*). Heretier discussed the importance of bureaucratic interest in policy innovation but I think more attention

should be given to this aspect because in the context of the European Union, the Commission has the sole right of initiative and the effect of this position in terms of the success or failure of the policy should be elaborated . Given that we are in the business of explaining of TAN success, such a position (as having the sole right of initiative) in terms of EU policy making have far ranging consequences especially that the Commission itself is pursuing deliberate networking strategies (Elgstrom 2005: 17). Let me turn to a discussion of the Commission's role in policy-making.

#### 2.2.4 The Commission

The Commission is a *linking pin* organization. A linking-pin organization is an organization that occupies a central position of being 'reachable from and able to reach' organization in a network (Jonsson and Stromvik 2005: 18). Given that the Commission enjoys the privilege of having the sole right of initiative, networks tend to organize around the Commission (*ibid*). Not only the Commission a linking pin organization, according to Beate Kohler-Koch, it 'is a process manager– setting the timing, prescribing consultation procedures and deciding which interest representation will be recognized' (1996:368)–hence interest groups queue to influence the Commission (Jonsson and Stromvik 2005: 19).

## GENERAL EU - ILGA RELATIONSHIP

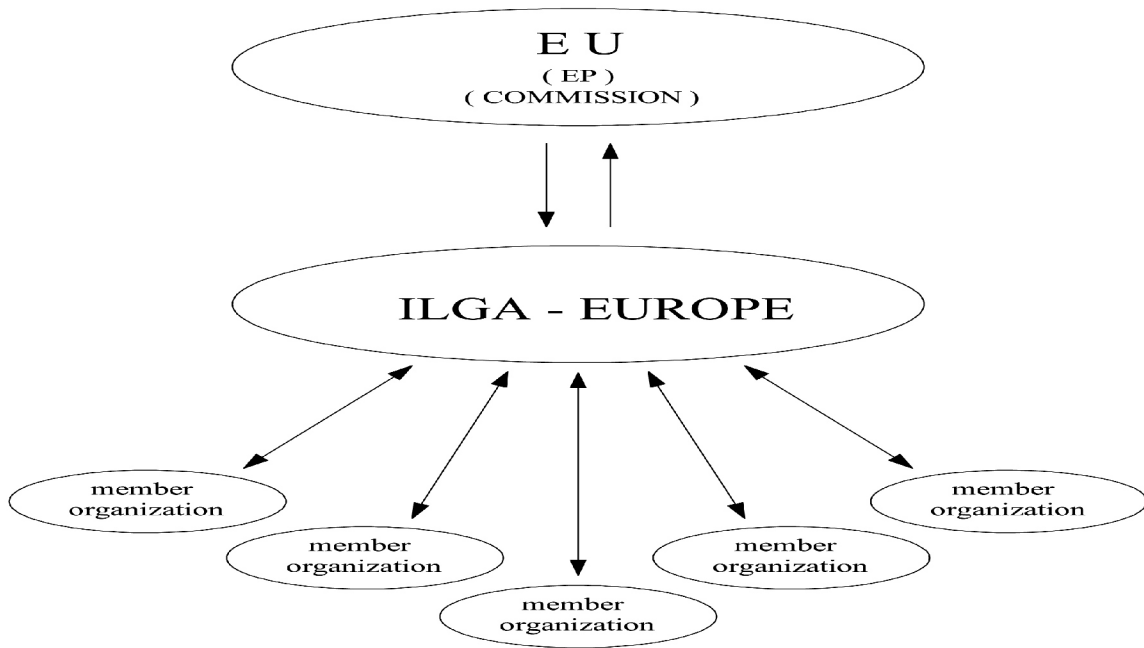


Figure 2.2.4

## 2.2.5 Formal European Union Policy Making: The Co-Decision Procedure

I will offer here a short account of the formal European Union policy-making process. I chose to elaborate on the co-decision procedure because it is the most commonly used procedure in EU policy-making. In this procedure, both the Council and the European Parliament change, adopt, or reject the proposal of the Commission. I would like to stress here that, though the European Parliament are on equal grounds vis-a-vis each other, the Parliament has a right to veto and thus its role maybe preponderant.

The Commission does not decide on legislation as stated earlier but it is responsible for making the procedure run accordingly. First, it is the guardian of all European Union/ European Community treaties and for initiating legislation and policy proposal. Secondly, it oversees the implementation of such legislation. It also acts a guardian of European Union law and it can refer cases to the European Court of Justice. In effect, it has a managerial and executive role and it does so in policy making as well as in international relations. The Commission consists of 25 Commissioners from member states through an appointment process and serves the Commission for five years.

The European Parliament on the other hand, represents roughly 450 million European Union citizens. The Parliament's role is to pass legislation and on an extent, control the use of executive power in the EU. In 1979, direct elections were held to choose MEP's whereas a year before, MEP's were drawn from each member state's legislature. The legislative power of the European Parliament has somewhat been extended throughout the years. In addition to its role whether to amend or adopt the Commission's proposal, it shares with the Council decisional powers in many areas. The EP also has budgetary powers—it approves the annual over-all budget of the European Union. The EP has supervisory power over the executive (The Commission) of the European Union through its power of appointing all members of the Commission as well as it's president. Extending this supervisory power, the European Parliament can even question the Commissioners or in extreme cases, the Parliament can dismiss the Commission. As for the citizens of the European Union, they can petition the Parliament themselves individually or through groups.

The Council of the European Union is the European Union's primary decision-making institution. It defines objectives, functions as a coordinator of national policies and in many cases resolve on the differences between member states in cases of disagreement. The Council's competence stretches all Community Pillars. It is composed of government ministers of the each member states that meets through ministerial meetings aided by the Permanent Representatives of the Member States.

The co-decision procedure, starts with proposal from the Commission. This proposal is then sent to the Council and the Parliament. The European Parliament sends its opinion to the Council after the first reading. Taking the Commission's proposal and the opinion of the European Parliament, the Council deliberates and produces a 'common' position. This common position is then sent back to the

European Parliament for a second reading. The Parliament has three months to take action. During the three months, the Parliament may accept the Council's position and so the proposal is adopted. The Parliament can also make amendments to the proposal and if the Council does not approve of the changes in three months, a Conciliation Committee of equal Council and Parliament representatives is set up to negotiate and solve the slowdown. If the Conciliation Committee fails to agree on the compromise result, the proposal is dropped—in this case, the EP have exercised its right to veto. In some cases, the Council's common position is rejected without any proceeding to the second reading wherein the proposal is decided not to be adopted (CODECISION in Europa).

## 2.3 Norms in the European Union

I shall specify here the role of norms in policy-making or policy-change in the European Union. Norms are collective understandings or rules of behavior of actors with a given identity in a given context (Finnemore and Sikkink 1998: 891). It must be highlighted here that not all norms are equal, some norms attain a superior status. Elgstrom characterizes these highly institutionalized norms with predominant status as 'taken for granted' and that these norms are so "morally superior that it is considered almost taboo to criticise them" (Elgstrom 2005: 31). Elgstrom calls these norms "unobjectionable" norms (*ibid*).

However, these norms are not static and therefore contestable. The European Union is a "negotiated order" (Smith 1996), and given this conceptualization of the EU, policy-making or policy change occurs through a contestation of norms in a negotiation process. This section of the master's thesis will tackle how these norms emerge, get accepted, and spread. I draw mainly from Elgström's negotiation perspective.

### 2.3.1 Norm Emergence

In the first instance of the process of norm diffusion, 'entrepreneurs' actively promote a norm they favor. These entrepreneurs bring attention to "issues and frame the problem at hand in a way that attracts attention to their preferred norm" (Elgstrom 2005: 31). In a socio-political space with competing norms, a debate ensues between norm entrepreneurs (to illustrate this point, Elgstrom uses the pro-abortion versus the anti-abortion debate in the US). As an American, I find this example to be very helpful in order to illuminate the salience of framing in the issue of abortion. Whereas the pro-abortion activists frame the issue as a matter of choice or right, the anti-abortion activists frame the issue as matter of affirming and protecting life and right of the fetus. In fact, this divide in their framing approach is very clear in their use of labels such as 'pro-choice' and 'pro-life' respectively. I should also point out that these frames are not the only frames in the abortion debate but nevertheless, these

two appear to be the most popular ones. Other frames include a religion-based reasoning equating abortion to sinning.

When one norm succeeds in the debates between a competing norm, Elgstrom proposes that the 'winning' norm "has a chance to spread further and become unobjectionable" (2005: 31). Elgstrom also stressed the importance of persuasion as a typical tool for norm entrepreneurs, the existence of a target institution (*inter alia* the United Nations and the EU) and other legitimizing avenues. This idea is roughly similar to the ideas put forward by Keck and Sikkink above. He moves on to claiming that norm entrepreneurs need to gain support from few countries (with the help of like-minded national movements and from supporters from within the administration). In return, these countries become norm entrepreneurs themselves and when a 'certain threshold' is reached in addition to a critical mass, a 'norm cascade' follows resulting to a new norm becoming dominant (2005: 32). These norms are accepted by states because the administration has internalized these norms or that it could be that the cost of non-acceptance of a new norm is very high. Drawing from Checkel (1997, 1999) and Finnemore and Sikkink (1998), Elgstrom also emphasized that emulation, praise and shaming aid in internalizing the new norm. Additionally, the compatibility of the new norm to other international norms and its wide use in international treaties also aid in the internalization of these new norm—Finnemore and Sikkink refers to this as the 'adjacency, precedence, and fit' of new norms (1998: 908). When a norm becomes highly institutionalized and taken for granted, the norm becomes 'unobjectionable' and that "it is appropriate to follow the norm and immoral not to" (2005:32).

Elgstrom furthers this idea of an 'unobjectionable' norm by asserting that these norms have to be continually consolidated, incorporated in legal texts and implemented in organizational contexts. The continuous consolidation increases the internalization and diffusion of these norms even to other environments coupled with the tendency to expand the scope of a general norm to include other issue areas (2005:33).

### 2.3.2 Norms in Negotiation

The incorporation of a new norm into legal texts and the implementing it in policies occurs through negotiations. During these two stages, the new norm encounters resistance. Elgstrom posits that an unobjectionable norm encounters resistance for two reasons. First, "many different cultures and ideologies co-exist in a broad political context" (2005: 33). Some norms are given priority over others, hence, say in the European Union for example, we find some countries being leaders and others acting as followers. Since it is a taboo to criticise an unobjectionable norm, 'follower' states cannot criticise it openly and sometimes would try to water-down the effects of the new norm (*ibid*). There are also instances when an unobjectionable norm contradicts with another norm (the openness norm versus privacy norms). Instances like this, Elgstrom proposes that objectors of the new norm would argue for exceptions (*ibid*). These types of objections occur during text negotiation in the legalization phase in

which norms have to be defined and interpreted in a policy context (*ibid*) and also during the implementation phase where organizational norms form a resistance to the new norm.

## 2.4 Acting in an Accommodative Structure

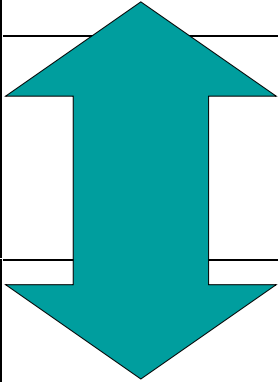
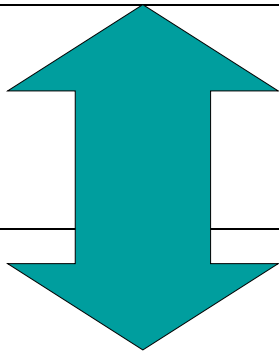
A system in which decision-making competencies are shared, and that collective decision-making weakens the control of the state and the *interconnectedness* of the policy arenas render the EU rather porous and vulnerable favoring transnational advocacy networks. In a system in which decision-making competencies are shared, transnational advocacy networks are able to influence or at least presented with different institutional avenues to operate. Most transnational advocacy networks try to influence the Commission. First, because of its independence from state-control (treaty-wise) and most of all due to its sole right of initiative (most important especially in the case of LGBT's in Europe in which they are operating under unfavorable, in some instances, vocal opposition from domestic politicians). Secondly, because of the Commission's actions themselves—it is actively seeking networks to participate in policy-making.

In the addition to the different EU-institutional avenues to influence, the interconnectedness of policy arenas allows LGBT's to choose which arena that are more favorable (whether the separate but connected arenas of different states or through supranational institutions such as the Commission) to influence. The state is no longer the only connective mechanism between the individual nation states and supranational institutions. Instead, the domestic-international divide is rejected in favor of a more open system and with different actors and different levels to influence. In short, given the openness of the system due to the sharing of competencies, the weakening of the state and the interconnectedness of policy arenas, the EU is a fertile ground for transnational advocacy networks to operate and most importantly, it has empowered non-state actors to promote their interests.

The characteristics of EU policy innovation (in the face of deadlock) is also favorable to TAN's. Heretier (1999) argues that even in the face of deadlock, policy innovation is possible in multiple ways. Firstly, integrative bargaining in the European Union enables participants to collectively deliberate and develop new policy solutions. Secondly, the availability of alternative negotiation arenas whether through the Commission, the Council or the European Parliament or even outside the European Union is positive towards TAN's because these organizations are able to choose which negotiating table are favorable to their interests. Thirdly, TAN's can point to an international body like the European Union to legitimize their cause. Fourth, the incorporation of varying interests help in policy introduction because the diversity of interests are represented in the policy-making structure. In doing so, the multiplicity of policy demands creates strong political debate on one issue and takes the attention away from the actual policy-making. This situation is accommodative to transnational advocacy networks because its interest is officially acknowledged and incorporated into the policy making machine and in some instances, issues that create stronger and louder political debate can actually insulate other policy

issues and in effect, proceed with little notice from the public at large. Fifth, the existence of a self-interest supranational body that is continually trying to expand its role in the political system not only helps policy-making in the face of deadlock by acting as the coordinator of the policy-making process but in a way empowers TAN's because of the multiplicity of actors but more importantly, its active role in trying to include non-state actors in the policy-making process.

**Acting in an Accommodative Structure (Table 2.4)**

<b>Multilevel Governance System</b>	<b>Why Accommodative to Transnational Advocacy Network</b>	<b>Policy Introduction in a Multilevel Governance System (with the threat of deadlock)</b>	<b>Why Accommodative to Transnational Advocacy Network</b>
Shared decisional competences	Availability of multiple actors or institutions	Integrative mode of bargaining	Inclusion of multiple participants to deliberate and develop new policy solutions
Weak member state control	The state is no longer the only connective mechanism to influence the European Union	Availability negotiation arenas	Ability to choose which negotiation arena is favorable to the organization's policy interests
Interconnected political arenas	Availability of multiple arenas for political contestation	International body	A source of legitimation for TAN's
		Incorporation of varying interests into the policy-making machine	TAN's in some cases are officially acknowledge by the machinery and can be a source of information
		Self-interested bureaucratic body	TAN's take advantage of the Commission's bureaucratic interest



### 2.4.1 Why Norms?

I find Elgström's norm negotiation perspective necessary because at first instance, in addition to technical-oriented policies, the Union also produces highly contested policies that are very much laden with moral prescriptions (the protection of workers from discrimination on the basis of sexual orientation for example). The formulation of these substantive policies, at the most fundamental level occurs through the competition different conceptions of morality. What is key on Elgström work in this master's thesis is his idea of an 'unobjectionable' norm. The norm of human rights is a pervasive norm in the European Union. For transnational advocacy networks such as the LGBT's, linking their cause (through framing) to a pervasive norm or an unobjectionable norm in the process of consolidation empowers these TAN's because it is rather taboo to criticise these pervasive norms.

## 2.5 Transnational Advocacy Networks

So far in this thesis, I have provided the background or the structure where TAN's act to influence policy introduction. This section is geared towards elaborating the agency to TAN's in the context of the EU structure. I shall start with the definition of transnational advocacy networks, followed by a discussion of the tools TAN's used to affect policy introduction and lastly, a discussion concerning the assessment of TAN efficacy.

### 2.5.1 Definition

Before proceeding to the discussion of the strategies, goals and strengths of transnational advocacy networks, it is necessary to specify what the *network*, *transnational*, and *advocacy* mean in the concept 'transnational advocacy network'.

*Network* is an organizational form which largely characterized by voluntary, reciprocal and horizontal patterns of communication and exchange (Keck and Sikkink 1998: 8) while the term *transnational*<sup>2</sup> is used because of the domestic and international reach of these organization and the term *advocacy* is used mainly because they defend a cause. I will go on more details about *networks* because this concept is the most important of the three.

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<sup>2</sup>Given that *transnational* implies that one is *transcending* the boundaries of the state. In the case of LGBT's I find rather fitting that the *trans* in *transnational* could also mean that the LGBT networks in the EU is *transgressing* not only the limits of the state but also entrenched hetero-normative structures in the EU polity.

Walter Powell describes these networks as “lighter on their feet than hierarchy” and are “particularly apt for circumstances in which there is a need for efficient, reliable information” although his work centers on the study of economic networks (1990: 295-296, 303-304), these characteristics as we shall see in the analysis, are also found in political networks such as the LGBT groups in Europe. Additionally, networks challenge the common view of political space (Jonsson and Stromvik 2005: 15). The state-centric view of international and domestic politics conceptualizes the political space in territorial terms—a view that marks physical boundaries between the inside and the outside. In a network, spatial discrimination exists not in an inside-outside dichotomy but whether an actor is plugged/connected or not into the web of ‘discreet nodes bounded by links’ (*ibid*). In the EU network, an individual might have more contact with another person working on a specific issue than with his/her colleague—a situation that runs counter to the state-centric conception of the political space. Given that personal relationships play a significant role in networks, the key element of a network is its relative non-hierarchy and informality (*ibid*).

It is important to state here that networks do not fall like bread from heaven. In the European Union, Alex Stone Sweet and Wayne Sandholtz in ‘Integration, Supranational Governance, and the Institutionalization of the European Polity’ posit that the Treaty of Rome encouraged the transnationalisation of interests (1998:2). This implies that networks in the European Union have some ‘element of conscious organisational design’ (Jonsson and Stromvik 2005:17).

Jonsson and Stromvik (2005) continues with their work on networks by identifying key characteristics of networks (based on their illustrative cases on community actions for the elderly, the deregulation of the telecommunications market and the EU military mission to the Democratic Republic of Congo). Firstly, networks are ‘issue based’ and that knowledge of the particular issue is a prerequisite in participating in these networks. Secondly, very much like the propositions of Keck and Sikkink (1998), Jonsson and Stromvik claim that networks transcend ‘organisational boundaries’ non-governmental organizations (NGO’s), international organizations (IO’s), governmental organizations (GO’s) and in different political levels whether it is regional or subnational. Thirdly, they point that networks are not entirely ‘flat or horizontal’. They are essentially pointing to the importance of a powerful *linking pin* organisation such as the European Commission who serves as ‘broker and communication channel’ for the networks (2005: 18).

Transnational advocacy networks “are organized to promote causes, principled ideas and norms and they often involve individuals advocating policy changes...” (Keck and Sikkink 1998:8). It is also key to mention that these organizations are motivated by values rather than material concern. Furthermore, it is an international group of actors bound by “shared values, common discourse, and dense exchanges of communication and services (Keck and Sikkink 1998:2).

What is new about this type of networks is the “ability of these non-traditional international actors to mobilise information strategically to help create issues and categories and persuade, pressure and gain leverage over much more powerful organizations and governments (Keck and Sikkink 1998:2)

### 2.5.2 The Transnational Advocacy Network Toolbox

Keck and Sikkink identifies four tactics that TAN's use (1998: 16). The following are all part of a TAN's tool box where it can draw strategies to affect policy making. They are as follows:

- 1) *Information politics*, the ability to quickly and credibly generate politically usable information and move it to where it will have the most impact.
- 2) *Symbolic politics*, the ability to call upon symbols, actions, or stories that make sense of a situation for an audience that is frequently far away.
- 3) *Leverage politics*, the ability to call upon powerful actors to affect situation where weaker members of a network are unlikely to have influence.
- 4) *Accountability politics*, holding powerful actors to their previously stated policies or principles.

Another tool that TAN's utilize in affecting policy making is *framing*. A *frame*, Goffman claims are, "principals of organization which govern events... and our subjective involvement in them; *frame* is the word I use to refer to such of these basic elements as I am able to identify" (1974:10 my emphasis).

*Frames* are basic cognitive structure that guide the perception and representation of reality (Konig 2006). Drawing from this basic definition of *frame*, framing is understood here as "conscious efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action" (McAdam, McCarthy and Zald 1996).

While transnational movements do not necessarily use everything in this toolbox, it is essential to investigate the LGBT transnational movement with these in mind. On occasions where one of the tools do not work, members actively seek creative ways and finding hospitable avenues (Keck and Sikkink 1998:16).

### 2.5.3 Assessing TAN Efficacy

Keck and Sikkink notes that in order to determine the influence of TAN's it is essential point out the network's goal achievement in different levels/stages. The first level is *issue creation and agenda setting*. Networks bring forth attention to their specific issue and help set agenda when they generate interest from the media, debates and discussions on issues that had not been a matter of public debate. Secondly, networks have *influence on discursive position of states and international organizations* when they effectively persuade these states or international organizations to support international declarations or change policy positions. In some instances, networks can also persuade these

international organization or states to sign conventions or codes of conduct. Thirdly, networks can have *influence on institutional procedure*. When networks are successful in this stage or level, procedures such as access to previously restricted documents can help the network develop strategies that are more appropriate for the target. If the target is effectively pressured or persuaded to become more open in general, the network is able to make inside contact and in some cases develop a strategy where pressure can come from within. The fourth and fifth levels are *influence in policy target actors which may be states of international organizations* and *influence on state behavior*. These two levels are seen as a sort of result if the first three are achieved. It is important to note here that these levels or stages of influence should not be taken as *types* of influence. If the network is able to generate public interest and attention followed by the discursive positions of states and their procedures, Keck and Sikkink theorized that at this juncture, targets become more vulnerable to the network's claims. They also theorized that when the first three levels are achieved, meaningful policy change can occur (1998: 25-26).

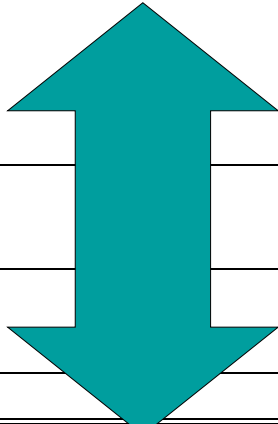
Keck and Sikkink also posit that in addition of to the levels of influence, two important points must be taken into consideration : *issue characteristics* and *actor characteristics*. The characteristics of an issue is very important in assessing the efficacy of a transnational advocacy network because some issues are easily framed to the network's favor and as a result, resonate with the public more effectively. Issues involving right and wrong are accommodative to TAN's because they engender strong feelings from the public. Problems whose causes are assigned to individuals, as Keck and Sikkink would argue, are accommodative to TAN's rather than a problem that is structurally rooted. Both scholars point out that there two issue characteristics that TAN's have organized most effectively: first, issues involving bodily harm to vulnerable individuals especially when there is a clear and short causal chain in assigning responsibility; and secondly, issues involving legal equality and opportunity (Keck and Sikkink 1998: 27).

However accommodative the issues are for TAN's, there must capable actors who are competent in transmitting messages and targets who are vulnerable to persuasion. Networks work best when they are dense, meaning the regularity and spread of information and exchanges. I stress the difficulty in measuring the density of networks here because networks can be dense but ineffective. The number of participating individuals or groups in a network should be taken as a first 'tell-tale' correlate of efficacy but not a determinant of efficacy. Instead, I favor a more intimate case-by-case approach in assessment. As for the target actors (whether they are states or international organizations), they must be vulnerable to incentives whether material or sanctions from outside actors. Keck and Sikkink posit that states are most vulnerable when they aspire to belong to a "normative community of nations" (1998: 29). This assertion however implies a view that state interact in a socialization process ( Finnemore 1996). Keck and Sikkink theorized that states are potentially vulnerable when they are actively seeking to reform or improve their image in global politics.

Given an open governance system and an accommodative policy making environment , I aim in this thesis to test the propositions of Keck and Sikkink concerning the efficacy of transnational advocacy

networks. The following section is a presentation of the case. After the presentation of the case, I shall analyze the case mainly within the boundaries set by Keck and Sikkink while keeping in mind that new insights could arise in the case of the LGBT's.

**Factors to Consider In Assessing TAN Efficacy** (Table 2.5.3)

<b>TAN Tool box</b>	<b>Stages/ levels to Influence</b>	<b>Issue Characteristics</b>	<b>Actor Characteristics</b>
1. Information politics	1. Issue creation and agenda setting	1. Bodily harm	Experience in the field of political activism
2. Symbolic politics	2. Discursive position of states and international organization	2. Legal equality and opportunity	
3. Leverage politics	3. Institutional procedure		
4. Accountability Politics	4. Policy target actors		
5. Framing	5. State behavior		

## 3 LGBT Transnational Advocacy Network in the European Union

### 3.1 A Short Organizational Background of the International Lesbian and Gay Association-Europe

The International Lesbian and Gay Association is a an international network of national and local groups whose aim is to achieving equal rights for lesbian, gay, bisexual and transgendered (LBGT) people. This international organization was founded in 1978 and now has more that 400 member organization in every continent in approximately 90 countries. These member groups can be small collectives or national groups or even entire cities. ILGA is the only international not-for-profit NGO focused on presenting sexual orientation-based discrimination as a global issue (ILGA World Website).

ILGA-Europe<sup>3</sup> on the other hand shares the same basic non-profit and NGO characteristics of ILGA-World but focuses mainly on the plight of LGBT's in the European Continent. ILGA-Europe was established in 1996 as a separate region of ILGA-World. For the moment, it boasts a membership of 200 organization in Europe. In the Council of Europe, ILGA-Europe enjoys an official participative status. One of the main sources of funding for this umbrella organization is the European Community. ILGA-Europe has an office in Brussels ( ILGA-Europe Website).

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<sup>3</sup>There are also other regional ILGA groupings namely; ILGA-Asia and ILGA-America Latina y Caribe.

## 3.2 Vision and Mission

ILGA-Europe's vision "is of a world in which the human rights of all are respected and everyone can live in equality and free from discrimination on the grounds of sexual orientation and gender identity or expression". Its mission are is "to act as a voice at European level for the rights of those who face discrimination on the grounds of sexual orientation, gender identity, or gender expression;"

- to promote the right to equality and freedom from discrimination by lobbying and advocacy, and by educating and informing the European institutions, media, and civil society;
- to strengthen the capacity of European human rights organizations fighting against sexual orientation, gender identity and gender expression discrimination to work for equality through their involvement in advocacy campaigns and networking, the exchange of best practice, the dissemination of information and capacity building programmes. (ILGA-Europe Website)

## 3.3 Values

ILGA-Europe is guided by five values that guides their actions across Europe. First is the respect for fundamental human rights especially on equality and freedom from discrimination, gender quality and self-determination. Secondly, ILGA values international solidarity in fighting against oppression and discrimination within Europe and other parts of the world. Third is the full, democratic involvement and membership in policy development and transparency. Fourth, ILGA emphasizes inclusive inclusivity in terms of diversity and accessibility. Last is effective delivery of advocacy or anti-discrimination campaigns and capacity building programs (ILGA-Europe Website).

## 3.4 Strategic Objectives

ILGA-Europe has six major strategic objectives in Europe either through the European Union or through the Council of Europe. First, is to increase recognition of fundamental human fights. Second, is to facilitate greater integration in the labor market. Thirdly, the organization work towards full social inclusion especially concerning to access of goods and services. Fourth, is to increase recognition of the diversity of family relationships. The fifth strategic objective is to strengthen capacity of member organization. Lastly, is to strengthen capacity of ILGA-Europe to achieve its mission ( ILGA-Europe Website).

## 3.5 Achievements

In my own estimation, ILGA-Europe is very modest in their assessment of their achievements in the European Union. Their official position regarding their achievements in the European, at the minimum, is that they have brought greater visibility and awareness of discrimination on the grounds of sexual orientation and on gender identity discrimination which until in the 1990's approximately, were largely ignored by EU policy makers (ILGA-Europe Website).

There are three major policy (introduction) wins for ILGA-Europe. First, the inclusion of discrimination on the basis of sexual orientation in the anti-discrimination provisions of the Amsterdam Treaty. Secondly, the inclusion of the same theme/clause in the EU Charter of Fundamental Rights. Thirdly, is the 2000 Employment Directive prohibiting discrimination on the basis of sexual orientation (ILGA-Europe Website). I shall return and expand on the third 'win' later in the thesis to illustrate how this network managed to be successful in pushing the interests in the EU .

It is also useful here to mention that in 2004, ILGA-Europe played an important role for the Commission's withdrawal of its nomination for Mr. Buttiglione as Commissioner for Justice and Home Affairs. ILGA-Europe in conjunction with Italian groups collected evidence on his views towards women and homosexuals. He is quoted saying that "the family exists to allow women to have children and be protected by their husbands" causing a backlash among women's (ArcigayVerona 2004). Mr. Buttiglione's nomination was rejected by the European Parliament when the civil-rights committee voted 27-26 against his nomination largely fueled by his comment (when asked about homosexuality) that, "I may think homosexuality is a sin, but this has no effect on politics unless I say homosexuality is a crime"(The Economist, 2004).



# 4 The 2000 Directive Prohibiting Discrimination in the Workplace on the Basis of Sexual Orientation

This part of the master thesis is an elaboration of the Council Directive 2000/78/EC of November 2000. The Council Directive 2000/78/EC of 27 November 2000 is considered one of the core achievements of ILGA-Europe. I will first tackle its treaty foundation and proceed with the elaboration of the directive itself. This chapter will be followed with an analysis of the directive using the propositions by Keck and Sikkink.

## 4.1 Treaty Foundations Concerning All Types of Discrimination

In May 1, 1999 The Treaty of Amsterdam came into force and is considered by many to be a great victory in terms of fighting all forms of discrimination in the European Union. The Treaty of Amsterdam helped concretize existing clauses in the EC Treaty, for example pay-related discrimination between men and women (Art. 141). Additionally, the EC Treaty bans all discrimination on the basis of nationality (Art. 12) (Commission Website). What is key in Amsterdam with regards to LGBT's in the European Union is Article 13 where it states:

*Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. (Article 13, par. 1)*

Based on Article 13 of the Amsterdam Treaty, the Council of Ministers is enabled to take action in order to combat discrimination on the basis of sex, race, ethnic origin, religion, belief, disability, age and sexual orientation within the limits of the Treaty. Based on Article 13, The Council must unanimously approve the proposal of the European Commission after consulting with the European Parliament.

## 4.2 Council Directive 2000/78/EC of November 2000

The Council Directive 2000/78/EC of November 2000 established a framework for employment and occupation prohibiting discrimination on the grounds of religion, beliefs, disability, age and sexual orientation with the aim of putting the principle of equal treatment in the Member States. Given its strong treaty foundation, this directive had to be implemented by national laws of the Member States by December 2, 2003. However, some Member States have taken advantage of the possibility to request additional period of up to three years to implement selected provisions of the Directive (Commission Website).

At first instance, the principle of 'equal treatment' means "there shall be no direct or indirect discrimination" (Directive 2000/78/EC). This Directive defines the concept of direct and indirect discrimination. Direct discrimination is said to occur when a person is "treated less favorably than another is, has been or would be treated in a comparable situation" (*Ibid*). In terms of indirect discrimination, the Directive goes at length to specify the occurrence of this type of discrimination. The Directive states that:

*Indirect discrimination shall be taken to occur where in an apparently neutral provision, criterion or practice would put persons having a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with the other persons unless:*

*(I) that provision, criterion is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary, or*

*(ii) as regards persons with a disability, the employer or any person or organization to whom this Directive applies, obliged, under national legislation, to take appropriate measures in line with the principles contained in Article 5 in order to eliminate disadvantage entailed by such provision, criterion or practice (Directive 2000/78/EC).*

Additionally, the Directive provides victims of discrimination access to judicial or administrative procedure so they can fight for their rights and sanctions for those who discriminate. This Directive strengthens the position of victims because it puts the burden of proof to respondents and encourages victims to seek help of associations (Commission Website).

In this section I have presented one of the core successes of the gay and lesbian network in the EU from its treaty base in Article 13 of the Amsterdam Treaty to the Council Directive 2000/78/EC. I will now turn to an analysis of this specific achievement using the propositions of Keck and Sikkink.

# 5 Analyzing TAN Contribution Towards Directive 78/2000/EC

This part of the paper draws mainly from the work of Keck and Sikkink with regards to transnational advocacy network efficacy. In the work of Keck and Sikkink, they put forward different factors that contribute to a transnational advocacy network success. Although ‘success’ in this thesis is limited to policy introduction and not policy implementation, I still find their work important in illuminating what tools were used to affect policy introduction or change, under which stage they were able to influence other actors or structure, the characteristics of the issue and the characteristics of the actors themselves working for the LGBT TAN in Europe. I shall now turn to an examination of the events and actions that lead to the release of Council Directive 78/2000/EC with Keck and Sikkink’s propositions about transnational advocacy networks in mind.

## 5.1 The Transnational Toolbox

This section is specific to the Directive 78/2000/EC but it is important to state here that ILGA did not just draw on these tools for the Directive. These tools are continuously being used because new issues arise even after a ‘victory’ such as this Directive. Hence, I have included more recent materials in the section. I shall now turn to an examination whether Keck and Sikkink’s proposition on transnational advocacy networks were/are at work specific to the Directive and in ILGA in general.

### 5.1.1 Information Politics

Keck and Sikkink claimed that “information binds network members together and is essential for network effectiveness” (1998:18). In the case of ILGA-Europe, the key ‘information’ related feature of this organization is the fact that they have effectively utilized cyberspace. Nearly all ILGA-Europe member organizations (at recent count, 200) have websites and email contacts that enable members to

communicate with each other and inform each other with recent developments concerning LGBT rights in their home countries. On the part of ILGA-Europe, they act as the information coordinator, filtering key developments in Europe and publishing them through the ILGA-Europe website. In addition to the website, ILGA-Europe have also taken the initiative to compile important addresses to contact not just from one member organization to another but also key personnel in the EU to contact either through letter writing or document requests (After Amsterdam: Sexual Orientation and the European Union, 1999).

In addition to using cyberspace through websites, email and other electronic media sources, ILGA also utilizes television and print. In terms of print, ILGA issues regular press releases to be disseminated around Europe. The utilization of television is quite recent. Although, the aim of this section is to focus on ILGA's activities prior to the release of the Directive, it is worth mentioning that recently, ILGA released an advertisement concerning gay adoption where the child comes out to his parents as 'straight'.<sup>4</sup>

Prior to the Directive, ILGA-Europe assisted EP members to produce reports on homosexuality in the European Union. The Roth (1994) and the Squarcialupi (1984) reports underlined gay and lesbian discrimination in the workplace and have prompted resolutions for the equal treatment of gays and lesbians as well as debates in the European Parliament.

The utilization of information (either through established media forms like television and print or the internet) is key to ILGA because it connects its members together and allows them to be informed of each other's activities and as a result, they are able to appear to the outside as a united force and able to present their interests uniformly to institutions.

### 5.1.2 Symbolic Politics

Keck and Sikkink posited that symbolic interpretation "...create awareness and expand their constituencies" (1998:22). Transnational advocacy networks highlights powerful events to encourage other actors to participate in their cause.

The Squarcialupi report (1984) illustrated examples about workers being summarily dismissed in their workplace purely because of their sexual orientation. The report reads:

*There have been many cases reported in the press in recent years which reveal an*

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<sup>4</sup>To view this amusing advert, connect to [http://www.ilga.org/news\\_results.asp?LanguageID=1&FileID=724&ZoneID=4&FileCategory=3](http://www.ilga.org/news_results.asp?LanguageID=1&FileID=724&ZoneID=4&FileCategory=3)

*established practice of barring homosexuals from certain professions. One famous case is that of a Belgian teacher, Eliane Morrisens, who was dismissed purely because she stated during a television programme that she was a lesbian. An official in the German Army who stated in public that he was a homosexual without, however, ever having practiced homosexuality, was pensioned off because it was felt that this was irreconcilable with the fulfilment of his duties. An Italian doctor who admitted to being homosexual was dismissed from the health institute where he worked. (1-1358/83)*

This report was followed by debates in the Parliament and these situations created a rallying point for gays and lesbians in the European Union and these events can be considered one of the many common points for other marginal groups that from 1999 until 2001 ILGA-Europe along with UNITED for Intercultural Action and Mobility International banded together and discussed discrimination through seminars and how they can take advantage of the momentum of Article 13 of the Amsterdam Treaty (Stepping Stones and Roadblocks, 2001).

### 5.1.3 Leverage Politics

Keck and Sikkink posit that by “leveraging more powerful institutions, weak groups gain influence far beyond their ability to influence state practices” (1998: 23). There are two types of leverage; first is material leverage and the other is moral leverage.

Material leverage “usually links the issue to money or goods but potentially also to votes in international organizations, prestigious offices or other benefits” (*ibid*). Keck and Sikkink posit that in cases where institutions are recipients of money or aid, transnational organizations can raise awareness of the negative actions of these institutions and affect change. In the gay and lesbian movement in the European Union, I found it to be very difficult to show empirically instances that illustrate this specific proposition of Keck and Sikkink. If not of the time parameters of this research (ILGA actions until 2000), the insistence of ILGA that the EU consider the Copenhagen Criteria especially the clause referring to the respect of human rights (Europa Glossary) is actually a form of leveraging. I am inclined to mention this because gay and lesbians in some new Member States are just starting out to claim their rights not only in their home country but also in the European Union.<sup>5</sup>

Moral leverage, according to Keck and Sikkink involves on what researchers in transnational activism refer to as ‘mobilization of shame’ where “the behavior of target actors is held up to the light of international scrutiny” (1998: 23). Transnational advocacy networks pressure governments on the basis that these governments value the opinion of others. In the context of the EU, members of ILGA-Europe

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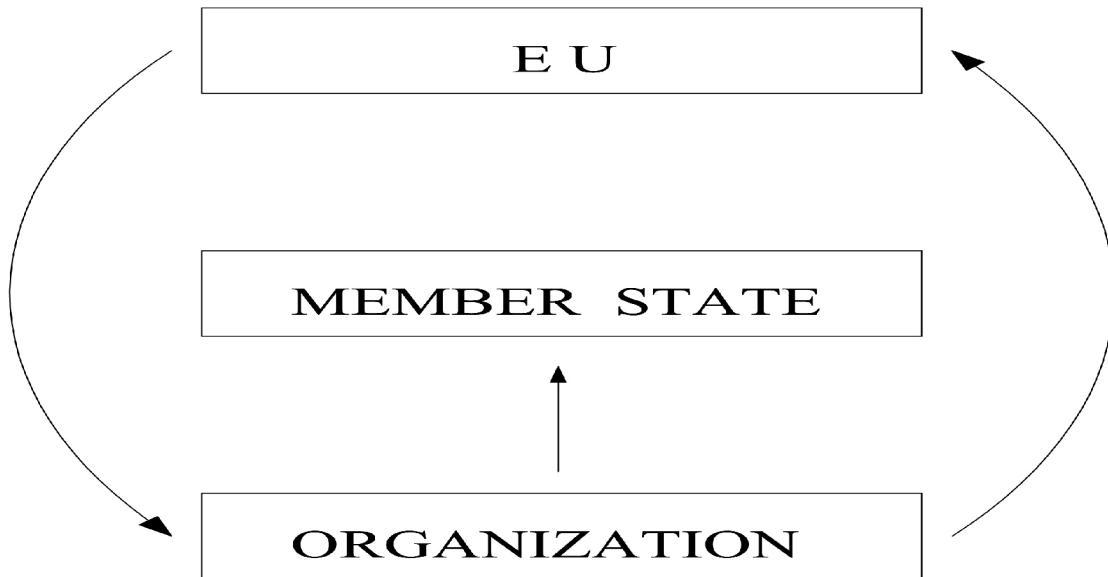
<sup>5</sup> In the case of Latvia, gays and lesbians for the first time in history had their gay pride march in 2005 (BBC, July 22, 2005).

worked together with the European Parliament and the European Commission to produce documents that highlight their discrimination in their home countries and in the process ‘shaming’ their governments. Again, I point out to ILGA-Europe’s partnership with the EP to produce statistics that convincingly show that workplace discrimination on the basis of sexual orientation exists. The special mention of Italy’s official view that homosexuality is treated as an illness is a powerful tool for shaming the country (1-1357/83).

As for newer members of the European Union such as Malta, gay activists look to ILGA-Europe and the EU to address their problems (Interview). In return ILGA-Europe and the Commission produce documents that highlight their discrimination and in effect shaming Maltese authorities (Challenge of Accession, 2004).

Keck and Sikkink's (1998) Boomerang Effect (Figure 5.1.3)

## THE BOOMERANG EFFECT





#### 5.1.4 Accountability Politics

Keck and Sikkink proposed that a transnational advocacy network can have an impact on governments if they hold governments to their previous commitments (1998: 24). Once governments have committed themselves to a principle, networks can take advantage of their position and their command in information to let the public know the distance between what these governments stated and what they are actually doing. Keck and Sikkink calls this distance between “discourse and practice” (*ibid*).

While it is very easy to say that declarations of governments as cheap talk in order to take attention away from the issue, transnational advocacy networks nevertheless take advantage to ‘pin’ governments to their stated positions. In the EU, ILGA-Europe lobbied for the inclusion of Article 13 in the Amsterdam Treaty starting from the ILGA European Conference in Riga, Latvia in 1995 (ILGA-Europe Activity Report 1996-1997). Given that Member States agreed to the inclusion of Article 13 in the Treaty and the package that came along with it in the form for the Directive 2000/78/EC, it is very difficult for Member States to take back their word and are effectively tied to their commitment to Article 13.

ILGA-Europe was effective in pushing Article 13 in the Amsterdam Treaty through meetings with Commissioners, Council Members and EU Parliamentarians (ILGA-Europe Activity Report 1996-1997). Furthermore, Steffen Jensen a key member of the ILGA lobby team stated meeting with the politicians “were rather effective” (Interview). In terms of Directive, while meeting with the Austrian presidency, ILGA-Europe had the impression that the Austrian were willing to cooperate with their demands (i.e. broad anti-discrimination approach) that ILGA-Europe immediately released a press statement stating their impression of the meeting (ILGA-Europe Activity Report 1997-1998). In this situation, ILGA-Europe has taken the actions of the Presidency to the public and in doing so, holding the Austrian Presidency to their words.

#### 5.1.5 Framing

Framing is understood here as “conscious efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action” (McAdam, McCarthy and Zald 1996). In the case ILGA-Europe, LGBT interests are framed in terms of human rights. This is very much evident in their vision of a world where “...the human rights of all are respected and everyone can live in equality and free from discrimination on the grounds of sexual orientation and gender identity

or expression” (ILGA-Europe Website). During the formulation of the Directive, ILGA-Europe argued that the Directive should have a broader human rights perspective and in fact, while meeting with the Austrian Presidency, ILGA-Europe did not just present the interests of gays and lesbians in the Union but also other marginalized persons covered under Article 13 (ILGA-Europe Activity Report 1997-1998). This blanket human rights approach also is also used by ILGA-Europe member organizations such as Rosa Letzebuerg to establish contact with other groups in society (Interview).

## 5.2 Stages of Impact

Keck and Sikkink posited that in order to assess the efficacy of TAN’s, it is necessary to look at goal achievement in different stages of network influence. In this section I shall review ILGA-Europe’s achievement on the following stages of impact that led to the release of the Directive.

### 5.2.1 Issue Creation and Agenda Setting

Prior to Article 13 of the Amsterdam Treaty and Directive 2000/78/EC, ILGA-Europe has already raised awareness of the issues surrounding LGBT discrimination in the European Union. In 1995, they continued their information dissemination to various EU institutions concerning the need for a treaty inclusion on anti-discrimination in accordance with the European Parliament resolution (The Roth Report). They have also lobbied for the inclusion of the importance that the Treaty should include non-discrimination on the grounds of sexual orientation, age or disability in the “Presidency Conclusions of the Madrid European Council Meeting on the 15<sup>th</sup> and 16<sup>th</sup> of December 1995 (doc. SN400/95). The inclusion of non-discrimination paved a way to more active lobbying for Article 13 in the Amsterdam Treaty and more importantly, the Directive, not just because it raised awareness amongst the members of the European Council but also to the public.

### 5.2.2 Discursive Positions of States

Keck and Sikkink posit that “networks influence discursive positions when they help persuade states and international organizations to support international declarations or to change stated domestic policies” (1998:25). Changing discursive positions in the European Union concerning issues relevant to gays and lesbians involves persuading important policy actors. ILGA-Europe effectively influenced the discursive positions of these states when they signed Article 13 of the Amsterdam Treaty. The lobbying through meetings, information dissemination and persuasion have proved effective in convincing these states to agree to Article 13.

### 5.2.3 Institutional Procedure

ILGA-Europe has influence in institutional procedure largely because it is a part of the Platform for European Social NGO's. The Directorate-General Employment and Social Affairs is in regular contact with ILGA-Europe to develop new policy solutions to end discrimination (DG Employment and Social Affairs Website). ILGA-Europe's 'insider' position allows the organization not only to be aware of the latest developments regarding LBGT rights in the EU but design responses to the actions of the Commission.

### 5.2.4 Policy Target Actors and State Behavior

Keck and Sikkink posit that "increased attention, followed by changes in discursive positions, make governments more vulnerable to the claims that networks raise" (1998:26). ILGA-Europe used all the tools identified earlier which resulted to the increased attention and changes in discursive position among states as well as its inclusion in the EU structure. Given that ILGA-Europe was able to affect agenda setting in the EU concerning discrimination and persuaded their way to influencing Member States, policy target actors and state behavior is thus modified. I find this reasoning consistent with Keck and Sikkink's assertion that "policy change is more likely when the first three types or stages of impact have occurred" (*ibid*).

I shall now turn to an examination as to other factors that contribute to TAN success.

## 5.3 Issue Characteristics

Keck and Sikkink claim that there are two issue characteristics that transnational advocacy networks are organized most effectively. First, are issues involving bodily harm (provided that there is a short causal story). Secondly, are issues "involving legal equality of opportunity" (1998:27). In and of themselves, these issue characteristics does not really contribute to the success of transnational advocacy networks. However, these issue characteristics can be harnessed by a transnational advocacy network as a powerful tool in order to communicate their interest towards not just to relevant policy actors but also to the public.

ILGA (all regional branches including ILGA-Europe) have compiled a world survey regarding anti-gay violence (ILGA-World Website). In 1997, five cases of violence against gay people were reported to the Flemish Federation of Gay and Lesbian Groups (ILGA-Europe member) but because most of these people were not openly-gay, they have chosen not report it to the authorities (*ibid*). Additionally, in 1995 Germany's phone line for homophobic attacks saw an increase of 15% (ILGA Activity Report 1995-1996). The compilation of physical attacks towards LGBT's in the European Union have on one

hand, encouraged members of ILGA-Europe to strengthen their efforts for LGBT rights and on the other, increased the visibility of gay violence by disseminating information to the public and to policy actors in the European Union.

In terms of legal equality of opportunity, ILGA-Europe has taken advantage of individual cases in the European Court of Justice. In the case of *Grant v. Southwest Trains* the ECJ ruled against the plaintiff reasoning that EC laws against sex discrimination does not cover sexual orientation (Hilson 2002: 238-255). While such actions at the EU level could be considered a defeat for LGBT's living in the European Union, ILGA-Europe has made great strides in publishing accounts of the case and have popularized the case in the European Union through its press releases (Euro-Letter 53, September 1997). In this case, ILGA-Europe was able to take advantage of the short causal story: Grant was not extended benefits because of her partnership with a person of the same sex. Although the decision of the ECJ went against Grant, her case has taken a life of its own and has become one of the key cases highlighting the plight of LGBT workers.

## 5.4 Actor Characteristics

Along with the tools and issue characteristics that TAN's use to affect policy introduction, there must capable actors to harness these available resources. ILGA-Europe has approximately 200 members in Europe. However, just as stated earlier in the thesis, the number of participants in the network does not really mean anything if they are ineffective in harnessing their resources. In trying to approximate the effectiveness of the main coordinator of the LGBT network, one only has to look at the experience of the people working for ILGA-Europe.

The Executive Director of ILGA-Europe, Patricia Prendiville, has a long history in fighting for equality and social inclusion. She started her work with The Right to Choose Campaign in Ireland and became a board member of Lesbian Organizing Together in Dublin. She also hosted EU funded New Opportunities for Women Programs. She is also a co-founder of a company that focuses on community development support and training. Her expertise include organizational and team management and development, representation on national policy arenas associated with issues on equality and development and training to various NGO's (ILGA-Europe Website). Patricia's team include a program officer who is responsible for building the Moldovan LGBT movement, a policy officer who has focused her career on working towards non-discrimination in various areas such as the Employment Directive as well the social inclusion process, health and the Lisbon strategy. In addition to the program officer and the policy officer is a staff member who specialize in monitoring development in EU human rights agenda and institutions and human rights clauses in EU's association with third countries. ILGA-Europe also has an information and communications officer is responsible for ILGA's press releases (*ibid*). Along with the ILGA-Europe staff are the board members from various countries in Europe who have vast experience in lobbying, organizing and navigating the often confusing EU political body.

LGBT's in the European Union benefits from these individuals because they are able to bring to ILGA-Europe various expertise in the organization. Given that information about all of ILGA-Europe's activities are available in the internet, the cyber-centric network that they have created for effective communication and the prompt policy position replies they release for every EU action, I find their efforts, dedication and expertise contributive to the relative success of LGBT's in the European Union.

Keck and Sikkink also posited that target actors have to be vulnerable to material incentives or sanctions from outside actors and they are most vulnerable if they aspire to reform their image in global politics and to belong to a "normative community of nations" (1998: 29). Prior to release of the Article 13 and consequently Directive 2000/78/EC, ILGA-Europe held a conference in Brussels and met with MEP Outi Ojala, the President of the European Parliament Intergroup on Equal Rights for Gays and Lesbians and discussed social and human rights (Activity Report, 1997-1998). This meeting can be considered as form of hardening the EU's aim of developing a democratic identity.

Countries in European are not just attracted to the economic aspect of belonging to the European Union but also to the possibility of joining a group of democratic states who are enjoying peace, stability and prosperity (The Economist, 2001). Given the attractiveness of the EU, ILGA-Europe has established contacts with countries from Central and Eastern Europe and helping them with capacity-building as well as research on homosexual acceptance and attitudes to take advantage with this window of opportunity (Challenge of Accession, 2004).

# 6 Norms and the LGBT Transnational Advocacy Network

This part of the section will look at the importance of norms in assessing TAN efficacy. The first section is a discussion of the emergence of the anti-discrimination norm in the EU. The second section is discussion on the resistance of this norm in the policy introduction phase. The actual implementation of this norm will not be discussed because this thesis centers on TAN efficacy in policy introduction. The third section is an argument that the anti-discrimination norm is part of a family norms that stems from an 'unobjectionable' norm of human rights.

## 6.1 The Emergence of the Gay Anti-Discrimination Norm

Elgström posit that the process of norm diffusion starts out with norm entrepreneurs actively promoting a norm they favor (2005: 31). In terms of LGBT's in Europe, the serious discussion of discrimination in the workplace based on their sexual orientation did not really start until the 1990's (Hilson 2002). In the mid-nineties, ILGA-Europe formulated an action plan on how to affect European Union policy making. The action plan's aim to eliminate sexual orientation based discrimination. In order to achieve this aim, ILGA-Europe indicated a list of 24 initiatives to take and this list included a European Forum on Trade Unions and Homosexuality, a European List of Employers promoting equal opportunity policies for employees of the same sex and a European Network of Lesbian and Gay Documentation Centers to name a few (Euroletter 49, 1997). In addition to the action plans, ILGA-Europe continued to pursue traditional lobby tactics such as letter writing campaigns to present their interests in the European level. Whether these initiatives came to fruition or not, the important aspect of this ILGA-Europe move is the fact that they have established awareness concerning the conditions of gay men and women in the workplace. New norms usually become subject to debate but based on my research, I found no serious actions from organized groups to counter the new gay anti-discrimination norm that LGBT's in Europe are trying establish. No organized and direct opposition (with their own counter-norm) came forward to

stop or at least slow down the growth of this norm. Given that this new norm has no counter-norm, the gay anti-discrimination norm has a chance to spread further.

It is important to state here that the non-appearance of organized groups to counter the new norm cultivated by the LGBT's in Europe does not necessarily mean that all policy relevant actors agree to this new norm. It is merely in public that no groups came forward and criticized this new norm. In fact, the emergence of this new norm is response to the ingrained and overarching norm of heteronormativity existing in the European Union!

The next section is a discussion of the resistance that this norm had to endure to make it to the Amsterdam Treaty in the form of Article 13 and the resultant Council Directive 2000/78/EC.

## 6.2 Resisting the Gay Anti-Discrimination Norm

While in public, the gay anti-discrimination norm did not encounter any type of resistance, the situation in the negotiation table was a different story. During the negotiation of Article 13 of the Treaty of Amsterdam the Irish Presidency originally put forward a draft proposal similar to Article 13. However, when the Dutch Presidency commenced, 'sexual orientation', 'disability' and 'age' were removed (Activity Report 1996-1997) based on their argumentation that "The Conference could rather consider whether those concerns would not be better addressed in the context of the existing substantive policy provisions (e.g. social policy, education, vocation training and youth, public health" (translation by Nel van Dijk in Euroletter 49). In response to this surprising move, ILGA-Europe released a press statement (Euroletter 49, April 1997) and sent letter to the personal representatives of the heads of states of the European Union insisting that these words be put back in the clause. This move from the Dutch Presidency was so surprising that even ILGA member organizations in the European Union sent letters to their own foreign ministry. A number of the representatives answered and in the end the Dutch Presidency presented a revised draft which contained the same aspects of discrimination similar to the one put forward by the Irish Presidency ( Activity Report 1996-1997). It is also important to mention here that if it were not for the help of an ILGA-Europe ally, Nel van Dijk MEP for Dutch Groenlinks, ILGA-Europe would have not have had time to response to the move by the Dutch Presidency.

It is difficult to pin-point the exact reasons for the Dutch move largely because it was supposed to be a confidential document. I will not speculate as to what norm the Dutch Presidency based their action upon, whether it was the heteronormative norm at work or that they just did not see the point of a special provision. However, I maintain a minimum claim that Article 13 did have a counter norm that motivated the Dutch move.

Given that the gay anti-discrimination norm at first instance did not have a counter-norm in the public, and that it survived the Dutch move, it is important to argue here why such a new norm made it through Article 13 which produced the Directive 2000/78/EC. I shall now turn the argument that the gay anti-discrimination norm belongs to family of norms that is rooted to the ‘unobjectionable’ norm of human rights.

### 6.3 Human Rights Norm as Unobjectionable Norm

Elgstrom characterizes an unobjectionable norm as having a ‘taken for granted’ quality and that these norms are so “morally superior that it is considered almost taboo to criticise them” (2005: 31). With this definition in mind, let me first turn to a short of human rights.

The idea of human rights is a product of 17<sup>th</sup> and 18<sup>th</sup> century European thought (Rayner, The History of Universal Human Rights in [www.universalrights.net](http://www.universalrights.net)). The Bill of Rights was produced in England in 1698 and made the King subject to the rule of law. In the 18<sup>th</sup> century, John Locke argued that no-one should harm another’s life, liberty and possessions. In 1788, the French put forward the Declaration of the Rights of Man and of Citizens. In 1948 was the Universal Declaration of Human Rights followed by several rights conventions and in 1950 was the European Convention on Human Rights (*ibid*).

The long history of human rights in Europe has made human rights such an important part of European life that it is so well integrated into its political system. Human rights is even one of the key foreign policy of the European Union (Smith 2003). Human rights is so integrated in daily lives of many Europeans that it is considered one of the “core values” of the European Union (Europa, European Union Activities). In addition to it being a core value of th European Union, it is also one of the criteria for membership. The European Union has focused on protecting the human rights of everybody from 5 million migrant workers of the Union and even provided a European Refugee Fund (*ibid*). Given that human rights is a pervasive theme in the European Union and that it is quite unimaginable for anybody in the political system to criticize it, human rights can be considered an unobjectionable norm.

The gay anti-discrimination norm, women rights norm, equality norms and other all belong to the unobjectionable norm of human rights because at the very fundamental level, all of these related norms involve the very preservation our human dignity, our human right.

The gay anti-discrimination norm ‘fits’ into a larger norm that the European Union is based upon. Given that the ILGA-Europe’s actions and proposals are framed in a human rights perspective, it makes competing norm entrepreneurs think twice before criticizing ILGA actions.

ILGA-Europe was able to take advantage to of accommodative structure, the transnational toolbox it has, the types of network influence, the existence of self-interest bureaucracy and norm fit, helped in the passing of Article 13 and the subsequent Directive 2000/78/EC. I shall now turn to the conclusion of this study.



# 7 Conclusions: Establishing a New Approach in Understanding Transnational Advocacy networks

There were two purposes in this master thesis: one empirical and one theoretical. Empirically, I intended to examine the efficacy of a transnational advocacy network in affecting policy making in the European Union and whether the characteristics of the EU polity itself contribute to the capacity of transnational advocacy networks to affect change. Theoretically, I aimed to provide a more comprehensive framework in understanding transnational advocacy network success (where success is limited to policy introduction).

In the thesis, I have argued that the European Union is an accommodative structure. The accommodative-ness of the European Union is due to the sharing of competences, the weakening of state control and the interconnectedness of policy arenas. In such a porous system, transnational advocacy networks are able or at least presented with different institutional venues to operate. I have also established that most transnational advocacy networks try to influence the Commission largely due to its sole right of initiative as well as the fact that The Commission itself are open to the inputs of non-state actors. The interconnectedness of the policy arenas allow transnational advocacy networks to choose which arena are more favorable to their interests—the state is no longer the only connective mechanism between the individual nation states and supranational institutions. I have also argued that the characteristic of policy innovation in the European Union is also favorable to transnational advocacy network. Even if policy introduction in the European Union is always threatened with the possibility of deadlock, it is still possible because the mode of integrative bargaining enables participant to collectively develop new policy solution. Secondly, the availability of alternative negotiation arenas allows a transnational advocacy network to choose which institution is favorable to their interest. Third, the EU is a source of legitimation . Fourth, the multiplicity of diverse interests which are integrated into the policy-making machine. And lastly, the existence of self-interested bureaucracy such as the Commission helps in policy introduction because of its active role in including non-state actors. One of the key aspects of this study is that EU's multi-level governance structure and makes it easier for TAN's to influence.

TAN's are successful in policy introduction when they use the toolbox, frame the issue effectively, issue characteristics involving bodily harm and equality. Additionally, influence in issue creation and agenda setting, discursive positions and institutional procedures. However, the efficacy of a TAN is increased

give that it is acting in an accommodative and if the norm they are arguing for is a part of a family of norms that is closely related to an unobjectionable norm.

Given the new insights that I have found in this thesis, I propose that a new framework must be developed to further transnational advocacy network understanding. While Keck and Sikkink's proposition (tools, levels, and characteristics) is helpful in understanding transnational advocacy networks, it is also necessary to look at the structure it is operating on, both its governance system and its policy making characteristics. In addition to these factors one must also add the importance of unobjectionable norms in making some transnational advocacy networks more effective. Based on the results of the thesis, I leave the reader with different suggestions or proposals as to how to study TAN's more comprehensively.

- *The characteristics of policy innovation in this governance system*
- *The tools a transnational advocacy network can draw upon*
- *Goal achievement in the stages of influence as theorized by Keck and Sikkink*
- *issue and actor characteristics*
- *The existence of unobjectionable norms that of which the new norm could be part of*
- *Type of Governance*

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