

The Sexual Politics of International Norm Dynamics: The Contemporary Governance of Marriage Equality

By
Blain van Wyk



This thesis presented in fulfilment of the requirements for the degree of Master of Arts (Political Science) in the Faculty of Arts and Social Sciences at Stellenbosch University

UNIVERSITEIT
iYUNIVESITHI
STELLENBOSCH
UNIVERSITY

100
1918 · 2018

Supervisor: Prof. Pieter Fourie

March 2018

Declaration

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the sole author thereof (save to the extent explicitly otherwise stated), that reproduction and publication thereof by Stellenbosch University will not infringe any third party rights and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

Blain van Wyk
March 2018

ABSTRACT

In the last two decades marriage equality has emerged to become the dominant issue in contemporary (homo)sexual and queer governance in the so-called Western world. At the same time, there has been an increase in the strengthening of anti-homosexuality policies in the so-called non-Western world. Proponents of marriage equality have framed their arguments around human rights and full citizenship, while opponents have denounced LGBTQ rights as human rights and call for a return to ‘traditional’ values. This contestation between two groups in the international community presents an interesting phenomenon in global politics: the diffusion of marriage equality norms in opposite directions.

This study presents an in-depth analysis of two case studies: the (Marriage) Equality Movement and the (Marriage) Reactionary Movement. The Equality Movement is concerned with the legalisation of same-sex marriage, while the Reactionary Movement advocates the re-criminalisation of same-sex relations. In order to determine to what extent state and non-state actors contribute to international norm changes, it is imperative to understand how norms emerge, how they cascade through the legal framework, and at what point norms become internalised. The theoretical framework devised by Martha Finnemore and Kathryn Sikkink (1998) is utilised to test the role that the respective actors play in the pursuit of norm change. The utility of the norm life-cycle model is validated through its capability to account for changes occurring in domestic as well as in international institutions.

This study investigates how and why marriage equality has emerged as an important issue in contemporary global policy and practice as described and explained in the field of International Relations. The norm of marriage equality has been championed by *norm entrepreneurs*, in the first stage of the life cycle, who managed to get the norm onto the agenda of state actors. The study then turns to the second stage of the life cycle to illustrate how the norm *cascaded* through the international system, with several countries adopting the norm. This enabled the norm to reach its final stage of the life cycle where it is moving towards *internalisation*. On the other hand, the norm of anti-homosexuality has been championed by *norm entrepreneurs* who managed to re-introduce it. The Reactionary Movement presents an interesting case study as the *norm cascading* process is not applicable to the norm of anti-homosexuality; instead, the norm has moved towards *norm affirmation*. The final stage of the norm life cycle illustrates how the norm of anti-homosexuality remains *internalised*.

OPSOMMING

In die afgelope twee dekades het huweliksgelykheid die mees dominante kwessie rakend kontemporêre (homo)seksuele en queer regering in die sogenaamde Westerse wêreld geword. Terselfdertyd is daar 'n toename in die versterking van die anti-homoseksualiteitsbeleide in die sogenaamde nie-Westerse wêreld. Voorstanders van huweliksgelykheid vorm hul argumente rondom menseregte en volle burgerskap, terwyl die opposisie LGBTQ-regte nie as menseregte beskou nie en maak 'n beroep om terug te keer na 'tradisionele' waardes. Hierdie konflik tussen twee groepe state ontbloom 'n interessante verskynsel in internasionale politiek: die verspreiding van huweliksgelykheid in teenoorgestelde rigtings.

Hierdie studie verskaf 'n in-diepte analise van twee gevallestudies, naamlik die (Huwelik) Gelykheidsbeweging en die (Huwelik) Reaksionêre Beweging. Die Gelykheidsbeweging fokus op die wettiging van gay huwelike, terwyl die Reaksionêre Beweging 'n voorstander is van die herkriminalisering van gay verhoudings. Ten einde vas te stel tot watter mate staats- en nie-staatsakteurs bydra tot internasionale normverandering, is dit noodsaaklik om te verstaan hoe norme ontstaan, hoe norme deur die wetlike raamwerk versprei, en hoe norme internaliseer word. Die teoretiese raamwerk van Martha Finnemore en Kathryn Sikkink (1998) word gebruik om die rol van aktors te toets. Die nut van die norm lewensiklusmodel word geregverdig deur die vermoë daarvan om verandering in plaaslike sowel as internasionale instellings te verklaar.

Hierdie studie ondersoek hoe en waarom huweliksgelykheid ontstaan het as 'n belangrike kwessie in kontemporêre globale beleid en praktyk soos beskryf en verduidelik deur Internasionale Betrekkinge. Die norm van huweliksgelykheid is in die eerste fase van die lewensiklus voorgestel deur norm entrepreneurs, wie daarin geslaag het om die norm op die agenda van staatsakteurs te kry. Die studie verwys dan na die tweede fase van die lewensiklus om te illustreer hoe die norm deur die internasionale stelsel versprei het waar verskeie lande die norm aanvaar het. Dit het die norm in staat gestel om die finale fase van die lewensiklus te bereik waar dit na internalisering beweeg. Aan die ander kant het norm entrepreneurs het daarin geslaag om die norm van anti-homoseksualiteit weer voor te stel. Die Reaksionêre Beweging is 'n interessante gevallestudie, aangesien die norm verspreidingsproses nie van toepassing is op die norm van anti-homoseksualiteit nie. Inteendeel, die norm het beweeg na norm bevestiging. Die finale fase van die norm lewensiklus illustreer hoe die norm van anti-homoseksualiteit geïnternaliseer bly.

Acknowledgments

First and foremost, I am indebted to my supervisor, Prof. Pieter Fourie. I thank him for his guidance, his vital contributions, and his continued support throughout this journey. Thank you, Prof. Edwin Hees, for editing my thesis. Thank you to Stellenbosch University and the National Research Foundation for funding my studies. Furthermore, thank you to Prof. Amanda Gouws at Stellenbosch University, as well as Dr Danielle Bouchard, Dr Michelle Powell and Dr Lisa Levenstein at the University of North Carolina at Greensboro for introducing me to a vast range of literature on Gender and Queer Studies. A special thank you to my key informants for their time and invaluable input: Prof. Melanie Judge, Prof. Kopano Ratele, Dr Chet Fransch, Dr Danielle Bouchard and Mr Matthew Clayton. Lastly, a debt of gratitude goes to my parents, Adré and Rhian, and my brother, Lucian, as well as my close friends and extended family for their everlasting support and encouragement.

List of Acronyms

ACHPR	African Commission on Human Rights and People’s Rights
ACLU	American Civil Liberties Union
ACP	African Caribbean and Pacific
ACT UP	AIDS Coalition to Unleash Power
AIDS	Acquired Immune Deficiency Syndrome
ANC	African National Congress
ANO	Autonomous Non-Profit Organisation
CARES	Comprehensive AIDS Response Programme
CDA	Christian Democratic Appeal
DOMA	Defense of Marriage Act
DSD	Disorders of Sexual Development
EEOCC	Equal Employment Opportunity Commission
Egale	Equality for Gays and Lesbians Everywhere
EU	European Union
FBI	Federal Bureau of Investigation
FREE	Fight Repression of Erotic Expression
GAA	Gay Activist Alliance
GLF	Gay Liberation Front
GQS	Global Queer Studies
GRNL	Gay Rights National Lobby
HIV	Human Immunodeficiency Virus
HRC	Human Rights Campaign
IACHR	Inter-American Commission on Human Rights

IJRC	International Justice Resource Center
ILGA	International Lesbian, Gay, Bisexual, Trans and Intersex Association
IPC	Indian Penal Code
IR	International Relations
ISA	International Studies Association
LGBT	Lesbian, Gay, Bisexual and Transgender
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
LGBTQ	Lesbian, Gay, Bisexual, Transgender, and Queer
LGBTQIAP	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, and Pansexual
LSVD	Lesbian and Gay Federation in Germany
MENA	Middle East and North Africa
MP	Member of Parliament
MSM	Men who have Sex with Men
MSNBC	Microsoft National Broadcasting Company
NCSL	National Conference of State Legislatures
NGO	Non-Governmental Organisation
NYC	New York City
QPC	Queensland Penal Code
REC	Research Ethics Committee
RFSL	National Organisation for Sexual Equality (Sweden)
RP	Registered Partnerships
SF	Socialist People's Party (Denmark)
SOGI	Sexual Orientation and Gender Identity
SSU	Same-Sex Union

TV	Television
UDF	United Democratic Front
UK	United Kingdom
UN	United Nations
US	United States
USA	United States of America
WWII	World War II

Interview Questions

The following questions were used to guide the semi-structured interviews with the study's key informants:

1. Why do you think gay marriage has emerged as an important issue in contemporary global policy and practice?
2. Who are the key players involved in the framing and championing of queer governance?
3. Would you say that the cascading of gay marriage will materialise and diffuse further in the international sphere of thinking?
4. Would you say that gay marriage has been normalised, or is on the verge of normalisation in terms of legal norms and societal perceptions?
5. Why do you think there is such a big gap between legal norms and social attitudes of people where gay marriage is legal?
6. Do you think the legalisation of gay marriage will change people's attitudes toward queer people and be more accepting of their gender/sexual identity?
7. Would you say that countries where gay marriage / being gay is illegal are inherently homophobic?
8. To what extent do you feel that the so-called Western world is forcing their ideals on the so-called non-Western world? Is neo-colonialism at play here?
9. Do you agree with some queer theorists who argue that those who opt for gay marriage conform to heteronormativity?
10. Why is the issue of gay marriage so visible and strongly advocated for when some queer theorists argue that it excludes queer bodies with a lower socio-economic status (race, class, disability) and privileges the white middle-class queer body?
11. Would you say that gay marriage further perpetuates the inequalities that traditional marriage perpetuates?
12. Would you say that the fight for the legalisation of gay marriage has sparked a reactionary movement in so-called non-Western countries? Example, Russia's Anti-Propaganda Bill and Uganda's Anti-Homosexuality Act.
13. What role do institutions play in framing / enforcing norms regarding queer governance?
14. Do you think that (international) institutions (for example, the UN) have the right to tell (force) states to conform to international law?

15. Do you think these (international) institutions are relevant when their international laws differ from / do not influence a sovereign state's domestic laws?

Key informants

Bouchard, Danielle. Interview conducted on 13 July 2017. Dr Bouchard is an Associate Professor in the Women's and Gender Studies Department at the University of North Carolina at Greensboro. Her expertise is in the fields of postcolonial and poststructuralist feminisms, critical sexuality studies, and queer theory.

Clayton, Matthew. Interview conducted on 11 July 2017. Mr Clayton is a researcher and policy analyst at the Triangle Project – an LGBTI human rights NGO in Cape Town. His expertise is in the fields of public policy, LGBTI human rights, as well as sexual and reproductive health and rights.

Fransch, Chet. Interview conducted on 09 June 2017. Dr Fransch is a lecturer in the History Department at Stellenbosch University. His expertise is in the fields of sexual violence, race, and the histories of homosexuality.

Judge, Melanie. Interview conducted on 11 July 2017. Prof. Judge is an Adjunct Associate Professor in the Law Faculty at the University of Cape Town and an associate of the Centre for Law and Society. She is an expert on policy and law reform around gender and sexuality rights, particularly concerning homophobia-related violence, identity, politics, and social justice.

Ratele, Kopano. Interview conducted on 05 July 2017. Prof. Kopano is a Professor in the Institute for Social and Health Sciences at the University of South Africa (Unisa) and a researcher in the South Africa Medical Research Council and Unisa's Violence, Injury and Peace Research Unit. He is an expert on identity issues, violence, sexuality, and masculinities.

Table of Contents

Declaration.....	i
ABSTRACT.....	ii
OPSOMMING.....	iii
Acknowledgments	iv
List of Acronyms	v
Interview Questions	viii
List of Figures.....	xii
CHAPTER 1	1
Introduction and Rationale.....	1
Problem Statement	5
Research Question	6
Theoretical Approach.....	6
Research Design and Methodology	10
Ethical Considerations	11
Outline of Study.....	12
CHAPTER 2	14
The Recent History of Homosexuality and the Evolution of Marriage Equality.....	14
Introduction.....	14
Terminology.....	15
<i>Sex vs. Gender vs. Sexuality</i>	18
Gay and Lesbian Movement	19
<i>Stonewall</i>	20
<i>The HIV/AIDS Epidemic</i>	23
<i>The Inclusiveness of the Gay and Lesbian Movement</i>	25
Marriage.....	27
<i>Marriage and the Nuclear Family</i>	27
<i>Interracial Marriage vs. Same-Sex Marriage</i>	29
<i>Defense of Marriage Act (DOMA)</i>	30
<i>Same-Sex Marriage Around the World</i>	31
<i>The Role of Religion</i>	32
Queer Theory	34
<i>Queering Marriage</i>	35
World War II and the Cold War	38
<i>Hidden Holocaust</i>	38
<i>Lavender Scare</i>	42
LGBTQ Rights as Human Rights	44
Conclusion	47
CHAPTER 3.....	49
Constructivist Perspectives in IR	49
Introduction.....	49
Primary Narratives in IR.....	50
The Emergence of Constructivism.....	51
<i>Constructivism in IR</i>	51
<i>Constructivism in Other Disciplines</i>	53
Queer Theory	54
<i>Queering Theory</i>	54
<i>Queering International Relations (IR)</i>	57
Defining Norms and Institutions.....	61

The Norm Life Cycle	63
<i>Stage 1: Norm Emergence</i>	64
<i>Stage 2: Norm Cascading</i>	67
<i>Stage 3: Norm Internalisation</i>	69
Conclusion	70
CHAPTER 4.....	71
Global Championing of Same-Sex Marriage: Equality Movement	71
Introduction.....	71
Norm Identification.....	71
Stage 1: Norm Emergence	72
<i>Axel and Eigil Axlil</i>	73
<i>Jack Baker and Michael McConnell</i>	75
<i>The Importance of the HIV/AIDS Epidemic on Marriage Equality</i>	78
Stage 2: Norm Cascading.....	79
<i>The Netherlands: The Pioneer for Same-Sex Marriage</i>	79
<i>Framing Same-Sex Marriage as a Human Right</i>	83
<i>Legitimation, Conformity and Esteem</i>	86
<i>The Issue of Coercion</i>	89
Stage 3: Norm Internalisation	90
<i>'Separate but Equal'</i>	90
<i>A Queer Critique of Marriage</i>	93
<i>Moving Towards Normalisation</i>	96
Conclusion	99
CHAPTER 5.....	101
Global Opposition to Same-Sex Marriage: Reactionary Movement	101
Introduction.....	101
Norm Identification.....	102
Homophobic Legacies of Colonialism.....	104
Stage 1: Norm Re-Emergence	106
<i>Haruna Sebi and Jennifer Nabafu</i>	106
<i>David Bahati</i>	108
<i>Vitaly Milonov and Yelena Mizulina</i>	109
Stage 2: Norm Affirmation	111
<i>A Feminist and Queer Critique of Marriage</i>	113
<i>The Role of the Religion in Preventing Norm Cascading</i>	117
<i>Same-Sex Relations: A Western Import</i>	119
<i>Legitimation, Conformity and Esteem</i>	123
Stage 3: Norm Re-Internalisation	125
<i>Public Opinion</i>	125
<i>Internal Resistance</i>	126
<i>Reactionary Effects on the HIV/AIDS Epidemic and Research</i>	128
A Critique of the Norm Life-Cycle Model	130
Conclusion	133
CHAPTER 6.....	135
Conclusion	135
Synopsis of the Study.....	135
Solving the Research Problem	139
Answering the Research Questions	140
Areas of Future Research.....	142
BIBLIOGRAPHY	144

List of Figures

Figure 1: Norm Life Cycle	62, 138
Figure 2: Norm Resistance Life Cycle	133, 139

CHAPTER 1

Introduction and Rationale

The Stonewall riots of 1969 in New York City (NYC) are often regarded as the single most important event of the gay and lesbian movement in the United States of America (USA) (Altman and Symons, 2016: 38). The Stonewall riots took place on 28 June 1969 after police raided a gay bar frequented by drag queens and queer people of colour. These individuals, along with lesbian and gay individuals, battled against police surveillance of their private gatherings and police brutality against queer people. On 28 June 1970 the first gay pride march in the USA was held in NYC in honour of the Stonewall riots and subsequently every year since that first march. After the Stonewall riots and the politicisation of lesbian, gay, bisexual, transgender and queer (LGBTQ¹) rights, organisations such as the Gay Liberation Front (GLF), a New Left Group, and the Gay Activist Alliance (GAA) were formed (Cruikshank, 1992: 69). In the 1970s these organisations and the gay and lesbian movement were advocating for laws that would protect openly gay individuals from housing and job discrimination, for example. In recent years, however, the focus of the movement has shifted to the legalisation of same-sex marriage.

With the start of the new millennium the issue of same-sex marriage has taken centre stage in the discourse around LGBTQ rights. In the preceding years queer activists fought against policies such as the criminalisation of same-sex relations and sexual acts, discrimination based on sexual orientation within the workplace or hate crimes outside of the workplace, and gay men still not being allowed to donate blood. However, when the Netherlands became the first country to legalise same-sex marriage in 2001, the focus of the LGBTQ movement shifted towards advocating the legalisation of same-sex marriage – particularly in so-called Western countries.² At the same time there has been a significant tightening of anti-homosexual policies in many so-called non-Western countries such as Russia, for example, which implemented its Anti-Gay Propaganda Law in 2013 (Johnson, 2015: 44). Many argue that the legalisation of same-sex marriage is the civil rights issue of the new millennium. Whether this is true or not, the normalisation of same-sex marriage in Western countries and

¹ The acronym ‘LGBTQ’ is used throughout this study as opposed to ‘LGBT’. The inclusion of the ‘Q’ is deliberate as it disrupts (hetero)normative views and ideas around traditional LGBT scholarly work. The ‘Q’ also indicates the queer theory lens that guides this study.

² This study acknowledges that the terms ‘Western’ and ‘non-Western’ may be problematic as using them can be considered an aspect of an imperialist agenda. However, given the lack of better alternatives, the use of these terms is adopted solely because of their familiarity and to make the research to be more accessible to the reader.

the normalisation of anti-homosexuality in non-Western countries have become increasingly evident.

Contemporary attitudes in the West towards same-sex marriage and LGBTQ rights are often viewed as liberal. This has much to do with the fact that Denmark became the first country in the world to legally recognise relationships between same-sex couples in 1989 (Kollman, 2013: 1). These same-sex relationships were called Registered Partnerships (RPs) and were not regarded as marriage. This meant that same-sex couples did not enjoy the same financial benefits as married heterosexual couples. Some of these benefits included social security, health benefits and even inheritance rights, to name a few. In contrast, homosexuality was classified as a mental illness in Russia up until 1999. Nonetheless, on 1 April 2001 the first-ever legal same-sex marriage in the world took place in Amsterdam, the Netherlands. Not long after the Netherlands, countries such as Belgium (2003), Canada (2005) and Spain (2005) followed suit. In 2006 South Africa became the first non-Western country and the first and, as of October 2017, the only African country to legalise same-sex marriage. It was on 23 May 2015 that Ireland made history by becoming the first country to legalise same-sex marriage through a popular vote. More than 62% voted in favour of same-sex marriage (BBC News, 2015). Although civil partnerships between same-sex couples have been legal in Ireland since 2010, with the amendment of its constitution as a result of the referendum, same-sex couples who choose to marry will enjoy the same constitutional protection of families as heterosexual couples. As of October 2017 same-sex marriage is legal in 26 countries around the world.

Homosexuality has not always been accepted in Western Europe. Homosexuality was illegal in the United Kingdom (UK), for example, up until 1967. In 1957 the Departmental Committee on Homosexual Offences and Prostitution in Great Britain released a report stating that the criminalisation of homosexuality was an impingement on civil liberty and it stated that homosexual activity between consenting men in private should not be regarded as an offence (Clements and Field, 2014: 524). As a result, in 1967 the UK government passed the Sexual Offences Act, which decriminalised homosexual acts. In other Western European countries, it has become evident that countries such as Germany, for example, are aware that international standards of human rights practices are changing constantly. Also, a country like the Netherlands is mindful of whether or not they are regarded as progressive by their international counterparts in terms of tolerance and/or human rights innovation (Kollman,

2013: 13). Western European countries are particularly influenced by newly emerging human rights norms and how their international reputation will be affected if they do not conform to these norms.

The fact that liberal democracies are increasingly becoming aware of their international reputation with regards to human rights raises the question of whether the *norm*-alisation of same-sex marriage in the legal structure is being translated into the perceptions and attitudes of the broader global community. For example, same-sex marriage has been legal in South Africa for the past 11 years; however, queer individuals in the country are increasingly becoming victims of anti-gay violence. According to Altman and Symons (2016: 65), this type of anti-gay violence is often expressed through the rape of women who are perceived to be lesbian. These violent acts are also known as ‘corrective rape’, a term coined in South Africa. Clearly, laws and policies are not always sufficient to change the perceptions and attitudes of people.

However, with the increasing legalisation of same-sex marriage came a concomitant intensification of anti-homosexuality laws in non-Western countries. On 30 June 2013 Russia made a very strong statement when President Vladimir Putin signed into law anti-homosexual legislation: “For the Purpose of Protecting Children from Information Advocating a Denial of Traditional Family Values” (Johnson, 2015: 44). This law is more commonly known as the Anti-Gay Propaganda Law. This law strengthens the penalties for those who ‘promote’ homosexuality among minors. According to the autonomous non-profit organisation (ANO) TV-Novosti (2013), the law states that any individual who ‘promotes’ non-traditional sex relations to minors – via the media, adverts and internet – shall be fined. This law prohibits the LGBTQ community from distributing any pro-homosexual information to minors, and they are also prohibited from holding rallies in support of homosexuality. The All-Russian Public Opinion Research Centre (2013) conducted a public opinion poll, which revealed that 86% of Russians who participated in the poll believe that same-sex couples do not deserve the right to marry. Also, 42% believe that homosexual individuals should be removed from society or prosecuted. Russian attitudes towards the LGBTQ community have significantly changed in the last decade, as being gay or lesbian is increasingly seen as being abnormal, particularly after the establishment of the Anti-Gay Propaganda Law. This view has become the norm in Russian society.

It is argued that many non-Western countries resist or react strongly to issues pertaining to LGBTQ issues, because they construct it as a form of Western imperialism. Many of these countries feel that LGBTQ activism is a threat to their traditional family values. This was very evident in the passing of Uganda's Anti-Homosexuality Act on 24 February 2014. With the passing of the law in Uganda, the country has seen the rise of a culture that approves of extreme violence against homosexuals. Both state and non-state actors were free to persecute Uganda's LGBTQ community without exemption. However, on 1 August 2014 the Ugandan constitutional court declared the legislation as null and void. The reason for the court's decision rests on the fact that Parliament had passed the Act without the proper quorum (Gettleman, 2014). It is still illegal to engage in same-sex acts in Uganda, where people of the LGBTQ community can face lengthy prison sentences not only for same-sex acts but also for rationalising homosexuality. Uganda was heavily criticised by former president of the USA, President Barack Obama, and former British Prime Minister David Cameron, who threatened to cut foreign aid to Uganda if the legislation was not retracted. Supporters of the Act argued that these threats from the West were clear indications that their funding comes with the conditionality that the Ugandan government should not only accept their foreign aid but also their Western ideals and values. Laws against the LGBTQ community are, of course, not only specific to Uganda but are prominent in the larger African framework. In January 2014 Nigeria passed its Same-Sex Marriage Prohibition Act, which states that those who enter into same-sex marriage will face a prison sentence of 14 years. The death penalty is also a legal penalty for homosexual relations in Northern Nigeria, Mauritania, Sudan and Southern Somalia under Sharia law.

It is fair to say that there are two opposing sides to marriage equality – those who advocate for it in mainly Western countries, and those who advocate against it in mainly non-Western countries. For the purpose of this study, those who advocate for same-sex marriage are grouped together as the (Marriage) Equality Movement and those who oppose same-sex relations are grouped together as the (Marriage) Reactionary Movement.

It is important to briefly mention a group that falls under the LGBTQ umbrella but is to a large extent critical of same-sex marriage: queer theorists. Queer theory is a critical theory that is rapidly growing in the field of International Relations. Queer theory challenges heteronormative norms, questions the status quo and examines intersections of gender, sexuality, capitalism and the state through a queer lens (Picq and Thiel, 2015: 5). Some queer

theorists critique activism in favour of same-sex marriage, arguing that those who are in favour of same-sex marriage are conforming to heteronormative principles. While some queer theorists believe that same-sex marriage should be legal for the financial benefits it confers, others believe that it should be rejected. Those who believe that it should be rejected argue that the institution of marriage is an inherently violent institution (particularly from a (radical) feminist perspective) and that it is based on heteronormative and conservative traditional family values. Perhaps more importantly, some queer theorists warn that the legalisation permitting same-sex marriage does not necessarily mean that the oppressive sexual system will end or that society's attitudes on homosexuality will change.

Problem Statement

The legalisation of same-sex marriage has become a prominent global political issue over the past two decades. Although same-sex marriage is heavily critiqued by some queer theorists, who argue that the institution of marriage is heteronormative at its core, the issue of marriage equality remains at the forefront of the mainstream (Western) LGBTQ agenda. In reaction to this mainstream agenda, many Eastern European and African countries (amongst others) see this agenda as an expression of Western imperialism or moral outrage. As a result, a significant number of these countries have strengthened their anti-homosexuality policies. The Equality Movement of mainly the West, on the one hand, and the Reactionary Movement of the East/South, on the other hand, present an interesting binary/oppositional phenomenon within the discourse of social constructivism and international norm dynamics in International Relations.

Constructivists believe that reality is constructed through a combination of ideational and material facets of existence. Some scholars have used international norm dynamics to examine the normalisation of same-sex unions in liberal democratic states (see Kollman, 2013). Conversely, others have used international norm dynamics to examine the international polarisation of antagonistic norms (see Symons & Altman, 2015). The research problem or challenge of this study is to identify, describe and explain this constructed normative binary, and in particular the emergence, diffusion and internalisation of the two opposing norms around same-sex marriage in contemporary global politics. Martha Finnemore and Kathryn Sikkink's 1998 article, "International Norm Dynamics and Political Change", is key for doing so. This study aims to gauge the heuristic utility of Finnemore and

Sikkink's (1998) norm life-cycle model insofar that it can adequately explain the emerging norms of marriage equality and of marriage exclusivity.

Research Question

The study is guided by one primary and three secondary research questions:

How and why has marriage equality emerged as an important issue in contemporary global policy and practice as described and explained by IR?

The three secondary research questions are as follows:

1. Who have acted as the norm entrepreneurs in the framing and championing of global (homo)sexual and queer governance?
2. How have norms related to this materialised and diffused in the international sphere of thinking and practice?
3. Which institutions have been created and what norms inform their operation in global (homo)sexual and queer governance?

Theoretical Approach

In order to solve the research problem and to answer the research questions, this study applies the perspectives of social constructivism in IR. Constructivists believe that reality is constructed through the combination and consolidation of both the ideational and the material facets of existence. According to Lawson (2015: 156), constructivism emphasises the ideational, but the material is not dismissed as irrelevant. Reality is presented as a *construct* that contains the elements of the empirical or objective reality, but this is interpreted through the ideational or subjective. For example, constructivism is applied by interpreting the objective reality of *sexual* politics to fashion *gender* politics (where sex is a physical/empirical reality, as opposed to gender, which is socially constructed). The constructivist approach is useful for this study through its use of *ideation* in that it facilitates the shaping and the granularity of social interaction around contemporary (homo)sexual and queer governance, and in the way that it describes and explains the development of global norms around these issues.

Constructivism emerged in the late 1980s, when the Soviet Union was on the verge of collapse and neorealism and neoliberalism were still dominating the field of IR. Scholars

started to critique these orthodox theories in order to explain the novel behaviour of actors (norm entrepreneurs) in the global system. Two of these scholars were Rey Koslowski and Friedrich Kratochwil (1994), who argued that in politics (domestic and international) it is the actors (norm entrepreneurs) who are responsible for the reproduction and/or the alteration of systems through their behaviour (Adler, 1997: 342).

According to Onuf (1998: 58), constructivism is not so much a theory in the sense that it does not offer general clarifications for what people do, why societies differ from one another, or how the world changes. As an alternative, constructivism allows theorisation about matters that seem to be unrelated, because the concepts and propositions generally used to talk about such matters are also unrelated. Although its emergence within the field of IR is recent, constructivism has been used in other disciplines for many years. Some of these disciplines include sociology, philosophy, anthropology and history. Feminist, gender and queer scholars often analyse political events from a constructivist perspective, as they (as noted above) find it useful to reinterpret the objective reality of sex to explain the constructed and contested reality of gender politics. As such, this study also examines the role of queer perspectives and the work of queer scholars in the discipline of IR. This is primarily done by examining the work of Cynthia Weber (2014, 2015, 2016) who argues that there is, or rather, appears to be, no queer international theory.

What constructivists in these diverse fields of the social sciences have in common is that they view the construction of the world to be as much a physical reality as it is an ideational reality – arguing that the latter may be equally (if not more) important. In the case of IR, constructivists are interested in ideas, values and norms and how they influence the realities of global politics. According to Ruggie (1998: 878), constructivism is about the issue of human consciousness and the role it plays in international life, and it contends that identities and interests are socially constructed. Hence, the theory of social constructivism argues that the interests pursued by actors are based on norms and values which define their social (and political) identity.

It is important to acknowledge that several contributions have been made by constructivists within the IR framework. For the purpose of this study, contributions from Alexander Wendt, Nicholas Onuf, John Ruggie, Emanuel Adler and in particular the work of Martha Finnemore and Kathryn Sikkink provide the theoretical framework. Finnemore and Sikkink's (1998)

work on international norm dynamics has been particularly influential in the fields of constructivism and IR.

Finnemore and Sikkink (1998: 891) define a norm as a “standard of appropriate behaviour for actors with a given identity.” Norms are agreed-upon expectations and rules by which a culture guides the behaviour of its members in any given situation. It is important to note that norms vary widely across cultural groups. Many of these norms turn into laws, which can be seen in the case of the USA, for example, where the broad social acceptance of LGBTQ individuals and same-sex relationships resulted in the legalisation of same-sex marriage. Such laws are formal bodies of rules enacted by the state and backed by the power of the state. Judge (2017) argues that the law sets the framework for the production of social attitudes, where law is defined as “a site in which social ideas and meanings are produced” (Interview, Melanie Judge, 11/07/2017). In other words, if the law is discriminatory, then it is more conducive to creating an environment for citizens to hold discriminatory values. However, if the law is inclusive and embracing, then it is more viable for social actors to invite that kind of embracing and inclusion. This means that members of a culture must on the whole conform to its norms for the culture to exist and function. Hence, members of a society want to and are obliged to conform and obey the values expressed as rules.

The body politic must first internalise the social norms and values that dictate what is regarded as normal for the culture; then it must implement or teach norms and values to the society. If internalisation and socialisation fail to produce conformity, some form of social control is eventually needed. Social control may take the form of ostracism, fines, punishments and even imprisonment. This is especially evident in the case of Uganda and Russia, where homosexuality can result in imprisonment, or in Iran, where sexual intercourse between men is punishable by death in accordance with Sharia law. Note that these examples reflect the national level of analyses. However, norm dynamics are not limited to what happens inside states: take, for example, how international and transnational norms have become institutionalised and turned into laws on the issue of women’s suffrage.

In the late 19th century the issue of women’s voting rights gained prominence. There was a particularly strong movement in countries such as the USA and the UK, even though they were not the first to allow women to vote. Countries such as New Zealand (1893), Australia (1903) and Finland (1906) paved the way for the cascading of this new norm (Markoff, 2003: 91). Article I of the United Nation’s (1953) *Convention on Political Rights of Women* states

that '[w]omen shall be entitled to vote in all elections on equal terms with men, without any discrimination.' Keep in mind that these rights (privileges) mostly pertained to white women. In the case of the USA, Native American women were allowed to vote only in 1924 (Indian Citizenship Act), Asian women in 1952 (McCarran-Walter Act) and African-American women in 1964 (Voting Rights Act). This is in contrast with white women, who were granted voting rights in 1920. Similarly, in the case of South Africa, women of colour were allowed to vote only in 1994. White South African women had been granted voting rights in 1930. Needless to say, in these cases the construct and normalisation around the superiority of the white race is evident. However, in the broader construction and normalisation the issue of women's suffrage serves as a worthy example of a transnational norm becoming internalised, especially given the fact that as of October 2017 Vatican City remains the only country in the world that has not granted women voting rights.

According to Finnemore and Sikkink (1998: 891), in order to study norms one must study the "extensive trail of communication among actors." This approach points to the process of persuasion. The process of persuasion is central to determine the level of progress that occurs within the norm life-cycle model. This study explains the contemporary governance of homosexuals and queers (in particular the *norm*-alisation of marriage equality internationally) through the norm life-cycle model. This model describes three stages, namely (1) norm emergence, (2) norm cascading and (3) norm internalisation. This model proves useful for this study as it identifies, describes and explains norms when they are first presented by norm entrepreneurs, how these norms then cascade into legal frameworks, and finally how they then become internalised.

The first stage in the norm life cycle, norm emergence, involves the process of persuasion by norm entrepreneurs (Finnemore and Sikkink, 1998: 985). They aim to persuade a large group of actors or individuals to accept a proposed norm. Therefore, it is important for norm entrepreneurs to make sure that the norms which they advocate get onto the agenda of major actors. For example, Axel and Eigil Axgil (norm entrepreneurs) were instrumental in their advocacy work for same-sex marriage in Denmark and globally. Stage 2 of the norm life cycle, norm cascading, consists of a socialisation process where individuals and actors in the global system conform to a particular norm. International institutions such as the United Nations (UN), for example, will often condemn and pressure governments or state actors who do not conform to (Western) ideas of universal human rights – as seen in Russia and Uganda

with their anti-homosexuality policies. The third stage, norm internalisation, refers to the moment when the norm reaches a point where it is no longer challenged and is accepted as a given. This norm life cycle is used to illustrate the phenomenon of the Equality Movement and the Reactionary Movement: the cascading of marriage equality in predominantly Western countries and the cascading (or norm affirmation) of anti-marriage equality (anti-homosexuality) in the vast majority of non-Western countries.

At bottom, the aim of this study is to make sense of these constructivist frameworks, specifically by applying Finnemore and Sikkink's (1998) norm life-cycle model. This is done in order to describe and explain the emergence of new norms in global politics, how they cascade and diffuse into legal frameworks, and how they become internalised. This is important in order to analyse how institutions influence decision- and policy-making of (homo)sexual and queer governance in contemporary global politics.

Research Design and Methodology

In order to explain the global norm cascading of marriage equality as well as its opposite, this study is based on consulting a number of academic journals, books and online databases to collect data. The method to collect the data for the study was the use of mainly secondary sources. This study is for the most part limited to a desktop study. However, primary data was also collected by conducting interviews. As a student of both Stellenbosch University and the University of North Carolina at Greensboro while conducting this study, the secondary data used was accessed through the libraries and databases of these two institutions. The sources used were focused on the topics of social constructivism and international norm dynamics and policy change, LGBT(Q) and gender studies and queer theory, as well as evaluations and critiques of same-sex marriage and anti-homosexuality policies. This study greatly benefited from the in-depth and semi-structured interviews. The interviews that were conducted focused on the normalisation of marriage equality, and the key informants were carefully selected based on their particular expertise on policy and legislation, LGBT(Q) issues, as well as gender studies and queer theory.

According to Burnham *et al.* (2008: 39), a research design is the logical structure of the research inquiry that the political scientist is engaged in. A research design that is appropriate for this study is a qualitative design. Qualitative research involves collecting information in depth but from a relatively small number of cases. This type of research is more concerned with issues of the richness, texture and feeling of raw data, because its deductive approach

emphasises developing insights and generalisations from the data collected (Neuman 2005: 137). This study seeks to contribute to existing data.

A case study design is useful for this study. Case study designs are extremely popular and widely used throughout the social sciences. According to Burnham *et al.* (2008: 65) a case study design can be based on single or multiple cases. As such, carefully selected multiple cases can provide a robust test of a theory. The case study design enables this study to describe and conceptualise the phenomenon of international norm cascades and marriage equality in the context of IR and within the carefully selected case studies. This study examines two case studies. The first case study is the Equality Movement – the norm cascading of marriage equality in countries where gay marriage is legal. The second case study is the Reactionary Movement – the norm cascading (or norm affirmation) of anti-homosexuality policies in countries where gay marriage is illegal.

The purpose of selecting two case studies for this study is not necessarily for comparative purposes. These two case studies provide an interesting look into the cascading of marriage equality in opposite directions. It is precisely as a result of this two-way cascading that the case studies are analysed within the theoretical framework of constructivism and international norm dynamics, more specifically the norm life cycle as presented by Finnemore and Sikkink (1998). These case studies illustrate the actors involved in the process of framing and constructing new norms that challenge existing norms within the sphere of global (homo)sexual and queer politics.

Ethical Considerations

Ethical considerations are very important when conducting research in the social sciences, in particular with regards to the collection of primary data. As such, research ethics have been followed very strictly in this study. The primary data was collected by conducting interviews. Key informants were carefully selected based on their expertise. Confidentiality of key informants is strictly maintained. If applicable, the identity of the key informant is disclosed depending on their permission to disclose their identity or not. This study follows the strict guidelines as set out by Stellenbosch University's Research Ethics Committee (REC) for Humanities, which granted ethical clearance.

Outline of Study

Chapter 1 is of a methodological nature and provides an introduction to, and formulation of, the research question and objectives. A background of this study is provided along with a theoretical framework to carry out the study. This chapter identifies the research problem this study is centred on, as well as stating the research questions that are posed in order to guide this study. This chapter focuses on the research design and research methodology. An explanation is provided as to which research methods are used, and why. Finally, this study acknowledges the ethical considerations with regards to its use of primary data.

Chapter 2 provides an overview of the recent history of homosexuality and the evolution of marriage equality as a political norm in global queer politics. It examines the significance of the Stonewall riots that led to the 1970s gay and lesbian movement and its objectives, the emergence of same-sex marriage, and opposition to it. An overview of queer theory and its critiques of heteronormativity is also provided. This chapter discusses historical events such as World War II (WWII) and the Cold War, with specific reference to the Holocaust and the Lavender Scare, respectively, and the treatment of homosexual bodies in these contexts. Also, this chapter gives an overview of global governance and international rights provided for the LGBTQ community.

Chapter 3 provides an overview of constructivism within IR theory, specifically as presented by Finnemore and Sikkink (1998), Wendt (1992), Adler (1997), Onuf (1998) and Ruggie (1998). This chapter also examines Weber's (2014, 2015, 2016) queer perspectives in relation to the discipline of IR. An in-depth look into Finnemore and Sikkink's (1998) norm life-cycle model explains how international norm change occurs. This is done by exploring the three stages of the norm life cycle: norm emergence, norm cascading, and internalisation. This chapter also focuses on the process that the norm entrepreneur needs to go through in order for a norm to be accepted and internalised.

Chapters 4 and 5 applies Finnemore and Sikkink's (1998) norm life-cycle framework to the selected case studies of, respectively, the (Marriage) Equality Movement and the (Marriage) Reactionary Movement. Chapter 4 centres on the Equality Movement and countries, in particular Western countries, where same-sex marriage is legal and (possibly) normalised. Chapter 5 centres on the Reactionary Movement and countries, in particular non-Western countries, where practices and policies related to anti-homosexuality are legal and widely accepted.

Chapter 6 draws conclusions based on the study as a whole. These conclusions address the research problem identified and the resultant research questions. Conclusions are offered on the impact that international norms may have on the contemporary governance of homosexuals and queers regarding issues such as same-sex marriage and anti-homosexuality within the respective case studies. Lastly, the conclusion identifies areas for further research.

CHAPTER 2

The Recent History of Homosexuality and the Evolution of Marriage Equality

Introduction

Homosexuality or any deviations from a heterosexual identity have for many centuries been frowned upon around the world. Historically, in many parts of the Western world same-sex relations and same-sex acts were illegal. Currently, in many parts of the non-Western world same-sex relations and same-sex acts are still illegal. Globally, many activists advocate for the rights of LGBTQ people. In the Western world in particular, many activists advocate for the right to marry to be extended to LGBTQ people. This relates back to this study's primary research question: How and why has marriage equality emerged as an important issue in contemporary global policy and practice as described and explained by IR?

In order to contextualise the research questions, this chapter describes and explains the contemporary history of the LGBTQ movement (read gay and lesbian movement) since the 1970s and some of the ideational shifts that have occurred within the movement. It begins by providing a terminological framework for the inclusive LGBTQIAP concepts, as well as categories such as sex, gender and sexuality. This clarification is important given that understanding these concepts is crucial in understanding the intricacies of all the factors at play within the movement and the discourse around marriage equality. This chapter examines the origins of the LGBTQ movement, particularly in the Western world, given the vast and accessible research into these areas. This includes an account of the importance of the HIV/AIDS epidemic that started in the 1980s and how it impacted on the movement as well as the inclusivity of the movement in terms of race and gender. The bulk of the literature in this chapter focuses on marriage: same-sex marriage and traditional marriage. This chapter examines the heteronormative structure around the institution of marriage and the construction of the nuclear family as well as opposition to same-sex marriage, whether through legal routes or religious opposition. This chapter also highlights the importance of queer theory in the marriage equality debate. Queer theory is an essential perspective, given that there are many queer people and scholars who oppose same-sex marriage, arguing that it entails an assimilation to heteronormativity – an assimilation that does not lead to liberation for all people within the LGBTQ community.

This chapter then briefly explores historical periods such as WWII and the Cold War; this brief examination focuses primarily on the Holocaust and the Lavender Scare, respectively. A

brief overview on the growing discourse around LGBTQ rights as human rights is also provided. The purpose of this chapter is to illustrate how and why the issue of marriage equality became the dominant issue for LGBTQ advocates, which helps in addressing the research problem.

Terminology

In order to discuss the history of contemporary LGBTQ studies, a breakdown of this acronym is necessary. It is imperative for the reader to note that for the purpose of this study the acronym 'LGBTQ' is used throughout; however, the more inclusive acronym 'LGBTQIAP' is explored below. Of course, whether it is LGBT, LGBTQ or LGBTQ+, it is important to keep in mind that these categories are essentially Western concepts; these concepts are not universally shared by other cultures around the world. In the field of International Relations, however, these Western concepts are used to make the literature more accessible to the reader. Even so, this study recognises there are many who do not subscribe to these concepts.

It is important to acknowledge the complexities around LGBTQ politics and the problematic notion of assigning fixed labels to sexualities or gender – conforming or non-conforming. The term 'LGBT' is the most recognisable in the discourse; however, Picq and Thiel (2015: 5) rightfully point out that even the standard 'LGBT' categories are not large enough to capture the full range of sexual diversity. Given that marriage equality is the focus of this study, it is very important to include the 'Q' (queer) in the 'LGBT' concept. The inclusion of the 'Q' does not only indicate the queer theory lens that guides this study, but it is also used to disrupt the (hetero)normative views and ideas that proponents of LGBT rights are often guilty of perpetuating. The 'Q' also serves as an intersectional indicator to include those who do not fit neatly into the 'LGBT' categories. Some LGBT and queer scholars often disagree on issues affecting the LGBTQ community, in particular the issue of same-sex marriage. Whereas mainstream LGBT activists have positioned same-sex marriage as the most important issue for their movement, queer theorists have been critical of this move, arguing that it conforms to heteronormative principles. According to Picq and Thiel (2015: 6), queer movements play a lesser role in the advocacy of international LGBT politics, yet their views on issues tend to be intellectually enriching. It is precisely because of these contrasting views on same-sex marriage that the acronym LGBTQ is used in order to contribute to a more intellectually enriching conversation.

Given that the identities in the acronym change and shift constantly, the exploration of the acronym 'LGBTQIAP' below attempts to be as clear and accurate as possible.

Lesbian (L) – Represents self-identified women having sexual and/or emotional preferences for other women. According to Cruikshank (1992: 141), a woman is a lesbian when she chooses other women as her sexual partners, because only women can satisfy her deepest feelings and needs. Lesbians also have a history of strong emotional attachments to other women. Lesbianism is often attributed only to self-identified women; however, it does include all female-bodied individuals in spite of gender identity. For example, a biologically female-bodied individual can continue to identify as a lesbian and at the same time date transmen (Rodriguez, 2015: 326).

Gay (G) – Represents self-identified men having sexual and/or emotional preferences for other men. The identity of being gay, as with being lesbian, is held regardless of gender identity. Note that the term 'gay' often refers to both gay men and lesbian women. Lesbians often adopt the gay identity instead of lesbian. However, in mainstream society 'gay' commonly refers to homosexual men.

Bisexual (B) – Represents self-identified men or women having sexual and/or emotional preferences for both men and women. According to Rodriguez (2015: 326), individuals who identify as bisexual can also identify with any sexual or gender identity – male, female, intersex, transgender. Bisexuality tends to have a lot of negative cultural connotations attached to it. For example, many believe that bisexuality is a myth or that it is just a phase. In the case of bisexual men, many argue that they are just gay men who are still in the closet. In the case of bisexual women, many argue that they are just straight women who experiment to get the attention of straight men. It is interesting to note that with bisexual men and bisexual women both assumptions are made around the attraction to men. Either way, as a result, not many choose to identify as bisexual (Pulley, 2015: 330).

Transgender (T) – The term 'transgender' has a long history in the LGBTQ community, although it has only become widespread in the last few decades. According to Rodriguez (2015: 326), those who identify as being transgender do not believe that their internal gender identity matches the biological sex assigned to them at birth. Within the transgender community 'transmen' refers to individuals who were born with biologically female bodies but identify as men and live socially as men – with or without gender reassignment surgery.

‘Transwomen’ refers to individuals who were born with biologically male bodies but identify as women and live socially as women – with or without gender reassignment surgery. Those who choose to undergo sexual reassignment surgery often adopt the identity of being ‘transsexual’ – physically changing their sexual morphology. The ‘transsexual’ identity typically falls under the umbrella term ‘transgender’. It is often very difficult for cisgender people (those who believe that their internal gender identity matches their biological sex) to accept that one’s biological sex can be different from one’s social and/or psychological gender (Lombaridi, 2009: 979). As such, the notion of being transgender challenges gender norms and gender expectations. This raises a bigger question of what those gender norms and gender expectations are and who benefits from them.

Queer (Q) – Historically, the word ‘queer’ was regarded as a derogatory term (Halperin, 2003: 339). It has always been used as a slur directed at those who did not identify as being heterosexual, or those who were read as not being heterosexual. Over the years many LGBTQ activists have reclaimed the word. However, there are those within the LGBTQ community, particularly the older generation, who feel that the word ‘queer’ is still a pejorative term. However, in recent years the term has come to mean two things. First, ‘queer’ is regarded as an umbrella term for the entire LGBTQIAP community. Secondly, many adopt the term ‘queer’ as part of their individual identity – some do so for personal reasons and others for political reasons. For example, instead of identifying as ‘gay’, which many who are not familiar with the LGBTQ community will only read as ‘men who have sexual relations with other men’, adopting a queer identity portrays an image of alliance and belonging to a broader community. According to Rodriguez (2015: 327), identifying as queer obscures the binary sexual and gender identities that are upheld by straight, gay, and/or lesbian identities. Furthermore, within the academic discourse, queer theory as an academic discipline has also become widely accepted. Queer theory challenges the notion of heteronormativity (Picq and Thiel, 2015: 5). For example, some queer theorists argue against same-sex marriage, given that the concept of marriage is a construction by and for heterosexual individuals and hence embarking upon such a union plays into the notion of heteronormativity.

Intersex (I) – Being intersex is not regarded as a sexual orientation or gender identity. Instead, it refers to a variety of conditions where an individual’s reproductive or sexual anatomy at birth does not fit the typical definitions of male or female bodies (Rodriguez,

2015: 327). This means that it is possible for male bodies (XY) to look female at birth; some male bodies (XY) are born with genitalia that are a mixture of both male and female. In the case of female bodies (XX), some are born without vaginas, some without a womb, and others without ovaries (Stryker, 2008: 9). Intersex used to be referred to as ‘hermaphroditism’. Today, many prefer the term ‘intersex’, while others prefer ‘disorders of sexual development’ (DSD). More often than not, intersex individuals identify with one or more of the gender or sexual identities within the queer community.

Asexual (A) – Typically, a person who is asexual does not experience sexual attraction towards others (Cerankowski and Milks, 2010: 348). This does not mean, however, that asexual individuals are not sexually active or in romantic relationships. Some choose to be sexually active, others do not. Some choose to be in romantic relationships, others do not. Many who identify as asexual believe that sexual behaviour and sexual identity do not carry a lot of significance. Yet many do identify with one or more of the gender or sexual identities within the queer community.

Pansexual (P) – Represents individuals having sexual or emotional preferences for persons of any gender or sexual identity (Rodriguez, 2015: 327). Often people confuse bisexuality with pansexuality. Unlike bisexuality, where there is a preference for both men and women, pansexuality does not conform to gender and sexual binaries. For example, a person who identifies as pansexual can be sexually or romantically involved with another person who identifies as male, female, intersex and/or transgender.

Sex vs. Gender vs. Sexuality

It is imperative to understand sex, gender and sexuality as three distinctly different concepts. According to Lombardi (2009: 978), the interchangeable use of sex and gender in the discourse has led to a confusion of how normative society sees gender-variant people. According to Stryker (2008: 8), sex refers to the reproductive capacity or potential an individual body possesses. The words ‘male’ and ‘female’ are typically used when referring to sex. Sex is determined genetically by chromosomes – X or Y. Although ‘male’ and ‘female’ are used to refer to sex, it is important to keep in mind that this does not mean that there are only two kinds of bodies. For example, intersex bodies mix different characteristics of male and female.

In contemporary society many believe that gender is determined by biological sex. This

means that many automatically assume that a male body is considered a man and a female body a woman. Stryker (2008: 11) argues that sex and gender are not the same. She argues that gender is a cultural phenomenon and that the words ‘man’ and ‘woman’ typically refer to gender. According to Valocchi (2005: 752), gender representations are often seen through the lens of being masculine or feminine. Being a man or a woman is not something one is born with; rather, it is acquired through social construction.

Sexuality, on the other hand, often refers to what individuals find erotic and how individuals find sexual pleasure and with whom. Stryker (2008: 16) states that although sexuality and gender are different, they are still intimately bound together. Labelling one’s sexuality (for those who feel the need to) depends on the gender of the person towards whom the desire is directed. This act of labelling often comes in three forms: (1) heterosexuality – the desire for a member of the opposite gender; (2) homosexuality – the desire for a member of the same gender; and (3) bisexuality – the desire for members of both genders.

It is important to acknowledge that many queer theorists argue that the social identities of sex, gender and sexuality are too complex to neatly fit into the aforementioned categories. According to Valocchi (2005: 753), queer theorists focus on the social categories or ‘deviant’ cases that disrupt this normative view on sex, gender and sexuality. Of course, although differences will always exist in the discourse, Das (2015) summed the situation up perfectly: “Sex is what you are born with, gender is what you develop, and sexuality is what you discover.”

Gay and Lesbian Movement

In contemporary literature and the discourse in popular culture around LGBTQ studies, the Stonewall riots of 1969 are often regarded as *the* pivotal moment for the gay and lesbian movement. Before attempting to explore the gay and lesbian movement, it is important to acknowledge that the movement in itself is not an exclusionary movement open only to gay men and lesbian women. On the contrary, it has come to represent the broader LGBTQIAP community as a whole. Some do critique the movement for representing only gay men and lesbian women, and in particular white gay men – a point that will be explored later on. In order to remain true to the focal point of the origins of the movement, the phrase ‘gay and lesbian movement’ is used for this section.

Because of the ever-changing and ever-expanding literature and to avoid any repetitive labelling, this study uses phrases such as ‘gay men and lesbian women’, ‘gays and lesbians’, ‘homosexuals and queers’, and/or ‘same-sex marriage and gay marriage’ interchangeably throughout. Terms such as ‘same-sex marriage’ and ‘gay marriage’ are used, because of the arguments around the topic and its familiarity in the discourse, and to ensure that the work is accessible. This study is aware that these terms tend to refer only to specific groups within the LGBTQ community – gay men and lesbian women – which might exclude others. As such, this study also refers to ‘marriage equality’ in the same context to uphold a sense of inclusivity and to respect the diversity within the LGBTQ community as far as possible.

Stonewall

Greenwich Village, a neighbourhood in Lower Manhattan, NYC, is best known as the birthplace of the modern gay and lesbian movement. By the later 1960s Greenwich Village had managed to establish a vibrant gay culture. In Greenwich Village the Stonewall Inn was a popular gay bar. According to Engel (2001: 40), the bar was seen as sordid. It was believed that the bar did not have running water and that its filthy glasses were the cause of a hepatitis outbreak. Yet, the bar’s popularity was because it was one of the few gay bars in NYC that allowed dancing. Those who frequented the bar were mostly queer men of colour, ages ranging from the late teens to early thirties, in particular drag queens or runaways (Piontek, 2006: 24).

According to Engel (2001: 20), police officers often raided gay bars in NYC. According to Poindexter (1997: 607), Mayor John Lindsay at the time used these police raids of gay bars as part of his platform for his re-election campaign. The police raid of Stonewall Inn bar on Saturday 28 June 1969 was different, however. The patrons of the bar did not act in their usual passive manner during the raid, but instead they resorted to violence. The patrons threw beer cans and bottles at police out of anger and being fed up with the policing of their private and safe spaces (Cruikshank, 1992: 69). These safe spaces were important, as they were places where queer men could meet other men without the pretence of heterosexuality, and they were spaces where queer identities were shaped and a sense of belonging to a community was instilled. The confrontation at Stonewall lasted two days and nights. It is believed that approximately 2,000 queer men and women, mostly queer people of colour, battled 400 policemen (Engel, 2001: 20). Word got out to the press and the media, which

quickly echoed through the country and the rest of the Western world. And so the modern gay and lesbian movement was born.

Two very important events emerged out of the Stonewall riots. The first was the claiming of the word 'gay'. Ever since homosexuality was classified as a mental illness by the American Psychiatric Association in the 1950s, the term 'homosexual' was inevitably imposed on gay men and women, with a stigma attached to it. Stonewall was a transcendent moment for gay people not to see themselves as victims any longer. As such, adopting the word 'gay' symbolised self-definition and the rejection of definitions imposed on them. Being 'gay' meant having internal power (Engel, 2001: 43). It is important to note here that with this adoption of a gay identity came the courage to 'come out' and redefine what this meant; it was not only a personal move, but also a political one (Cruikshank, 1992: 71). This act of coming out strengthened the movement as a whole by attracting a larger following. It also meant personal liberation for gay people. As Engel (2001: 44) put it, "by coming out, the homosexual became gay."

The second crucial event to come from Stonewall was the formation and emergence of various LGBTQ organisations. After the riots, many of these organisations emerged, such as the Gay Liberation Front (GLF), the Gay Activist Alliance (GAA), the National Gay Task Force (now known as the National LGBTQ Task Force), and the Gay Rights National Lobby (GRNL) (Engel, 2001: 40). It was particularly the GLF and the GAA that became more influential in the early stages of the movement. The GLF was established in July 1969, while the GAA was established in December 1969. The GLF was formed seeking liberation from capitalism and stood in coalition with other minority groups and organisations – in other words the New Left – such as the student movement, black power movement, anti-war movement and the feminist movement. In contrast, the GAA took a more single-issue approach: focusing on working within the system in order to improve the everyday lives of gay men and lesbian women. As with many new organisations, internal conflict was rife in the GLF and the GAA, and their predominantly male-centred leadership often pushed away lesbians, who opted for and joined the feminist movement (Engel, 2001). The GLF and the GAA collapsed in 1973 and 1974, respectively. Although these two organisations collapsed, the movement still grew. Arguably, they paved the way for many other organisations to learn from their mistakes and thrive, as was seen with the National LGBTQ Task Force, which became and still is one of the leading LGBTQ organisations in the USA.

Needless to say, with the emergence of these various organisations and the growth of the movement, opposition also emerged. Not everyone agreed that the gay and lesbian movement was good for society. One such person was Anita Bryant. In 1977 Bryant launched the 'Save Our Children' campaign (Fetner, 2001: 412). This was the first reactionary movement to counter the influence of the gay and lesbian movement. Dade County in Florida, USA had adopted legislation that protected gay people from sexual discrimination. Bryant, however, who was a resident of Dade County, advocated repeal of this legislation (Engel, 2001: 39). Bryant successfully managed to gather enough signatures in Dade County that led to the overturning of the legislation. With the success of Bryant's campaign, many other reactionary or anti-gay movements emerged that aimed to stop the equality movement and its perceived spreading of homosexuality. According to Fetner (2001: 411), Bryant said the following:

I don't hate the homosexuals! But as a mother, I must protect my children from their evil influence... They want to recruit your children and teach them the virtues of becoming a homosexual.

Bryant's sentiments were shared by many others. According to Cruikshank (1992: 72), in 1978 California State Senator John Briggs proposed an initiative that would give schools the right to fire gay teachers or teachers who spoke positively about homosexuality in classrooms. Briggs's initiative was known as Proposition 6. At the polls in November 1978 Proposition 6 was rejected by voters. This victory was largely the result of the 'No on 6' campaign which was led by gay and lesbian activists (Fetner, 2001: 415). This celebration was short lived, however, as Harvey Milk, the first openly gay person elected to office in a major city, was assassinated. Milk was a major advocate against Briggs's Proposition 6 (Cruikshank, 1992: 73). In California any person who commits the murder of a public official could be allowed to receive the death penalty. In Milk's case his assassin only received a seven-year sentence for manslaughter – he served only five. Whether this ruling was homophobic or not could not be established with certainty. One thing that was certain, however, was that gay men and women were outraged. They took to the streets, marching and setting police cars alight. Many more anti-gay movements emerged, in particular right-wing Christian opposition groups that aimed to stop the gay and lesbian movement from gaining more political ground (Fetner, 2001: 415). It was too late, however, seeing that by the late 1970s the movement and its patrons had managed to establish themselves as a powerful minority in society.

The HIV/AIDS Epidemic

As the gay and lesbian movement started to gain momentum and gay people started to embrace their gay identity, the gay community in the West was hit with a mysterious virus called HIV (human immunodeficiency virus). According to Altman (2013: 106), it is impossible to reflect on the contemporary history of the gay and lesbian movement without taking into consideration how drastically the HIV/AIDS (acquired immune deficiency syndrome) epidemic in the 1980s altered and shaped the movement.

According to Engel (2001: 47), the first cases of HIV/AIDS in gay men in the USA were reported by *The New York Times* in 1981. It was believed to be some sort of curious cancer. Altman (2013: 106) states that it presented as Kaposi's cancer – a cancer typically found in the elderly and the infirm. This was a disease that spread quickly among gay men. By the end of 1981 225 cases of AIDS in gay men were reported in the USA. It is estimated that between 1981 and 1998, of the 300,000 people who succumbed to AIDS in the USA, 200,000 were gay men. It became known as the 'gay disease' and even to this day the stigma of having HIV/AIDS is connected to homosexuality.

What was unfortunate about the HIV/AIDS epidemic was that the official channels – in particular the Ronald Reagan and George Bush administrations – were not interested in saving the lives of gay men affected by the disease. Because of this lack of response and lack of visibility in the mainstream media and global politics, the gay community took matters into their own hands and created the AIDS Coalition to Unleash Power (ACT UP) (Cruikshank, 1992: 76). The aim of ACT UP, when it was established in March 1987, was to raise awareness of the HIV/AIDS epidemic in order to acquire political leverage that would save gay people. ACT UP became very successful in rallying support from the LGBTQ community and even the straight community. In just three years after its creation it managed to branch out to 60 cities. Transnational mobilisation around the HIV/AIDS epidemic also spread across other Western countries such as Denmark, Switzerland, the Netherlands and Australia (Altman, 2013: 108). Even in the UK, after the first case of AIDS in a gay man was reported in 1982, various campaigns and organisations were launched to raise awareness and funds to help those affected by the disease (Engel, 2001: 88).

Not surprisingly, the HIV/AIDS epidemic brought with it a backlash from mostly religious and conservative groups. It was a way for these groups to exploit the epidemic and use it to maintain inequality and re-establish traditional family values. In the USA two major domestic

airlines banned HIV-positive people from flying (Altman, 2013: 109) and the US military imposed mandatory HIV testing (Engel, 2001: 51). In the UK the Conservative Party became increasingly hostile toward its gay community, with Margaret Thatcher saying:

Children who need to be taught to respect traditional values are being taught that they have an inalienable right to be gay (quoted in Engel, 2001: 90).

Engel (2001: 49) puts forward the very important argument that the HIV/AIDS epidemic strengthened the interactions between the gay and lesbian movement and the feminist movement. As mentioned earlier, because of the male-centred and exclusionary nature of the gay and lesbian movement, many lesbians opted to join the feminist movement instead. However, the epidemic and in particular the US government's ignorance about the epidemic, revealed the inherently homophobic nature of American culture at the time. Altman (2013: 111) takes this further by arguing that although gay men and lesbian women came together during these difficult years, they disagreed on the fact that the gay and lesbian movement essentially revolved around the issue of HIV/AIDS. Altman (2013) argues that this is somewhat ironic, given that gay men and women (lesbian or otherwise) were fighting the same hierarchical and financial constraints in the healthcare system.

It is important to briefly acknowledge that HIV/AIDS predominantly affects heterosexual people in the developing world, particularly in Eastern and Southern Africa. According to Cianelli, Ferrer and McElmurry (2008: 297), nearly all women in developing countries living with HIV were infected through heterosexual intercourse. Even so, in these countries many still regard it as the 'gay disease', which has made it difficult to mobilise support and raise awareness on HIV/AIDS. South Africa presents an interesting case in that in April 2000 then President Thabo Mbeki publicly declared that the difference between AIDS in the West and in Africa is that in the West the disease is contracted mostly through homosexual relations and that the opposite is true for Africa (Sheckels, 2004: 73). Instead, he blamed the disease on poverty and on the West, refusing antiretroviral treatment to those affected by the disease, arguably contributing to the deaths of many thousands of people infected with HIV.

Despite the major missteps of the South African government and its handling of the HIV/AIDS epidemic, Altman and Symons (2016: 91) point to the Chinese government, as an example, who successfully managed to engage with the epidemic in their country. Although initially not considered a disease that affected only gay men, China managed to shift its

attitudes on men who have sex with men (MSM). This is interesting because in Chinese society sexuality is not discussed very openly, yet the government's Ministry of Health managed to involve MSM in its Comprehensive AIDS Response Programme (China CARES).

This section illustrates that the HIV/AIDS epidemic of the 1980s drastically changed the approach and focus of the gay and lesbian movement. This study also acknowledges that this is a disease that did not only affect the gay communities in the Western world. In fact, the majority of those affected by the disease today are women in developing countries. Those most vulnerable to the disease are also intravenous drug users, sex workers, those trapped in the criminal justice system, lesbian women subject to corrective rape, transpeople and ethnic minorities, to name a few. What the HIV/AIDS epidemic as part of the agenda of the gay and lesbian movement managed to do was to spark a global conversation around human rights, sexual rights and health rights not only for gay people but for everyone.

The Inclusiveness of the Gay and Lesbian Movement

What has plagued the gay and lesbian movement for years is the lack of visibility or representation of queer people of colour, lesbians and transpeople. Many argue that it is a movement that privileges the middle-class white gay male. As complex as it is, this remains an important issue worth addressing, in particular the subject of race.

According to Poon (2011:146), race is a social marker that differentiates people of colour from the white population. Even within a movement where an LGBTQ identity is shared, race is still a differential factor. As mentioned earlier, the vast majority of queer people who participated in the Stonewall riots were queer people of colour. Yet contemporary LGBT(Q) history has been reduced to that of the white gay male, most evident in popular culture. Pionek (2006: 24) argues that the way the Stonewall story is told clearly highlights the gay and lesbian movement's failure to understand how race complicates the relationship between sexual identity and gender identity. Cruikshank (1992: 173) speculates that part of the reason queer people of colour is not represented fully in the movement could be as a result of their white counterparts not being fully aware of how multicultural their community is. This is problematic, however, seeing that this ignorance or unawareness plays right into the notion of white privilege and the way it excludes or invalidates the lived experiences of people of colour.

According to Poon (2011: 147), white queer people (in particular white men) are assumed to face only one form of oppression: their sexual identity; whereas queer people of colour are seen as a 'double minority'. The way race has made the whole issue more complex was evident in the early stages of the movement, when it was popular to come out and claim a gay identity. Queer people of colour found this process difficult as they had at the same time to maintain their loyalty to their families for protection in a white-dominated society. Queer people of colour who chose to come out and join the movement during the HIV/AIDS epidemic began to establish their own sexual minority rights as well as found AIDS organisations in order to assist those within their communities affected by the disease (Engel, 2001: 54). The 1989 documentary *Tongues Untied* directed by Marlon Riggs is a powerful attempt to address the silence of the gay and lesbian movement on matters of sexual and racial difference.

Engel (2001: 61) argues that the visibility of the gay and lesbian movement as portrayed by the media and in consumer culture is an exclusive one – exclusive to the middle-class white male. This is particularly evident in TV shows such as *Will and Grace* and *Queer as Folk* (Farrow, 2014: 39). Engel (2001: 61) argues that this level of visibility is tolerated by heteronormative society as it is a visible representation that does not threaten its own foundation and normative space. It is this conforming to a sense of normativity that is palatable to heterosexual society that makes the diversity and strength of the gay and lesbian movement invisible.

For many queer women of colour (particularly lesbian, bisexual and transwomen) advocacy around the issue of access to sexual reproductive health services within the gay and lesbian movement has been minuscule. Instead, the movement has shifted its focus to that of marriage equality. According to Halberstam (2012: 104), this single-issue move borrows heavily from the Civil Rights-era in the discourse around inclusion and extension of the status quo. Many same-sex marriage supporters and advocates often compare their stance to that of the Civil Rights movement of the 1960s. The equating of 'Gay Civil Rights' to that of 'Black Civil Rights' is often pushed by mostly-white gay organisations such as the Human Rights Campaign (HRC) (Farrow, 2014: 41). This is troubling, given that these narratives tend to ignore the fact that during the Civil Rights era white gay individuals were allowed to vote, they were allowed to sit in the front of the bus and they were allowed to use the main entrances of stores and movie theatres, i.e. rights and privileges African-Americans did not

enjoy. This appropriation is concerning and problematic as it, yet again, diminishes the lived experiences of (queer) people of colour and in this case specifically African-Americans.

The conversation around the exclusion of racialised bodies in the gay and lesbian movement is an important one to conduct and to critique. This is not to assume that other bodies – such as lesbian women and transpeople, for example – are not excluded too. However, the exclusion around race generates an interesting narrative.

Marriage

At the start of the new millennium the issue of marriage equality has taken centre stage in the discourse on LGBTQ rights. In the preceding years LGBTQ activists fought against campaigns and policies such as the ‘Save Our Children’ campaign and Proposition 6. These reactionary campaigns and policies were intended to sustain a society and culture that privilege the heteronormative and essentially nullify the strides made by the equality movement. However, when the Netherlands became the first country to legalise same-sex marriage in 2001, the focus of the LGBTQ movement shifted towards advocating for legalisation validating same-sex marriage – most notably in Western countries. In order to grasp the intricacies of same-sex marriage, it is important to first understand the contemporary history of traditional marriage.

Marriage and the Nuclear Family

According to Hull (2006: 1), marriage is seen as:

Personal commitment. Pillar of civilisation. Spiritual covenant. Legal bond.
Political football. Source of social status. Site of gender inequality. Tool of sexual regulation. Dying institution. Partnership for reproduction and childrearing. Path to material gain. Reflection of divine love. Legalised prostitution.

The institution of marriage is often grouped together with the concept of family, procreation, mothering and child care, which gives its upholders a sense of moral superiority in society. Of course, this argument is countered by those cohabitants who are unmarried or who are in same-sex or multiple sexual relationships. In recent years it has become evident that the institution of marriage is not a static institution and it has been challenged/protected by many. For example, millennials are often opposed to the concept of traditional marriage, either opting to marry later or not at all; some women and in particular feminist women are opposed to the institution as a form of oppression for women; and then there are gay couples who

argue for the redefining of the institution itself. For the purpose of this study, it is important to first understand the institutions of marriage and family in their traditional sense before the intricacies of same-sex marriage can be explored.

Duncan (1997: 241) defines (traditional) marriage as “a dual-gender relationship in the sense that a lawful marriage requires participation by both a man and a woman.” Eskridge (1993: 1420) goes into a bit more detail, defining marriage as the “legal status, condition, or relation of one man and one woman united in law for life, or until divorced, for the discharge to each other and the community of the duties legally incumbent on those whose association is founded on the distinction of sex.” As such, (traditional) marriage has been and still is regarded as a symbol of union between a husband and a wife – with husband/wife, man/woman being the key factors of this institution.

According to Garrison and Scott (2012: 23), many traditionalists and religious folk view the sole purpose of marriage as a union designed for procreation. In the case of two gay men, for example, natural procreation is not possible, which in effect makes them ineligible for marriage within this framework. Even so, any procreation or sex that occurs outside of marriage is seen as sinful and contributing to the decay of society as a whole. This procreation leads to the creation of what is known as the family, in particular the nuclear family. The concept of the nuclear family in modern Western societies denotes a unit that is comprised of the husband, the wife and their children (Elliot, 1986: 4). It is this shared biology that creates a sense of common identity. The constant in this (normative) nuclear family relationship is a permanent heterosexual identity. This nuclear setup often assumes the man to be the dominant figure in the unit, while the woman takes on a more caring role on which the child is dependent. Of course, this traditional view of family gets disrupted when biology and adoption, divorce and remarriage, and single-parent and gay parents get taken into account. In recent years the advocacy of same-sex couples for social and legal recognition of their relationships signifies an intense challenge to the marriage status quo (Hull, 2006: 1).

Naturally, if traditional marriage is defined as a union between a man and a woman, then same-sex marriage is defined as a union between persons of the same sex or gender. It is important to note that, although the fight for legalising same-sex marriage has been widespread at the start of the new millennium, its roots date back to the early 1970s and most prominently in the 1990s. It is through Denmark’s landmark ruling in 1989 to legally

recognise RPs that initially brought widespread attention this norm cascading of gay marriage. Those in favour of gay marriage argue that the refusal of governments to allow same-sex couples to marry legally is a violation of gay citizens' constitutional rights to marry (Eskridge, 1993: 1426). One could argue that the construction of marriage and the heteronormative nuclear family and its opposition to same-sex marriage is a deeply embedded belief that has been constructed around views on homosexuality.

Interracial Marriage vs. Same-Sex Marriage

In October 2010 the British Equality and Human Rights Commission reported that the biggest advance in tolerance over the past 20 years was the dramatic shift in attitudes to homosexuality (Altman, 2013: 156). It is often argued that, as with racism, many people, especially young people, are distancing themselves from anti-homosexual sentiments. However, Altman (2013: 156) points out that racism is not dead and not all young people have distanced themselves from it. Nonetheless, it is clear that people today are much more open to and accepting of the idea of and discussions on homosexuality – in particular in Western societies. Is it evident that there has been a norm cascade at work in the Western world, not only in the acceptance of homosexuality, but in accepting the view that the legalisation of gay marriage should be regarded as a fundamental human right.

As history shows, in many Western and non-Western governments certain groups have always been restricted from marrying. It is important to note that restricting a group from marriage can be regarded as a form of social control – the Immorality Act of 1950 during apartheid in South Africa being a particularly grotesque example. According to Umberson (1987: 309), there are two primary ways in which social control occurs. The first is through internal influence, primarily through the internalisation of hegemonic norms of conventional behaviour. The second way is through external influence, which usually occurs in the form of sanctions for behaviour defined as unconventional. Examples of this would be slaves who were not allowed to marry, given the fact that they were regarded as 'property'. Also, interracial couples were not allowed to enter into civil marriage up until 1967 in the USA based purely on racial differences. In this day and age, the same is true for same-sex couples.

In the USA, for example, the freedom to marry has been an important constitutional issue for years in American history and an important contemporary issue for homosexuals. Many academic scholars often compare the battle for the legalisation of same-sex marriage to that for interracial marriage in the case of *Loving v. Virginia*.

In 1958, Richard Loving and Mildred Loving were arrested for marrying someone of a different race. Richard was a European-American man and Mildred an African-American woman. They were charged with violating the ban on marriage for interracial couples. It is important to note that Virginia's anti-miscegenation law stated that "[a]ll marriages between a white person and a colored person shall be absolutely void without any decree of divorce or other legal process" (Marriage Equality USA, 2014). With the possibility of receiving a five-year jail sentence, the Lovings pleaded guilty. They did, however, receive a one-year jail sentence, which was suspended on the condition that they leave the state of Virginia and not return for 25 years. The Lovings' appealed the case and in 1967 the United States Supreme Court held that "[t]he Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations" (Duncan, 1997: 239).

What is interesting to note about *Loving v. Virginia* is the fact that many academic scholars who are advocating gay marriage argue that traditional marriage laws violate equal protection because of discrimination on the basis of gender (Duncan, 1997: 240). However, it is important to note that traditional marriage laws do not treat men and women differently. Looking at gay marriages, it is evident that a man is not allowed to marry another man and a woman is not allowed to marry another woman. Thus, both genders are discriminated against. As such, one could argue that the battle for gay marriage is not based on discrimination on the basis of gender, but rather on discrimination based on sexual orientation and *acceptance* of gender identity. This argument revolves around a construction of internalised homophobia and an internalised normative view that traditional marriage and family form a unit exclusive to those adopting a heterosexual identity. It is this normative view of sexual identity that allows governments to implement laws that restrict gay people from legal marriage.

Defense of Marriage Act (DOMA)

In the early 1990s the Hawaiian Supreme Court found that it is discriminatory to deny same-sex couples the right to marry (Hull, 2001: 213). However, the favourable ruling led to many opposition parties reacting and successfully blocking this ruling. In 1996 US President Bill Clinton signed very controversial legislation known as the Defense of Marriage Act (DOMA). Under Section 3 of DOMA marriage is defined as "a legal union between one man and one woman as husband and wife" and a spouse, under Section 3, is defined as "only a person of the opposite sex who is a husband or a wife" (United States of America, 1996). DOMA expressly gave states permission to prohibit the recognition of same-sex marriages in

other jurisdictions. According to Freedom to Marry (2013), DOMA was a federal issue. For over 200 years each state could define marriage and any marriage that was legally entered into under state law as a valid marriage for federal purposes. Under DOMA married same-sex couples were denied a long list of important protections and responsibilities in the USA. These include Social Security survivor benefits, immigration rights, family and medical leave, and the ability to pool resources as a family without unfair taxation. At the end of 1996 a judge ruled that the US did not have a legitimate reason to deprive same-sex couples of the freedom to marry. However, it was not until 2013 that DOMA was ruled unconstitutional by the US Supreme Court (Savage, 2013).

In the early 2000s some US states began to recognise same-sex relationships. In April 2000 the State of Vermont approved legislation that recognises civil partnerships between same-sex couples (NCSL, 2014). This decision came as a result of the Supreme Court's ruling in the case of *Baker v. Vermont* that same-sex couples are entitled, as stipulated in the state constitution's "Common Benefits Clause", to the same benefits and protections as married heterosexual couples. Then in 2003 the Massachusetts Supreme Judicial Court ruled that prohibiting same-sex couples from civil marriage was unconstitutional. Hull (2006: 78) points out that on 17 May 2004 Massachusetts became the first state in the USA to issue marriage licenses to same-sex couples.

However, it was still a long way for the rest of the USA to follow in the footsteps of Massachusetts. On 2 June 2008 the California Marriage Protection Bill was submitted. More than one million signatures appeared on the Bill. It appeared as Proposition 8 on the November ballot. The proposition expressed resistance to same-sex marriage and proposed that only marriages between a man and a woman should be recognised as valid. On 8 November 2008 the bill passed with 52% of the vote despite hefty opposition from LGBT(Q) activists and allies. In 2010 the Supreme Court ruled Proposition 8 as unconstitutional in the case of *Hollingsworth v. Perry* (Sacks, Siddiqui and Reilly, 2013). However, the court's decision only came into full effect on 26 June 2013. Coincidentally, on 26 June 2013, in the case of *U.S. v. Windsor*, DOMA was ruled unconstitutional by the Supreme Court (Reilly and Siddiqui, 2013). This was a huge victory for the proponents of marriage equality.

Same-Sex Marriage Around the World

At the time of writing same-sex marriage is fully legal in 26 countries around the world. Countries that have legalised same-sex marriage are as follows: 2001 – the Netherlands; 2003

– Belgium; 2005 – Canada, Spain; 2006 – South Africa; 2009 – Mexico (only legal in some states), Norway, Sweden; 2010 – Argentina, Iceland, Portugal; 2012 – Denmark; 2013 – Brazil, England, France, New Zealand, Uruguay, Wales; 2014 – Luxembourg, Scotland; 2015 – Ireland, United States of America; 2016 – Colombia, Greenland (part of Denmark); 2017 – Finland, Germany, Malta, Slovenia. South Africa remains the only African nation to have legalised same-sex marriage. No Asian or Middle Eastern country allow same-sex marriage (Crossley, Gourlay and Spraggon, 2017). However, in May 2017 Taiwan’s Constitutional Court ruled that it is unconstitutional to deny same-sex couples the right to marry. According to Chappell (2017), Taiwan’s parliament has been given two years to amend or enact marriage laws to include same-sex couples – if not, same-sex couples will automatically be allowed register for legal marriage.

There is also an alternative norm in play – the norm of anti-homosexuality. In May of 2017 the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) published the 12th edition of its annual State-Sponsored Homophobia report detailing contemporary governance internationally around (homo)sexual and queer bodies, primarily LGBTQ legislation. According to Carroll and Mendos (2017: 8), the report found that 72 states have legislation in place that criminalises consensual same-sex sexual acts. Out of these 72 states, 33 are African nations (note that Egypt is included here because of its *de facto* outlawing of same-sex sexual acts), 10 are in the Americas, 23 are Asian states, and 6 states in Oceania. Furthermore, 45 out of the 72 states apply their laws to women as well as men engaging in same-sex sexual acts – 24 in Africa, 13 in Asia, 6 in the Americas, and 2 in Oceania.

This dichotomy between the (Marriage) Equality Movement and the (Marriage) Reactionary Movement is an interesting one. It is often argued that religion lies at the core of the debate of legalising same-sex marriage and criminalising same-sex relations.

The Role of Religion

One of the strongest and most vocal forms of opposition to homosexuality and same-sex marriage that the equality movement has to overcome is the role of religion in the debate. Engel (2001: 149) cites religion as one of the major factors through which homophobia infiltrates political cultures. Halberstam (2012: 104) goes so far as to argue that one of the reasons that the issue of gay marriage has become such a central theme in the movement is partly as a reactionary move to opposition, in particular from right-wing Christian organisations opposing gay marriage.

Christianity, for example, has always been, and still is, against homosexuality and same-sex marriage, arguing that it goes against the teachings of the Bible. This argument based on religion and belief in God revolves around the issue of morality. According to Hull (2006: 190), many religious people support their moral opposition to homosexuality by quoting biblical scriptures, and they support their opposition to same-sex marriage by citing the Bible as defining marriage as fundamentally a union between a man and a woman. According to Sherkat, De Vries and Creek (2010: 82), members of Protestant denominations in particular tend to believe that homosexuality is morally wrong and are less tolerant of same-sex couples acquiring civil liberties.

Olson, Cadge and Harrison (2006: 342) argue that attitudes around homosexuality and religion are measured by an individual's religious affiliation, their sense of acceptable behaviours and their personal beliefs. They point out that an individual's religious affiliation has the strongest impact. For example, on one end of the spectrum those who subscribe to Judaism, or who are liberal Protestants or unaffiliated with any religion tend to have more liberal views on homosexuality. This has a lot to do with the fact that these groups' religious traditions have not systematically condemned same-sex relations in recent years. In the middle of the spectrum Catholics and moderate Protestants tend to have moderately oppositional but generally tolerant views on homosexuality. These views can be supported given that majority Catholic countries in South America such as Argentina and Uruguay, for example, have legalised same-sex marriage. On the other end of the spectrum, as Sherkat, De Vries and Creek (2010) also pointed out, Evangelical Protestants hold mostly conservative views on homosexuality. Olson, Cadge and Harrison (2006: 342) argue that these views stem from their theological beliefs and official denominations as well as their confessional position on homosexuality.

The debate around homosexuality and same-sex marriage tends to revolve around the religious attitudes of Judeo-Christian groups. However, Adamczyk and Pitt (2009: 339) point to studies which found that Muslims tend to have more conservative views on homosexuality than Catholics and moderate Protestants. According to Hélie (2004: 122), political authorities in Muslim nations tend to point to the Qur'an as being explicitly against homosexuality in its text. The interesting point is that the Qur'an is in fact not that clear on Islam's position on homosexuality. Instead, Hélie (2004: 120) argues that it is not so much the scriptures of the Qur'an that condemns homosexuality, but rather a culture of homophobia within Islam that

has become an internalised social norm. Note that in Islam Sharia law is an integral part in the faith. Nmehielle (2004: 737) defines Sharia law as a divine law – an authority that is dependent on a relationship between a Muslim individual and Allah (or God). However, many political figures or religious extremists have interpreted and exploited the Qur'an and Sharia law for political gain and power to such an extent that in some Muslim majority countries homosexual acts are punishable by death. Adamczyk and Pitt (2009: 339) argue that it is this interpretation and exploitation of Islamic beliefs and customs that allow for social norms on homosexuality to be adopted by Muslim citizens – religious or non-religious.

For some scholars the debates around religion and homosexuality and same-sex marriage are murky. Kollman (2013: 38) points to scholars such as Scott Barclay and Shauna Fisher (2003) and Miriam Smith (2008), who argue that the role of religion in LGBTQ politics is not significant. Barclay and Fisher (2003) argue that prohibition of same-sex marriage, for example, is better explained by the legacy of a state's past policies on marriage and the nature of its party politics. However, Adamczyk and Pitt (2009: 340) point out that studies show that personal religiosity "tends to have a greater effect on people's attitudes and behaviours that are characterised by normative ambiguity." They argue further that, given that religious principles are not universally shared by all people, personal forms of religiosity "are more likely to serve as a guide for attitudes where there are not clear social sanctions or universal agreement about their detrimental social costs."

Supporters of same-sex marriage tend to frame their argument around the separation of church and state, particularly within the American context. According to Hull (2006: 190), these arguments are put forward given the fact that religious principles and moral codes are not universally shared by all people, which means that they cannot be regarded as a suitable basis for law and policy. Right-wing conservative Christian groups tend to argue that marriage is a sacred religious institution. Some queer scholars argue that it is precisely because of this sacredness that the state should not be involved in the religious institution (Kate and Deeg, 2014: 49).

Queer Theory

The exploration of queer theory in the debate on marriage equality is an important one. Queer theory is a critical theory that is rapidly growing in the field of International Relations. Queer theory challenges heteronormative norms and questions the status quo; it examines the intersections of gender, sexuality, capitalism and the state through a queer lens. Queer

theorists critique activism in favour of same-sex marriage, arguing that those who are in favour of same-sex marriage are conforming to the norms of heteronormativity. An in-depth exploration of queer theory is undertaken in the next chapter; however, in the context of this chapter it is important to note queer perspectives on same-sex marriage.

Queering Marriage

Many people are not aware that not all queer people are advocating the legalisation of same-sex marriage. In fact, for many queer people and scholars, marriage equality is not their main political goal (Spade and Willse, 2014: 32). Queer activists are often critical of those advocating for marriage equality, arguing that this type of activism conforms to the norms of heteronormativity. While some queer theorists believe that same-sex marriage should be legal for the financial benefits it offers, others believe that the notion should be rejected altogether. Those who believe that it should be rejected argue that the institution of marriage is an inherently violent institution (borrowing from a (radical) feminist critique) and that it is based on heteronormative and conservative traditional family values (see Garcia-Rodrigo, 2008). Perhaps more importantly, some queer theorists warn that the legalisation of same-sex marriage does not necessarily mean that the oppressive sexual system will end or that society's attitudes on homosexuality will change. Warner (2000: 90) argues that sexual justice should be the ultimate goal of the LGBTQ movement, and not gay marriage.

Hull (2006: 79) points to Tom Stoddard who argued in his 1992 piece "Why Gay People Should Seek the Right to Marry" that legalising same-sex marriage should be advocated for its practical, political and philosophical reasons. The practical reasons are more economically based – receiving tax benefits, Social Security benefits for one's spouse, access to health insurance through one's spouse's healthcare policy and so forth. Political benefits include ending discrimination against gay people through the legalisation of same-sex marriage. In philosophical terms the right to marry should be available to every citizen, whether they choose to marry or not. Many queer people and scholars tend to disagree with these reasons.

The reality is that there are financial benefits attached to marriage that exclude those who are unmarried – gay or straight. For example, in the USA there are over 1,000 financial benefits attached to marriage that you can access only if you are married. According to Nair (2014: 18), extending marriage to gay couples will not address the inequalities that the institution of marriage perpetuates. Bouchard (2017) cautions that one should not diminish the importance of marriage equality as it is very important to some, but at the same time she points out that

gay marriage often leads to the creation of different classes within the queer community. Furthermore, she argues that there should be a more complex conversation around how marriage legislation in general articulates with other legislation that might seem on the surface to recognise individuals, but might exclude certain communities or make themselves invisible. For example, she points to the USA's immigration laws, which can make it very difficult for people to immigrate to the USA without some form of state-recognised family connection – usually heterosexual marriage by default (Interview, Danielle Bouchard, 13/07/2017).

According to Josephson (2005: 274), marriage is directly tied to citizenship, in particular sexual citizenship. Kollman (2013: 25) defines 'sexual citizenship' as the way in which one's sexual orientation or sexual non-conformity affects one's ability to participate in society. As such, advocates for marriage equality argue that not extending marriage to everyone privileges heterosexual people and it essentially makes the LGBTQ community second-class citizens in their own country. In the case of marriage and all the benefits attached to this institution, it excludes those who do not enter into the institution, mostly women and LGBTQ members. Ingraham and Saunders (2016: 3) argue that attaching financial benefits to marriage hinders equal access for others, especially keeping in mind that those in historically under-represented populations often have a lower socioeconomic status because of their race, class or disability.

According to Halberstam (2012: 107), the legalisation of same-sex marriage only benefits affluent white gay couples. For queer people who live in poverty or who are marginalised, marriage equality will not change their socioeconomic status in society or bring social justice to their lived realities. Queer theorist often put forward the argument that all the money spent on marriage equality campaigns could have been used to help queer people living in poverty, or who do not have access to health services, or to assist homeless LGBTQ youth (Kate and Deeg, 2014: 48). As such, instead of focusing the goal of marriage equality on addressing the inequalities that the institution of marriage imposes on the poor and the working class, what advocates of marriage equality actually opt for is to reinforce the concept of the nuclear family and conform to a heteronormative lifestyle. Ratele (2017) agrees that marriage perpetuates inequalities and has become somewhat of an exclusionary institution, particularly in capitalist societies, in that it becomes harder for poor men and women – of all genders and sexualities – to get married. He also claims that the concept of the nuclear family is a fantasy,

because it comes with all kinds of ideological constraints and demands (Interview, Kopano Ratele, 05/07/2017). D’Emilio (2014: 59) goes so far as to say that marriage equality does nothing for social justice. Instead, it further privileges those who already benefit from privileges related to race, class and/or ability.

The argument that has also been put forward by some queer scholars is that the legalisation on same-sex marriage will not necessarily translate into a shift in people’s attitude towards the LGBTQ community. According to Conrad (2014: 62), the legalisation on same-sex marriage in Maine, USA, for example, had led to an increase in homophobic violence. The safety of queer people and transgender people is linked to a cultural change that still needs to take place and not necessarily to legislative changes. This has not been more evident than in South Africa and the phenomenon of ‘corrective rape’ of black lesbian women. Corrective rape is defined as “the sexual violence perpetrated for the purpose of supposedly ‘curing’ a person of their real or perceived sexual orientation and/or gender identity” (Anguita, 2012: 489). What makes this so troubling is the fact that gay marriage has been legal in South Africa since 2006 and gender-based violence protected in its Constitution since 1996. Yet homophobia is still widespread, with many black South Africans arguing that homosexuality is un-African and their white counterparts arguing that homosexuality goes against their religious beliefs. It is perhaps a bit problematic to link the legislation on same-sex marriage with sexual violence; however, it does highlight that laws and policies are not always sufficient to change the cultural perceptions, beliefs and attitudes of people, and changing the laws on marriage is no different.

Many queer scholars share the sentiment of some (radical) feminist scholars that the institution of marriage and the nuclear family are, at their core, violent institutions/social constructions. According to Kate and Deeg (2014: 47), every fifteen seconds a woman in these institutions is physically abused and one in every three girls will be sexually abused. The institution itself thus serves the interests of the male and leaves the female and/or children vulnerable. Many lesbian feminists argue that heteronormative marriage, whether different-sex or same-sex, will be difficult to supersede, given the fact that it relies on a sense of compulsory heterosexuality (Josephson, 2005: 274). This compulsory heterosexuality – also known as the heterosexual imaginary – centres on the romantic and sacred notions of heterosexuality without being critically conscious of how heterosexuality operates. Ingraham and Saunders (2016: 2) argue that heterosexuality is not so much just about biology or sexual

orientation; instead it is a hegemonic social construct that has become highly regulated, organised and ritualised with regards to its social processes and practices. It is this compulsory heterosexuality that is tied to marriage even though it does not necessarily serve the interest of its participants, but instead it serves the economy and the broader interests of capitalism.

Clearly, in the case of same-sex marriage the imperative of heterosexuality is not the issue; however, the issue has to do with the conformity of gay and lesbian people to heteronormativity. According to Ingraham and Saunders (2016: 2), “heteronormativity sets institutionalised heterosexuality as the standard for social arrangements based on the asymmetrical division of the sexes.” Many queer theorists argue against this notion, as it contributes to constructing heterosexuality as remaining the standard for all social/sexual relations. It is through this desire to conform to heteronormativity that gay and lesbian people unconsciously perpetuate the idea that essentially heterosexuality is the norm and that conforming to this norm is the only way to be recognised as full citizens and enjoy the privileges of their heterosexual counterparts. Kate and Deeg (2014: 47) fittingly argue that assimilation does not mean liberation. Unfortunately, what this does is erase and marginalise the lived experience of so many queer people, and to a large extent it makes the LGBTQ movement invisible.

World War II and the Cold War

Hidden Holocaust

It may seem odd to discuss WWII and the Cold War in relation to contemporary LGBTQ history, but these two events provide critical insights into views on homosexuality and how those views spilled over and have been passed on through generations. The Holocaust during WWII is regarded by many as one of the most horrific events in modern history. It is primarily understood as the systematic persecution and genocide of approximately six million European Jews by the Nazi regime in Germany from 1941 until 1945 (Lautmann, 1998: 345). Surprisingly, or perhaps not that surprisingly, many are not aware of the fact that millions of other people or ‘undesirables’ (as they were known during that time) were persecuted based on their perceived racial inferiority, including the Gypsies (the Roma and Sinti), some Slavic peoples and those with mental and/or physical disabilities. Those who differed from the Nazis on political, ideological and/or behavioural grounds were also persecuted. These included Communists, Socialists, Jehovah’s Witnesses and homosexual men. This section focuses in

particular on the persecution of gay men during the Holocaust. These men were targeted because of their sexual orientation or preference, and their existence and victimhood are often overlooked in the discourse of the Holocaust.

The persecution of gay men in Europe is not a new phenomenon that is unique to the Nazi regime. In fact, in 1871 Germany passed a nation-wide law prohibiting same-sex relations between men. According to Grau (1995: 1), this law was known as Paragraph 175 of the German Penal Code. Paragraph 175 stated that “[a]n unnatural sex act between persons of male sex or by humans with animals is punishable by imprisonment; the loss of civil rights may also be imposed” (Grau, 1995: 65). It is important to keep in mind that although the law existed, it rarely resulted in imprisonment. This was true to such an extent that many activists, most notably Dr Magnus Hirschfield, advocated for the abolition of Paragraph 175.

Dr Hirschfield was a physician who researched human sexuality. His argument was that homosexuality was as natural as heterosexuality and he believed that, through science, homosexuality would be understood by society as a normal phenomenon without fear or punishment (Settington, 2013: 13). In 1897 he launched a petition to overturn Paragraph 175 by obtaining more than 5,000, signatures which included signatures from influential Germans such as scientist Albert Einstein and writer Hermann Hesse. Although the petition failed, Dr Hirschfield went on to found the ground-breaking Institute for Sexual Research in 1919 (Heger, 1980: 10). However, the rise of the Nazis was to change and destroy Dr Hirschfield’s work on abolishing Paragraph 175 and possibly normalising homosexuality. On 30 January 1933 Adolf Hitler became Chancellor of Nazi Germany. The following month his regime banned all homosexual rights organisations – gay and lesbian bars were closed and publications catering to homosexuals were banned. In May 1933 Dr Hirschfield’s Institute for Sexual Research was destroyed (Settington, 2013: 17).

Anything related to homosexuality was seen as a threat to Germany. According to Grau (1995: 3), there were four primary reasons why homosexuality was viewed as a threat to the German society. Firstly, being gay meant that you would not be producing babies and this would lead to a lower birth rate, which would in turn essentially mean a weaker Germany. Secondly, homosexuality was seen as having the ability to corrupt the minds of young people, a phenomenon that could spread and become an epidemic. What is interesting to note here, and perhaps alarming, is that this train of thought – manifested in the 1930s – can be seen in 21st-century Russia with its Anti-Gay Propaganda Law that was passed in 2013 (Johnson,

2015: 44). Russia's law strengthens the penalties for those who 'promote' homosexuality among minors. Thirdly, homosexuals were seen as enemies of respectable society and suspected of being opportunists, especially given the fact that many believed that homosexuals tend to form cliques. Lastly, homosexuals were seen as being a danger to public morality – same-sex relations were believed to encourage the decline of social community. As such, gay men became targets in Nazi Germany. They became targets not so much because homosexuality was a criminal offence, but mostly because being gay was seen as an inherent danger to the Aryan race.

It is important to mention that gay men and lesbian women were prosecuted differently during the Nazi period – a phenomenon that is seen in many societies around the world, even today. Lesbians were not seen as a social or political danger, unlike gay men, who were seen as the "enemies of the state" (Lautmann, 1998: 353). When Paragraph 175 was amended in 1935, it did not include women. According to Grau (1995: 10), the Nazi regime purposefully did this in order to protect fertility and procreation. It was believed that the reproductive power in women is never wasted, unlike in homosexual men who could, according to the Nazis logic, biologically pass on homosexuality. A call was made to women to adopt a more feminine image through their appearance, clothing or their being. This push for feminisation in women consolidated traditional gender norms in Nazi German society. Grau (1995: 15) argues that it cannot be said with certainty that lesbian women were sent to concentration camps because of their sexuality. However, lesbian women who suffered in concentration camps were regarded as anti-social members of society (Settington, 2013: 31).

Note that the vast majority of research on the persecution of gay men in the Holocaust is based on first-hand accounts from survivors. Many of these accounts came in the form of memoirs that have been translated from German or French to English. It is important to acknowledge that it is possible for meaning to get lost through the translation of books; however, these accounts are crucial in understanding the experiences of gay men in the Holocaust. Two influential first-hand accounts were those of Josef Kohout, who published his book under the pseudonym Heinz Heger (1980), and Pierre Seel (1995). These memoirs were written primarily to commemorate the suffering of the forgotten victims as well as to validate the experiences of homosexual men in Nazi concentration camps.

Many gay survivors of the Holocaust did not speak or write about their experiences because of the shame and stigma attached to being gay, and also because homosexuality was still a

criminal offense in Germany after the fall of the Nazi regime. It was not until Josef Kohout published his memoir *The Men with the Pink Triangle*, that others were inspired to share their stories (Settington, 2013: 107). In his memoir Kohout revealed that everyone in the Sachsenhausen concentration camp, where he was imprisoned, was distinguished by different coloured triangles: yellow for Jews, black for anti-socials, red for politicals, purple for Jehovah's Witnesses, green for criminals, blue for emigrants, brown for Gypsies, and pink for homosexuals (Heger, 1980: 31). Note that in some concentration camps the colour of the triangles differed. In Seel's (1995: 30) account homosexuals in the Schirmeck concentration camp in Alsace, France wore blue bars, which was also worn by Catholics and asocials. One thing was certain, however, that the men who wore pink triangles (along with the Jews and Gypsies) suffered the most (Lautmann, 1998: 349). Kohout recalls a man who had suffered twice over: for being a Jew and homosexual – his yellow and pink triangle on top of each other formed the Star of David (Heger, 1980: 39).

One particular recollection in Kohout's account that is of interest to this study is his night in the police prison. Kohout shares the story of being placed in a one-man prison cell along with two other men – one arrested for housebreaking and the other one for swindling widows looking for new husbands. When they found out Kohout was imprisoned for his homosexuality, they insulted him after he rejected their sexual advances. However, during the night these two men – both married to women – had sex with each other. They justified their actions as an emergency outlet and claimed that there was nothing queer about it – they were still 'normal' men and not a 'filthy queer' like Kohout (Heger, 1980: 23). This shared belief of 'normal' men being different from queer men was a common and regular occurrence throughout Kohout's account. Today this phenomenon is more accurately known as men who have sex with men (MSM). This raises a very important question around the concept of 'normal' and 'abnormal'. Kohout puts it so eloquently: "Is there a normal hunger and an abnormal one? A normal thirst and an abnormal one? Isn't hunger always hunger, and thirst thirst?" (Heger, 1980: 23). According to Finnemore and Sikkink (1998: 904), the third stage of the norm life cycle, norm internalisation, refers to the moment when the norm reaches a stage where it is no longer challenged and is accepted as a given. In the case of Kohout's incident, the norm had been so internalised that anything other than a heterosexual *identity* had to be rejected and was regarded as abnormal.

With the fall of the Nazi regime in 1945, homosexual men along with the other Holocaust victims were liberated from the concentration camps. However, as Seel (1995: 88) movingly stated in his memoir, “[l]iberation was only for others”. Even as WWII came to an end, homosexual men were still regarded as criminals under Paragraph 175 of the Penal Code and police records with their names were kept. After the war many gay survivors were tried under Paragraph 175. Some committed suicide before the trial or afterwards in prison, while others, like Pierre Seel (1995), opted for heterosexual marriage. Heger (1980: 9) points out that Paragraph 175 was repealed only in 1969 – the same year the Stonewall riots erupted. Unlike other Holocaust survivors, gay men never received recognition for their suffering. In 2001 the German government finally recognised gay men as victims of the Holocaust and encouraged them to collect compensation for their suffering. Needless to say, by then most gay men who had suffered in the Holocaust were either elderly or deceased. In 2011 Rudolf Brazda passed away – he was considered to be the last gay Holocaust survivor to have worn the pink triangle (Settington, 2013: 104). At the time of this writing, the pink triangle is still used by the LGBTQ movement, not only in commemoration of the men who suffered, but also as a symbol of the fight against repression.

Lavender Scare

While on the subject of war, it is important to briefly mention the targeting of homosexuals in the USA during the Cold War. In 1947 Republicans raised concerns about homosexuals who were employed by the US State Department (Charles, 2012: 101). These concerns came from a belief that homosexual men and women could easily be blackmailed, which meant that they would more readily share confidential information of their country with possible enemies. As such, homosexuals were seen as security risks. A public witch hunt followed that removed homosexuals or those suspected of homosexuality from the State Department from about 1947 to 1969, when several US federal courts deemed these policies as unconstitutional. This public witch-hunt was known as the Lavender Scare.

Although the Lavender Scare escalated during the Cold War, the policing of homosexuals had already begun in 1937 (Charles, 2012: 102). In 1937 the Federal Bureau of Investigation (FBI) started to systematically collect information on homosexuals. This targeting of homosexuals came as a result of a nationwide panic about child kidnappings in the 1930s. Many believed that homosexuals preyed on children, which meant that there had to be a connection between homosexual men and child kidnapping. This misguided belief and the

associated actions would eventually grow and spill over into government. In 1942 the FBI created a file on “sex perverts in government” (Charles, 2012: 103). This systematic categorisation of homosexuals as sex perverts led to the belief and categorisation of homosexuals as undesirable, unfit and even morally depraved (Shibusawa, 2012: 728).

It was the passing of President Harry Truman’s ‘Executive Order 9835’ (also known as the ‘Loyalty Order’) in 1947 that allowed government officials to quietly force out homosexuals working in government through its loyalty programme. After Senator Joe McCarthy’s infamous remarks about Communists working in the State Department in February 1950, the situation for homosexuals deteriorated. According to Charles (2012: 103), the majority of the American population felt that Communists and homosexuals exhibited similar traits: both groups kept their true identities hidden, both operated in secretive underworlds, they shared a common sense of loyalty, they recruited members into their ranks, and both groups were believed to be mentally abnormal. These common misperceptions had a lot to do with the suspicions about the masculinity and loyalty of Communists and homosexuals as constructed by government officials (Smith, 1992: 328).

It is important to note that although homosexuals were forced out of government as security risks, these witch-hunts always lacked material evidence. That is essentially what McCarthyism is based on – the practice of making accusations of subversion without proper regard for evidence (Charles, 2012: 101). Being aware that they did not have actual evidence to prosecute homosexuals, President Dwight Eisenhower signed ‘Executive Order 10450’ in 1953 to prosecute them based on immorality. This meant that criminals, drug addicts and homosexuals were grouped together. What is not so obvious about this executive order is that it constructed the idea of the ‘normative American man’ – the one who is less likely to commit treason, while the other was (Shibusawa, 2012: 733). In this case, because of his immorality, the homosexual man was more likely to commit treason than the heterosexual man.

Perhaps more importantly, Shibusawa (2012) posits the interesting argument that the Lavender Scare was at its core the fear that the USA would lose its hegemonic power. This was revealed in the State Department’s 23 June 1950 memo on homosexuality entitled *Problem of Homosexuals and Sex Perverts in the State Department* (Shibusawa, 2012: 742). The memo explains why homosexuals were regarded as security risks and how the ‘problem’ should be dealt with. The memo also references the decline of the Egyptian, Greek and

Roman Empires as a result of their acceptance of homosexuality. Clearly this suggests that societies that accepted or condoned homosexuality would lose their power and the USA did not want to risk such a fate. This stands in contrast with many Western European societies today, such as the Netherlands, for example, which view the acceptance of homosexuality as progressive (Kollman, 2013: 13). Interestingly enough, two years after the memo was written, homosexuality was officially classified as a mental illness in the USA – the American Psychiatric Association declassified it only in 1973 (Meyer, 2003: 674). Many argue that the Lavender Scare strengthened the normalisation of heterosexuality and the nuclear family in American society, but many also argue that the Lavender Scare was the real catalyst for the gay and lesbian movement and the discourse around LGBTQ rights as a whole.

LGBTQ Rights as Human Rights

According to Altman and Symons (2016: 74), the discourse around international human rights is a direct consequence of the events of WWII. Article 2 of the 1948 Universal Declaration of Human Rights states that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (United Nations, 2015). The interesting part is that the Universal Declaration of Human Rights did not explicitly make provision for protection based on sexual orientation or gender identity. As discussed in the previous section, this was mainly because homosexual men were still criminalised in Germany even after the fall of the Nazi regime. Evidently, this was not just a problem in Germany. The view of homosexuals as security risks in the USA during the Cold War was arguably a factor in the country’s silence in not advocating the inclusion of sexual orientation rights in the conversation around the norms of human rights.

According to Swiebel (2009: 25), the first time the issue around LGBTQ rights was introduced at a formal United Nations (UN) meeting was in 1985. At that year’s *UN World Conference on Women* in Nairobi, Dutch minister Annelien Kappeyne van de Coppello advocated for the inclusion of lesbian rights. This activism around lesbian rights is directly linked to the discourse around sexual rights and women’s rights as human rights with the rise of feminism in the 1970s. According to Altman and Symons (2016: 85), the discourse around sexual rights and women’s rights centred on reproductive rights, sexual violence, rape and forced sterilisation. These issues affected all women, including lesbian women. As such,

feminist women are largely responsible for paving the way for introducing LGBTQ rights into the conversation with its advocacy of lesbian rights.

In November 2006 a set of principles was drafted by international human rights scholars, jurists and practitioners in Yogyakarta, Indonesia that would guide the development of national and international legal standards regarding the protection of human rights for sexual and gender minorities (D'Amico, 2015: 60). This was known as the 'Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation or Gender Identity' – in short, the Yogyakarta Principles. It highlighted the role of regional courts in relation to international law and human rights – it allowed these regional courts to address any form of marginalisation or exclusion on the basis of sexual orientation and/or gender identity. According to Altman and Symons (2016: 81), this was a deliberate attempt to codify and promote international legal norms. However, what they did not take into account was that international norms and domestic norms do not always cascade simultaneously. In fact, Altman and Symons (2016: 81) go on to argue that in order for international law to catch on, a domestic cultural shift around sexual liberty needs to take place first.

D'Amico (2015: 60) points to the 2008 Declaration on Human Rights, Sexual Orientation, and Gender Identity (SOGI Declaration) as an example of such a domestic cultural shift in relation to international law that tends to translate into voting behaviour in the UN on issues such as sexual orientation and/or gender identity. At the time of the SOGI Declaration, the UN was comprised of 192 member states (it currently has 193 member states). Out of the 192 member states, 67 supported the SOGI Declaration, 57 opposed it, and 67 abstained. D'Amico (2015: 61) argues that such extreme polarisation within the General Assembly is rare, especially for such an informal declaration. It is important to note that only 6 out of the 54 African countries supported the declaration and only 4 out of the 53 Asian countries. Yet 45 Western and Eastern European countries supported the declaration. Although it is clear that LGBTQ issues are viewed and supported differently in the majority of the so-called Western world compared to the non-Western world, D'Amico (2015: 61) points out that the debates around LGBTQ issues indicate that further progress is possible.

The inclusion of LGBTQ rights on the UN agenda has always been met with firm resistance. For years the UN had been unwilling to recognise LGBTQ rights as human rights. Queer theorists such as Altman and Symons (2016: 73) and Weber (2016: 121) point to Hillary Clinton's 2011 landmark speech stating that LGBT(Q) rights are human rights as a pivotal

moment for the LGBTQ movement and its advocacy of human rights. On 15 December 2011 the UN released its first-ever report on LGBTQ rights as human rights (Settingington, 2013: 111).

In July 2013 the UN launched its year-long ‘Free and Equal’ campaign in Cape Town, South Africa (UN News Centre, 2013). The objective of the campaign was to raise awareness and respect for LGBT(Q) equality. At the launch of this campaign former High Commissioner for Human Rights, Navi Pillay, stated that discrimination on the basis of sexual orientation and/or gender identity in the workforce, education, health sectors and other areas of society is a basic violation of human rights. One year later the UN implemented a marriage policy that recognises the same-sex marriages of its staff who married in a country where same-sex marriage is legal, regardless of their nationality. Before this policy took effect on 26 June 2014, the marital status of employees of the UN was determined by the laws of the country whose passport they carried (UN News Centre, 2014). Note that this policy was implemented by former UN Secretary General Ban Ki-moon without consulting member states. According to Coleman (2014), Ban Ki-Moon said the following of the policy change:

Human rights are at the core of the mission of the United Nations ... I am proud to stand for greater equality for all staff, and I call on all members of our UN family to unite in rejecting homophobia as discrimination that can never be tolerated at our workplace.

This move by the UN in recent years is an interesting one, given the fact that there is no international law that recognises same-sex marriage as a basic human right. Point 1 of Article 16 of the Universal Declaration of Human Rights states that “[m]en and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution” (United Nations, 2015). Clearly, the right to marry and the right to establish a family is extended only to heterosexual couples. Coleman (2014) argues that this move by Ban Ki-Moon was a way of calling on the UN’s member states to redefine the institution of marriage in order for the ‘right to marry’ to be extended to same-sex couples.

Although it is evident that the UN and those in powerful positions within the organisation have positive views on LGBTQ rights as human rights, these views are not shared by the majority of its member states. The discourse around LGBTQ rights and the UN raises the

very important question: who has the right to tell (compel) a sovereign state to conform to international law? It is clear that the UN is promoting international norms that do not translate or resonate with the domestic norms of sovereign states. International organisations play a big role in the whole phenomenon of norm cascades, given the fact that numerous states have accepted the Universal Declaration of Human Rights and regard it as the universal norm. Yet organisations such as Amnesty International, for example, made many (failed) attempts to repeal Uganda's Anti-Homosexuality Act of 2014. As such, many critics of international organisations such as the UN or Amnesty International question their effectiveness in protecting LGBTQ people and their basic human rights.

It is very important to understand the significance of state sovereignty in the debate around international law. According to Wendt (1992: 412), sovereignty is an institution. In the case of Uganda, its government made it clear that by defending the Anti-Homosexuality Act they were in effect defending their state sovereignty. This is supported by Wendt (1992: 413), who notes that if states stopped acting in accordance with certain norms, their identity as sovereign states would disappear. Thus, the sovereign state is an on-going accomplishment of practice, not a once-and-for-all creation of norms that somehow exist apart from practice. Taking a state's sovereignty into account complicates the conversation around universal LGBTQ rights. It complicates the conversation given the fact that even though international organisations draw up universal laws, sovereign states still draw up their own laws that may be in conflict with international laws, and it is possible for these domestic laws to be infringements of basic human rights.

Conclusion

This chapter has described and explained how and why marriage equality has become such an important issue in the LGBTQ discourse and International Relations in recent years. It has provided a contemporary historical background to the gay and lesbian movement since the 1970s and discussed how the single-issue stance in the movement has changed over the years, with especially the legalisation of same-sex marriage being the single issue in recent years championed by advocates. It is clear that the issue of same-sex marriage is closely tied to citizenship, in particular sexual citizenship. Advocates of same-sex marriage argue that the LGBTQ community is regarded as being made up of second-class citizens, given that they do not receive the privileges that heterosexual couples receive through marriage. This argument opened the door for many queer theorists to point out that the institution of marriage creates

inequalities for those who do not enter into this institution – same-sex or different-sex – and add that extending marriage rights to gay couples will not address the inequalities that the institution of marriage perpetuates (Nair, 2014: 18). This chapter also examined the role of queer theory in the debate on marriage equality. Queer theory emphasises that not all queer people are advocates of the legalisation of same-sex marriage. For many queer people, especially those whose socioeconomic status in society is affected by race, class and/or disability, the legalisation of same-sex marriage will not change their condition, nor will it bring social justice to their lives (Ingraham and Saunders, 2016: 3).

This chapter also briefly examined historical events such as the Holocaust and the Lavender Scare, which impacted severely on the lives of homosexual people. The treatment of homosexuals during these times – which were not that long ago – and the attitudes and norms that emerged still linger on today. The chapter explored the discourse around LGBTQ rights as human rights, and in particular the role of the UN. The UN's changing and vocal position on marriage equality is a step in the right direction for the equality movement. Whether the UN's stance will influence other nations is still unclear, especially considering that in many countries homosexual acts are still criminalised. Evidently, international norms do not always – or immediately – translate to domestic norms. In order for international norms to be internalised, a cultural shift around sexual liberty within domestic borders needs to take place first (Altman and Symons, 2016: 81).

The legalisation of same-sex marriage remains at the forefront of the mainstream LGBT(Q) agenda. At the same time, there has been a rise in anti-homosexuality rhetoric as well as an increase in policies re-criminalising same-sex relations. This creates an interesting phenomenon of a norm-cascading process going in opposite directions. In order to examine this phenomenon, this study draws on constructivist perspectives in IR. The following chapter evaluates international norm dynamics regarding ideas, values and norms of the ideational and how they influence the realities of global LGBTQ politics. Chapter 3 specifically examines Finnemore and Sikkink's (1998) norm life-cycle model, as it proves useful to apply it to the Marriage Equality and Marriage Reactionary Movements.

CHAPTER 3

Constructivist Perspectives in IR

Introduction

The previous chapter provided a recent history of homosexuality and the evolution of marriage equality. This foundational framework proves useful in addressing the research problem and answering the research questions, the primary research question being: How and why has marriage equality emerged as an important issue in contemporary global policy and practice as described and explained by IR? This is done by applying constructivist perspectives in International Relations (IR). Constructivists in IR are interested in the ideas, values and norms associated with the ideational dimension and how they influence the realities of global politics. For the purpose of this study, these ideas, values and norms specifically pertain to the realities of LGBTQ politics. This chapter explores the utility of constructivist perspectives and whether or not these perspectives are able to describe and explain the emergence of norms related to same-sex marriage in IR, how these norms cascade and diffuse into legal frameworks, and how they become internalised.

This chapter provides a very brief overview of the history of IR with reference to the discipline's two core (conservative) theories – realism and idealism. This is followed by an account of the emergence of constructivism, which occurred as the Soviet Union was on the verge of collapse – the time when neorealism and neoliberalism were still dominating the field of IR. An exploration of constructivist theory in IR is provided, examining perspectives from influential constructivist scholars as well as from the various academic disciplines that analyse political events through a constructivist lens.

Queer theory and queer contributions within IR are important aspects of this chapter. An exploration of queer theory as a discipline is provided in order to show its influence in global LGBTQ politics. Perhaps more importantly, this chapter examines the role of queer perspectives and the work of queer scholars in the discipline of IR. This is done primarily by exploring the work of Cynthia Weber (2014, 2015, 2016), who argues that there is, or rather appears to be, no queer international theory.

Finally, the remainder of the chapter focuses extensively on Finnemore and Sikkink's (1998) norm life-cycle model. Finnemore and Sikkink's work on international norm dynamics has been particularly influential in the field of constructivism and IR. An explanation of the three

stages of the norm life-cycle model is provided. These stages are (1) norm emergence, (2) norm cascading, and (3) norm internalisation. An in-depth exploration of this model prove to be useful for this study as it is used to illustrate the phenomenon of the Marriage Equality Movement (the cascading of marriage equality in one direction) and the Marriage Reactionary Movement (the cascading of anti-homosexuality in the opposite direction) in the next two chapters. As such, this chapter tries to make sense of and examine the utility of constructivist perspectives in global LGBTQ politics in IR.

Primary Narratives in IR

The history of IR has been told predominantly through the Great Debates, but specifically through the dominance of realism and idealism. According to Smith (2000: 376), the discipline of IR is believed to have started with the dominance of idealism during the interwar years. Proponents of idealism – particularly Woodrow Wilson – argued for nations to adopt liberal democratic systems. For idealists, the adoption of liberal democracy would prevent war through negotiations and international structures. Within IR, idealism is based on the belief that the good intentions of other nations can be relied upon. Not surprisingly, realists are major critics of idealism, arguing that this mode of thinking is naïve (Brown, 2005: 24). Smith (2000) goes on to argue that realism went on to dominate the discipline of IR after WWII. The argument put forth by realists is that material forces shape the international system, and that a state's national interests are emphasised over ethical and moral considerations.

Realism and idealism have dominated the discipline of IR for decades. Realism, in particular, is still regarded as *the* theory of International Relations (Smith, 2000: 39). Despite the dominance of realism and idealism, over the years the discipline has seen different positions emerge – some of these positions include traditionalism and behaviouralism; state-centric and transnationalist approaches; neorealism, neoliberalism and Marxism; and rationalism and reflectivism. Although realism is regarded as the dominant theory in IR and is seen as a fully justified and universally accepted approach, it is not an approach that fits all circumstances. Realists emphasise notions of peace and conflict, balance of power/system, and human imperfection; however, they place too much emphasis on the importance of the state and tend to ignore the (queer) individual. Yes, idealists emphasise individual freedom, which includes sexual freedom; however, the idealist approach does not prove to be useful in addressing the research problem, seeing that it does not provide the theoretical framework to analyse the

complexities around sexuality/gender identity and norms. Therefore, this study turns to constructivism to address the research problem and answer the research questions.

The Emergence of Constructivism

Constructivism started to emerge in the late 1980s, when the Soviet Union was on the verge of collapse. The abrupt end of the Cold War took the international community by surprise. What was so astonishing about this event was the peaceful nature of the Soviet Union's dissolution, and the subsequent peaceful end to the Cold War (Price and Reus-Smit, 1998: 265). Although Adler (1997: 342) argues that the way the Cold War ended is still an intricate process to comprehend, Kratochwil (1993) pointed out that the end of the Cold War was essentially a test of neorealism's capacity to explain international change – a test neorealists failed.

Perhaps more importantly, the end of the Cold War allowed a constructivist perspective – a perspective often ignored by realists and idealists – to gain a foothold in IR in order to explain the behaviour of actors in the international arena. Constructivism, along with other critical theories, challenged the discipline's conservative theories. It is important, however, to keep in mind that constructivism is not anti-realist, nor is it anti-idealist by ideological conviction. Adler (1997: 323) points out that constructivism challenges only the ontological and epistemological grounds of realism and idealism. The goal of constructivism, therefore, is to provide theoretical as well as empirical accounts of social institutions and social change – with the help of the mutual effects of actors and social structures on one another.

Constructivism in IR

The position of constructivism in IR is explored in the following section through its three ontological propositions about social life and their impact of global politics as explained by Price and Reus-Smit (1998).

The first proposition of constructivism is the belief that reality is constructed through the combination and consolidation of both the ideational and material facets of existence (Price and Reus-Smit, 1998: 267). Adler (1997: 322) defines constructivism as “the manner in which the material world shapes and is shaped by human actions and interactions depends on dynamic normative and epistemic interpretations of the material world.” For constructivists, the material dimension is not dismissed as irrelevant, but the ideational is emphasised. Constructivism links the ideational to the issue of human consciousness in international life

(Ruggie, 1998: 878). Ruggie (1998: 879) goes on to state that the ideational has normative and also instrumental dimensions; the ideational expresses individual as well as collective intentionality; and the ideational – its meaning and significance – is not independent of time and place. Price and Reus-Smit (1998: 266) point out that the ideational is emphasised in constructivism because institutionalised meaning systems are thought to define the social identities of actors, which are based on their interests and actions.

According to Price and Reus-Smit (1998: 267), the second proposition of constructivism stresses that identities constitute interests and actions. According to Wendt (1992: 398) “identities are the basis of interests” and these interests are defined in the process of defining situations. Constructivists believe that understanding how interests are constituted will allow them to explain a wide range of international phenomena that rationalists have either misunderstood or ignored (Price and Reus-Smit, 1998: 267). Adler (1997: 324) argues that the identities, interests and actions of actors are socially constructed by collective meanings, interpretations and assumptions about the world. Ruggie (1998: 879) takes this a bit further to explain the role of constructivism with regard to interests and identities on an individual level as well as an international level. Ruggie (1998) argues that on an individual level constructivism problematises the identities and interests of states, and posits that they have been socially constructed (see also Adler, 1997). What constructivists then do on an international level is map out the ideational factors of an actor’s actions – these could range from ideology and culture to principled beliefs and aspirations. Constructivists point out that, on an international level, structure is immersed within ideational factors. Constructivists therefore argue that the international structure is a social structure that is made up of socially knowledgeable and informally competent actors who are subject to limitations that are in part material and in part institutional (Ruggie, 1998: 879).

The final ontological proposition taken by constructivists is the claim that actors and structures are mutually constituted (Price and Reus-Smit, 1998: 267). This reflects the argument by Ruggie (1998) that (the international) structure is socially constructed and gives meaning to actors’ identities and interests. Price and Reus-Smit (1998) point out that constructivists believe that structure and the ideas and knowledge of actors cannot exist independently of one another. Ruggie (1998: 879) stressed that in order for mutually understandable conduct to exist in IR, there have to be mutually recognised constitutive rules

that rest on shared intentionality. This emphasises that structure is a social construct immersed within ideational factors.

Adler (1997: 320) argues that the core debate in constructivism is about the nature of social science and IR – the conception of the discipline that is in fact *social* (see also Waldrop, 1992: 232). Adler uses the following metaphor to illustrate this point:

Suppose you toss a rock into the air. It can make only a simple response to the external physical forces that act on it. But if you throw a bird into the air, it may fly off into a tree... Finally, take a group of people, a nation or various nations and metaphorically toss them in the air. Where they go, how, when and why, is not entirely determined by physical forces and constraints; but neither does it depend solely on individual preference and rational choices. It is also a matter of their shared knowledge, the collective meaning they attach to their situation, their authority and legitimacy, the rules, institutions and material resources they use to find their way, and their practices, or even, sometimes, their joint creativity (1997: 320).

The point Adler (1997) tries to convey is that constructivism is not about science versus literary interpretations. Instead, the debate is about the nature of social science itself, and essentially about the discipline of IR. Adler (1997: 320) argues that “the issue pits a naturalist conception of science, almost entirely based on contested philosophies of science and on physical concepts and theories that physics has long since abandoned, against a conception of social science that is – *social*.”

Constructivism in Other Disciplines

It is important to note that constructivism is not so much regarded as a political theory as realism and idealism would be. Adler (1997: 323) argues that it should rather be seen as a social theory on which constructivists base their theories of international politics, given that it focuses on the social nature of cognition. This view is supported by Ruggie (1998: 879) as well as Onuf (1998: 58), who argue that constructivism makes it realistic to theorise about matters that seem to be unrelated. As such, given the interdisciplinary nature of constructivism, it has and is still being used in various other disciplines. These disciplines include sociology, philosophy, law, history and anthropology. This interdisciplinary component is not only limited to scholarly work, but also practical application. For example,

in terms of the law, Finnemore and Sikkink (2001: 402) argue that “[l]awyers have been shown to do extensive social construction again, often in conjunction with international institutions that consolidate and formalise the new social facts lawyers create.” In other words, in the professional arena a group’s own shared ideational understanding can translate into formalised organisations and legal structures.

Ruggie (1998: 862) argues that, although constructivism has been utilised by other disciplines, constructivists in IR have been particularly influenced by the work of sociology scholars such as Emile Durkheim and Max Weber. Even though constructivists in IR have strong theoretical roots in sociology as well as philosophy, constructivism has also managed to cross over into the fields of feminist studies, gender studies and queer studies. For example, constructivism is applied by interpreting the objective reality of *sexual* politics in order to fashion *gender* politics – sex being a physical reality and gender a social construct. The use of social constructivism in the arguments put forward by queer scholars is particularly important in queer theory and queer IR. The following section explores queer theory as well as its position and contributions in IR.

Queer Theory

The exploration of queer theory in the debate around marriage equality and in IR is an important one. Queer theory is rapidly growing in the field of International Relations. Queer theory challenges heteronormative norms and questions the status quo, and it examines the intersections of gender, sexuality, capitalism and the state through a queer lens. Queer theorists critique the activism in favour of same-sex marriage, arguing that those who are in favour of same-sex marriage are conforming to heteronormative ideals (Picq and Thiel, 2015: 5). The queering of same-sex marriage and the arguments by some queer scholars around marriage equality were extensively covered in the previous chapter. Thus, the following section focuses on queer theory as an academic discipline and its important contribution in IR.

Queering Theory

According to Halperin (2003), there is a difference between making theory queer and to queer theory. Making theory queer is to “challenge the heterosexist underpinnings and assumptions of what conventionally passed for ‘theory’ in academic circles”, while queering theory is “to call attention to everything that is perverse about the project of theorising sexual desire and sexual pleasure” (Halperin, 2003: 340). According to Stein and Plummer (1994:

181), the emergence of queer theory as an academic move is indirectly related to the emergence of confrontational queer politics in the early stages of the gay and lesbian movement. Many scholars became critical of the exclusiveness of the gay and lesbian movement, as discussed in the previous chapter, as well as with the discourse of gay and lesbian studies. Queer theorists argued for a new way of thinking and theorising.

In their work Stein and Plummer (1994: 182) identify four hallmarks of queer theory. First, queer theory conceptualises sexuality in such a way that sexual power is seen as being embodied through different levels of social life and enforced through fixed categories – sex, gender and sexuality. Second, queer theory problematises these categories as well as identity politics. Third, queer theory rejects civil rights strategies adopted by gay and lesbian studies, instead advocating for anti-assimilationist politics. Last, queer theory is willing to interrogate areas that would typically not be seen as the terrain of sexuality, and to analyse presumably heterosexual (or non-sexualised) texts through a queer lens. Halperin (2003: 341) argues that what queer theory has managed to do is effectively re-open the conversation around sexuality and gender; it has also managed to provide solid theoretical critiques of heteropatriarchy and homophobia, and it has successfully managed to create a platform for other scholars to further transgender studies.

Many queer theorists, as Weber (2016) notes, often use Eve Kosofsky Sedgwick's (1993) formulation of 'queer' as the first point of departure into the discipline. According to Sedgwick (1993: 8), 'queer' describes "the open mesh of possibilities, gaps, overlaps, dissonances and resonances, lapses and excesses of meaning when the constituent elements of anyone's gender, of anyone's sexuality aren't made (or can't be made) to signify monolithically." In other words, looking at categories like gender or sexuality through a queer lens recognises that these categories are not fixed or binary identities.

The notion that gender and sexuality are social constructs is not a new phenomenon. Michel Foucault (1976: 3) points to the Victorian era as a pivotal moment in history determining how sexuality and sex are seen today. During that era, sex (the act, not biological sex) was regarded as private and a topic that was not talked about. This discourse around sex and sexuality was seen as being limited to husband and wife, which means that it was essentially confined to marriage. The belief that sex and sexuality are a private matter and something that 'just is' has been passed on through generations as the norm. Instead, Foucault (1976: 157) argues that sexuality is a social construct that has its roots in history and in social and

cultural norms. It is important to note that Foucault (1976) was less concerned with what sexuality is; instead, he focused on how sexuality functioned within society, specifically in relation to power.

Halperin (2003: 341) argues that, along with Eve Kosofsky Sedgwick, Judith Butler is equally regarded as one of the founders of queer theory, which is essentially an extension of Michel Foucault's work. It is through Foucault's (1976) work on sexuality that Butler (1990) extends the same argument to that of gender – the argument that gender, like sexuality, is a socially constructed category. It is on the basis of this social construction of gender that Butler (1993: 20) argues that gender is performative. This gender performativity refers to the way people actively construct their gender as they act it out. This gender performativity should not be confused with gender being a performance. Acting out gender as a performance has an end – all performances have a beginning and an end; however, gender performativity is an active construction with no end. This active construction usually occurs through repetitive bodily acts, gestures and movements that are seen as normative actions. This means that gender identity is directly related to behavioural patterns that sustain societal gender norms (see also Butler, 2009). Interestingly, Ratele (2017) links the entering of marriage to Butler's (1993) concept of performativity. Ratele (2017) argues that when someone gets married, they are essentially doing something: they are declaring a public commitment (Interview, Kopano Ratele, 05/07/2017). Butler's (1993: 17) argument is that the words "I pronounce you..." put into effect the relations that it names. In other words, it is a 'speech act'.

It is important to keep in mind that queer theory is not just limited to LGBTQ studies. The success of queer theory in academia has much to do with the attachment of 'theory' to 'queer'. Halperin (2003: 342) argues that in the beginning academics accepted queer theory being a theory and not a discipline seeing that it did not pose any threat to established disciplines. This meant that queer contributions have also allowed other scholars in different disciplines to use queer theory as a way to address various issues by examining them through a queer lens – these issues range from family and religion, to race and even the economy. For example, Smith (2010: 42) points to queer politics as a way of addressing the way that heteropatriarchy structures white supremacy, capitalism and settler colonialism. For many queer theorists and feminist scholars, it is important to critique this heteropatriarchy as they

argue that it is inherently built on a gender binary system that presumes heterosexuality as a social norm.

Smith (2010: 43) goes on to state that what queer perspectives have managed to do is expand the understanding of identity politics for many people. Instead of assuming that bodies fit perfectly into fixed categories of sex, gender and sexuality, what queer theory allows is an exploration of how these fixed categories normalise what – or who – society regards as acceptable or appropriate. It is through this kind of identity politics that queer theory recognises and acknowledges those bodies who deviate from the norm (Valocchi, 2005: 751).

Queering International Relations (IR)

The issue of queering IR is important. Cynthia Weber has been influential in this debate. Many queer scholars (for instance, Sedgwick and Butler) tend to position queer theory primarily in the discourse around feminist studies, gender studies and poststructuralist studies. In “From Queer to Queer” Weber (2014: 596) argues that queer studies cannot be reducible only to the three aforementioned disciplines. Weber (2014) goes on to point to Teresa de Lauretis, who argues that queer studies as an academic practice is an attempt “to rethink the sexual in new ways, elsewhere and otherwise” which transcend traditional gay and lesbian studies, feminist studies, gender studies and poststructuralist studies.

Weber (2014) points out that the “elsewhere” De Lauretis referred to tended to function in order to locate queer international theories outside of the discipline of IR. This means that “queer” has always been regarded as “otherwise” in relation to what most IR scholars have been taught to understand as International Relations theory and practice. Weber (2014: 597) argues that there is no real distinction between what is called IR and what is called queer IR. She goes on to state that queer IR has managed to seep into the three core areas in which most IR scholars claim expertise – war and peace, international political economy, and state and nation formation.

In Weber’s (2015) article “Why is there no Queer International Theory?” she continues to challenge IR discourse in its reluctance to (somewhat) queer the discipline, arguing that queer studies have managed to transform itself into global queer studies (2015: 28). As mentioned earlier, (global) queer studies have made valuable contributions to the three core areas in IR. The interesting aspect of this, however, is that these contributions are frequently featured in top-ranked journals and books, but not within the field of IR itself. She argues that the

contributions made by (global) queer studies are largely bypassed by IR. For example, in the last decade “only six journal articles and no special issues on GQS (Global Queer Studies) themes have been published in the top 20 impact-rated IR journals, and only one GQS-themed book has been published or commissioned by a top IR book series” (Weber, 2015: 28).

As a result, Weber (2015) asks the question why IR has not gone somewhat queer. She goes further by paraphrasing Martin Wight’s (1960) question “Why is there no International Theory?” as “Why is there no Queer International Theory?” She proposes three possible answers. Firstly, many arguments are put forward that “IR scholars are not interested in queer-themed work” (Weber, 2015: 28). However, Weber (2015) contests this view. She points to the fact that membership in the International Studies Association (ISA) LGBTQA Caucus is steadily on the rise. She also points to the fact that the first interdisciplinary conference that focused on queer IR managed to receive over 100 submissions as well as attract 200 participants. Evidently, there is not a lack of interest in queer-themed work.

Secondly, Weber (2015: 28) challenges the claim that “interest in GQS has not (yet) led IR scholars to produce any Queer International Theory.” She argues that this ignores the fact that there is an expanding body of queer-themed work by IR scholars that stretches over 20 years – she names authors such as Dennis Altman, Kelly Kollman and herself as examples. The problem is that most of these works are not published in IR outlets. This creates the impression that there is no queer international theory.

Lastly, it has been argued that “[a]ll of the GQS-themed work produced by IR scholars is so interdisciplinary that it lacks primary focus on core IR concerns, which is why IR scholars are not interested in it and why it is not published in IR outlets” (Weber, 2015: 28). Weber (2015) has consistently contended that GQS-themed work by IR scholars does in fact focus primarily on key IR themes such as war, sovereignty, hegemony, empire, security, intervention, nationalism, colonialism and foreign policy. She argues that IR-themes are central to queer work. She provides numerous examples to illustrate this point by citing the work of several IR scholars. She first points to her own work on how failing hegemonic states and wars perform queerness through their conduct of intervention and wars to solidify their hegemonic status (see Weber, 1999). She then points out that Puar (2007) investigated how states produce themselves and their citizens as pro-LGBT(Q) subjects in part to constitute other states, civilisations or peoples as national and global threats. Weber (2015) goes further

to acknowledge Agathangelou's (2013) and Scott's (2013) work on how the articulation and circulation of global (economic) value through queer and racialized bodies supports the practice of empires. In essence, this shows that there are in fact multiple queer international theories in the discourse. Consequently, Weber (2015: 29) poses a different question: "Why does there *appear* to be no Queer International Theory?"

Weber (2015: 29) points to 'Disciplinary IR' as the mechanism that codes certain theories (whether consciously or unconsciously) as failures. Again, Weber (2015) cites Martin Wight, who argued that in order for "international theorising to succeed, it must accumulate knowledge about interstate relations." As such, Weber (2015: 29) makes the claim that according to Disciplinary IR, perspective theories fail because they are judged not to be making progress towards this goal. According to Weber (2015: 30), Disciplinary IR uses homologisation, figuration and gentrification as strategies to make it appear as if there is no queer international theory. Essentially, Disciplinary IR 'forces' the IR discipline to dismiss queer international theories as nothing other than International Theory. This does not only negatively affect queer IR scholars, but it also impacts on the IR discipline as a whole.

In *Queer International Relations: Sovereignty, Sexuality, and the Will to Knowledge*, Weber (2016) continues to position queer studies within the IR discipline. She continues to argue that queer-themed work by IR scholars is important in the discourse around sovereignty and sexuality, and highlights the impact queer contributions have had on the international political practices of development, immigration, terrorism, human rights, and, of course, the continued incorporation by queer studies of IR's three core areas.

Weber (2016: 2) argues that the relationship between IR scholars and queer scholars in how they view (regard) one another's work can perhaps explain why there is no (need for) queer theory in IR, and no (need for) IR theory in queer studies. Note that many queer scholars work on issues pertaining to political sovereignty, and many IR scholars work on issues pertaining to sexualities. According to Weber (2016), on the one hand, many IR scholars fail to "take on board the insights of their queer studies colleagues about the possibility and impossibility of producing and deploying sexualised subjectivities." This results in most IR scholars' regular under-theorising of how the will to knowledge about *sexualities* is part of what makes international games of power possible and impossible. On the other hand, many queer scholars tend to ignore the insights of their IR colleagues about how sovereignties are deployed to produce identities that are intended to legitimise national and international

orders. As a result, most queer studies scholars tend to under-theorise how the will to knowledge about sexualities is a specifically *sovereign* will that makes possible and presupposes specifically sexualised *sovereign* subjectivities.

Borrowing Cynthia Enloe's take on a feminist scholar's take on feminism, Weber (2016: 16) applies it to her work on queer studies within IR:

I cannot claim to be doing queer work if I have no genuine interest in those who refuse/fail to signify monolithically in terms of sexes, genders, and sexualities. I cannot claim to be doing queer work if I neglect to analyse how power circulates in and through sexes, gender, and sexualities to attempt to normalise and/or prevent them. I cannot claim to be doing queer work if my evocation of the term queer closes down possibilities for critical thinking and practice in relation to nonmonolithic sexes, gender, and sexualities. I cannot claim to be doing queer work if I do not analyse how any evocation of the term queer is itself always made through a particular expression of power on behalf of some kind of intimate, national, and/or international politics.

There are, of course, also arguments put forward by some feminist scholars (see Sjoberg, 2015) who question the uniqueness of queer perspectives. These scholars argue that queer perspectives are essentially only an extension of feminist perspectives as well as other critical perspectives. However, Weber (2016: 17) argues that “[t]here is nothing inherently feminist about queer or queer IR.” She goes on to argue that many queer scholars as well as IR scholars strive towards a queer IR that is also a feminist IR. Thiel and Picq (2015: 7) similarly argue that feminist and queer engagements are critically important to understand and develop LGBTQ perspectives in IR.

Incidentally, constructivist perspectives in IR have been used to observe international norm dynamics regarding ideas, values and norms around (homo)sexual and queer governance. For example, Kollman (2013) uses a constructivist lens to examine the legal recognition of same-sex unions in liberal democratic states, and Symons and Altman (2015) utilise constructivism to illustrate the international polarisation of contesting norms. These scholars have acknowledged the importance of Finnemore and Sikkink's (1998) contribution to better understand norms and international norm changes. This study specifically applies Finnemore and Sikkink's (1998) norm life-cycle model to demonstrate the normalisation of marriage

equality and anti-homosexuality. Therefore, the remainder of this chapter is an exploration of the norm life-cycle model.

Defining Norms and Institutions

Constructivists in IR are particularly interested in the role norms play in political change. This change refers to the way in which norms emerge and evolve, and the ways in which they influence other features of the political landscape (Finnemore and Sikkink, 1998: 888). Thus, norms are central to the field of political science and to the study of international relations.

According to Finnemore and Sikkink (1998: 891), a norm can be defined as a “standard of appropriate behaviour for actors within a given identity.” Finnemore and Sikkink (1998) point out that it is important to note that the language used by constructivists to refer to behavioural rules are different within the fields of IR and sociology. In IR constructivists use a language of norms to refer to behavioural rules; constructivists in sociology use the language of institutions to refer to the same behavioural rules. According to March and Olsen (1998: 948), an institution can be defined as a “relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations.” Finnemore and Sikkink (1998: 891) argue that by using a language of norms, IR scholars tend to isolate a single standard of behaviour, whereas sociologists use the language of institutions in order to emphasise behavioural rules and how they are structured together and interconnected.

In effect, norms are the agreed-upon expectations and rules by which a culture guides the behaviour of its members in any given situation. It is important to note that norms vary widely across cultural groups. Many of these norms turn into laws, as seen in several laws passed in countries such as the Netherlands, South Africa, the USA and Germany legalising same-sex marriage, for example. Such laws are formal bodies of rules enacted by the state and backed by the power of the state. Members of a culture must conform to the culture’s norms for the culture to exist and function. Hence, members must want to conform and obey the rules. They must first internalise the social norms and values that dictate what is regarded as normal for the culture; then they must implement, or teach, the norms and values to the society. If internalisation and socialisation fail to produce conformity, some form of social control is ultimately needed. Social control may take the form of ostracism, fines, punishments and even imprisonment. This is especially evident in countries such as Uganda, Nigeria and Iran, for example, where homosexuality can result in imprisonment or execution.

Constructivists argue that there are different categories within which to place norms. Finnemore and Sikkink (1998: 891) highlight three categories, namely regulative norms, constitutive norms, and evaluative or prescriptive norms. Firstly, regulative norms maintain order and constrain behaviour. For example, LGBTQ activists try to change and call attention to rules and ‘appropriate’ behaviour that maintains a global system that marginalises queer bodies. Secondly, constitutive norms create new actors, interests and/or categories of action. For example, both the LGBTQ activist as well as the reactionist are engaged in a process in which they aim to emphasise and fortify the role that new actors play in championing their particular interests. Lastly, evaluative or prescriptive norms propose what behaviour is deemed appropriate. For example, the reactionist can propose legislation that re-criminalises same-sex acts, because these acts are seen as inappropriate and only heterosexual behaviour is deemed appropriate. Note that evaluative or prescriptive norms are often omitted from the analysis and have not received the necessary attention they should. In fact, Finnemore and Sikkink (1998: 891) suggest that it is precisely the prescriptive quality of what ‘ought to be’ that distinguishes norms from other kinds of rules.

Whether a norm is regarded as *good* or *bad* is highly subjective, given the fact that it is determined by the perceptions, beliefs and identity of those who are promoting the particular norm. What is important to know is the fact that there are no accurate instruments to measure norms. Thus, the challenge for researchers is to determine at which point a norm could be classified as an accepted (internationalised) norm. According to Finnemore and Sikkink (1998: 891), in order to study norms one must study the “extensive trail of communication among actors”. This approach clearly points to the process of persuasion. The process of persuasion is central to determine the level of progress that occurs within the norm life cycle, as illustrated below:

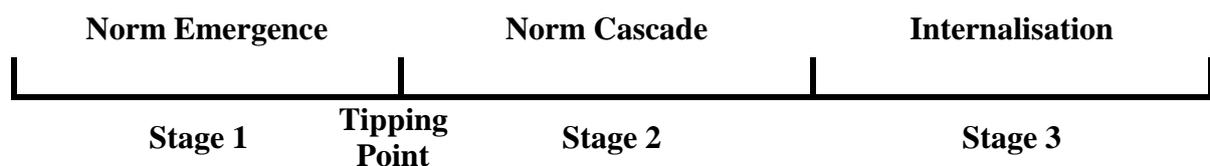


Figure 1. *Norm Life Cycle*

(Source: Finnemore and Sikkink, 1998: 896)

The Norm Life Cycle

Finnemore and Sikkink's (1998) norm life cycle explains how norms shape and guide behaviour. In the next two chapters of this study the norm life cycle is used to explain the contemporary governance of homosexuals and queers (in particular the *norm*-alisation of marriage equality, and the *norm*-affirmation of anti-homosexuality). This model describes three stages, namely (1) norm emergence, (2) norm cascading and (3) norm internalisation. This model has proved to be useful for this study as it identifies, describes and explains norms when they are first presented by norm entrepreneurs, how these norms then cascade into legal frameworks and finally how they then become internalised. The utility of the model is that it explains the legalisation of same-sex marriage in liberal democratic states as well as the legalisation of anti-homosexuality policies, which allowed this study to address the research problem and research questions.

The first stage in the norm life cycle, *norm emergence*, involves the process of persuasion by norm entrepreneurs (Finnemore and Sikkink, 1998: 985). They aim to persuade a large group of actors or individuals to accept a proposed norm. Stage two of the norm life cycle, *norm cascading*, consists of a socialisation process during which individuals and actors in the global system conform to a particular norm. The third stage, *norm internalisation*, refers to the moment when the norm reaches a stage where it is no longer challenged and is accepted as a given. Before attempting to describe and explain the norm life cycle, the following section points back to women's suffrage movement, as highlighted in Chapter 1, as an example that illustrates the utility of Finnemore and Sikkink's (1998) model.

In the 19th century the issue of women's voting rights gained increasing prominence. There was a particularly strong movement in countries such as the USA and the UK, even though they were not the first to allow women to vote. Countries such as New Zealand (1893), Australia (1903) and Finland (1906) paved the way for the cascading of this new norm (Markoff, 2003: 91). Finnemore and Sikkink (1998: 893) point out that women's suffrage started as a call for domestic change in a few countries which essentially spread and ultimately led to the internationalisation of a universally accepted norm. Article I of the United Nations' (1953) *Convention on Political Rights of Women*, states that "[w]omen shall be entitled to vote in all elections on equal terms with men, without any discrimination." Keep in mind that these rights (privileges) mostly pertained to white women. In the case of the USA, Native American women were allowed to vote only in 1924 (Indian Citizenship

Act), Asian women in 1952 (McCarran-Walter Act) and African-American women in 1964 (Voting Rights Act). This is in contrast with white women, who were granted voting rights in 1920. Similarly, in the case of South Africa, women of colour were allowed to vote only in 1994. White South African women had been granted voting rights in 1930. Needless to say, in these cases the construct and normalisation of the superiority of the white race is evident. However, in the broader construction and normalisation the issue of women's suffrage serves as a worthy example of a transnational norm becoming internalised.

According to Finnemore and Sikkink (1998: 896), stage 1 of the norm life cycle, norm emergence, lasted for more than 80 years in the case of women's suffrage. They argue that it started with the Seneca Falls Conference in 1848 and lasted until 1930, when 20 states allowed women to vote. The 20 years that followed, moving into the second stage of the norm life cycle, norm cascading, saw an additional 48 countries adopting women's suffrage. Over the years women's suffrage has become a powerful internalised norm (the final stage of the norm life cycle), which is supported by the fact that as of this writing, in 2017 Vatican City remains the only country in the world which has not granted women voting rights.

Stage 1: Norm Emergence

The constructivists Finnemore and Sikkink (1998) identify three concepts that are important in the first stage of the norm life cycle: norm entrepreneurs, organisational platforms and the tipping point. Norm entrepreneurs are critical in this stage given the fact that they “call attention to issues or even ‘create’ issues by using language that names, interprets, and dramatises them” (Finnemore and Sikkink, 1998: 897). Norm entrepreneurs are actors who introduce and actively build norms that individuals within their community will regard as appropriate or desirable behaviour. The norm entrepreneur will follow the process of persuasion in order to convince the individuals within their community or state actors to accept the proposed norm. Finnemore and Sikkink (1998: 897) cite Lawrence Lessig (1995), who refers to norm entrepreneurs as “meaning managers” or “meaning architects.”

Elgstrom (2000: 460) points to John Kingdon, who argues that norm entrepreneurs have the very important task of making sure that their proposed norms get on the agenda of major actors. These actors are usually the decision-makers. The norm entrepreneurs must therefore convince the major actors that adopting the proposed norms will serve in their own interests, or persuade them to believe that the proposed norms are morally superior. If successful, the

proposed norm will eventually become internalised (the final stage of the norm life cycle) and in turn the major actor will not only become a norm follower but also a norm entrepreneur.

As mentioned earlier, in constructivism language plays a very important role when norm entrepreneurs call attention to or ‘create’ issues. This is often referred to as ‘framing’ (Finnemore and Sikkink, 1998: 897). It is the framing of the issue (proposed norm) that is crucial to the norm entrepreneur’s political strategy, which will allow it to resonate with the broader public and be adopted in new ways of discussing and/or understanding an issue. It is important to keep in mind that, although norm entrepreneurs use a specific language to frame an (existing) issue or create a new one, the proposed norm/frame will still compete against alternative norms/frames that are already firmly embedded within a community and which create alternative perceptions of appropriateness and interest. Finnemore and Sikkink (1998: 897) argue that norms “emerge in a highly contested normative space where they must compete with other norms and perceptions of interest.” For example, in this study, emerging norms are challenging the existing normative system of global queer and (homo)sexual governance.

Elgstrom (2000: 460) argues that the process of persuasion used by norm entrepreneurs is usually in the form of appropriateness. Finnemore and Sikkink (1998: 897) refer to this as the ‘logic of appropriateness’. This means that the emerging norm has to meet the standard of ‘appropriateness’ as already defined by prior norms. According to Finnemore and Sikkink (1998: 908), norm entrepreneurs actively frame their issues (or proposed norms) in such a way that make persuasive connections between existing norms and new emerging norms. The challenge of promoting new norms is, therefore, not only to meet the already defined standards of appropriateness, but also not to deviate too far from existing norms. It is also possible, of course, that in order to challenge the existing norms, norm entrepreneurs may need to be ‘inappropriate’. It is through this ‘inappropriate’ approach that the norm entrepreneur may be able to successfully frame their issue and send a clear message to the broader public. For example, one could argue that many African-Americans used the ‘inappropriate’ approach during the Civil Rights movement to protest Jim Crow laws by sitting at lunch counters reserved for white Americans, or by sitting in the front of the bus when they were restricted to sitting in the back of the bus.

Finnemore and Sikkink (1998: 898) list empathy, altruism and ideational commitment as factors that could motivate norm entrepreneurs to believe in and advocate a particular norm.

Empathy refers to the norm entrepreneur's interest in the welfare of others regardless of whether or not this will have an effect on the norm entrepreneur's own wellbeing; altruism refers to the action the norm entrepreneur takes that will benefit others even at the risk of significant harm to the norm entrepreneur's own well-being; ideational commitment – perhaps the most important of the three – is regarded as the main motivation behind the actions of the norm entrepreneur, given that the actions reflect the norm entrepreneur's own ideals and values. Note that for a norm entrepreneur to frame a particular norm, it has to also take into account the motivations and interests of the other (possible) norm followers. Finnemore and Sikkink (1998: 899) point to the women's suffrage movement as an example of women having to be persuaded that it was indeed in their own interests to pursue the right to vote.

According to Finnemore and Sikkink (1998: 899), for norms to be successful the norm entrepreneur needs to have access to adequate organisational platforms in order to promote their norms. Norm entrepreneurs may choose platforms such as NGOs specifically designed for promoting particular norms (for example, Greenpeace, the Red Cross or Transafrica), or they may use the platforms of established international institutions (for example, the World Bank, the UN or the International Labour Organisation). International institutions are helpful in the sense that norm entrepreneurs have access to their information, audience and expertise. Elgstrom (2000: 460) argues that the organisational platform allows the norm entrepreneur to persuade more individuals within the organisation itself. The expertise of the organisation helps the emerging norm to establish a bureaucratic presence, which can allow the new norm to be promoted further.

Finnemore and Sikkink (1998: 900) argue that no matter which organisational platform a norm entrepreneur decides to make use of, both the norm entrepreneur and the organisation should obtain the support of state actors in order to promote their norms. This will lead to norm socialisation on the agenda of state actors. Note that international organisations such as the UN and the World Bank are often able to convince weak states (often developing states) to conform to certain norms through their resources and the leverage they have over weak states. NGOs, on the other hand, are rarely able to convince powerful states to conform to certain norms – they often have to use persuasion. More often than not, they have to use the 'inappropriate' approach, mentioned earlier, to coerce powerful states to add norm socialisation to their agenda. For emerging norms to reach a tipping point and move toward

stage two of the norm life cycle, norm cascade, they must become institutionalised in specific sets of international rules and organisations. It is this institutionalisation that often leads to a norm cascade. However, Finnemore and Sikkink (1998: 900) go further to argue that although institutionalisation of a particular norm may not be a necessary condition for norm cascading, it may even follow – and not precede – the initiation of a norm cascade.

Emerging norms reach a tipping point when the norm entrepreneur has successfully persuaded a ‘critical mass’ of state and non-state actors to become norm entrepreneurs themselves and adopt the new norms (Finnemore and Sikkink, 1998: 901). It is important to keep in mind that, although it is not entirely clear when exactly a ‘critical mass’ has been reached, Finnemore and Sikkink (1998) propose two tentative hypotheses on what constitutes a ‘critical mass’, and when and where to expect emerging norms to reach a tipping point. Firstly, they refer to empirical studies that suggest that in order for an emerging norm to reach a tipping point, at least one third of the total states in the system have to adopt the particular norm. For example, by May 1997 one third of the total number of states (60 UN states at the time) in the system supported the ban on anti-personnel land mines.

Secondly, they argue that it does in fact matter which states adopt emerging norms (Finnemore and Sikkink, 1998: 901). In the adoption of a particular norm, the participation of some states is more critical than others. Although being considered a ‘critical state’ will vary from issue to issue, Finnemore and Sikkink (1998) agree on one criteria that critical states have to meet: “critical states are those without which the achievement of the substantive norm goal is compromised.” They use the example of land mines, illustrating that a state that did not produce or use land mines would not be considered a critical state, but that states which did in fact produce or use land mines may well have contributed to the norm cascading on the ban of anti-personnel land mines. In constructivism it is also important to note that not all emerging norms will reach a tipping point or even become internalised (i.e. successfully complete the norm life cycle). This might depend on the quality of the particular norm, or on the effectiveness of the norm entrepreneur advocating the particular norm.

Stage 2: Norm Cascading

After the tipping point has been reached, norm cascading occurs. Finnemore and Sikkink (1998: 902) argue that norm cascading is an active process of socialisation, where the new (conforming) norm entrepreneurs (state or non-state actors) persuade (often coerce) others to become norm followers. In IR norm entrepreneurs often use different methods to ‘enhance’

the socialisation process that will – hopefully – convince state or non-state actors. Some of these methods include emulation of heroes, diplomatic praise for behaviours that ‘conform to group norms’, and ridicule or censure of those who do not conform. This can often come in the form of material sanctions and incentives (Finnemore and Sikkink, 1998: 902). For example, in 2014 Uganda was ridiculed by many Western countries and international institutions for the passing of their Anti-Homosexuality Act. According to Biryaberema (2014), the World Bank froze \$90 million in aid directed at boosting health care in Uganda, and the USA issued aid, police, travel, and military sanctions against Uganda (Keene, 2014).

Finnemore and Sikkink (1998: 902) argue that the process of socialisation is the dominant tool of a norm cascade – it is the way that norm entrepreneurs persuade other actors to conform to certain norms. Furthermore, they contend that actors often conform to the norms in this stage of the norm life cycle, given the fact that the norms might relate to their own identities as members within the international community. They allude to James Fearson, who argues that “one’s identity is as a member of a particular social category, and part of the definition of that category is that all members follow certain norms” (Finnemore and Sikkink, 1998: 902). Arguably, actors are essentially giving in to ‘peer pressure’ that is rooted in issues of legitimation, conformity and esteem (Finnemore and Sikkink, 1998: 903).

The legitimacy of a norm, domestically, is important as it is the belief that existing political institutions are better than other alternatives. This means that its citizens will comply with government rules and laws. It is through this domestic legitimacy that states care about international legitimation, seeing that it will be a reflection on a state’s domestic legitimacy. This legitimacy will, essentially, reflect back on a government’s ability to remain in power. Conformity and esteem have a lot to do with the evaluative relationship between states and their peers. In the case of conformity, states conform to certain norms in order to demonstrate that they have adapted to the social environment. This is also known as ‘social proof’ – fulfilling a psychological need to belong or to be part of a group (Axelrod, 1986: 1105). In the case of esteem, actors often conform to norms in order to be thought of highly by other actors, and even by themselves (Finnemore and Sikkink, 1998: 903).

This desire to conform is particularly evident in the case of Western European countries in terms of tolerance and/or human rights innovation. As pointed out earlier in this study, Kollman (2013: 13) argues that Western European countries are particularly influenced by newly emerging norms and how their international reputation will be affected if they conform

to those norms (or not), and whether or not they will be regarded as progressive by their international counterparts. Finnemore and Sikkink (1998: 904) argue that states' leaders will conform to norms in order to avoid disapproval or ridicule that might follow in the event that they might violate a particular norm. Essentially, this conformity will enhance their national esteem as well as the self-esteem of state leaders.

Stage 3: Norm Internalisation

In the final stage of the norm life cycle, norm internalisation, the norm becomes so widely accepted that the norm is widely internalised. Finnemore and Sikkink (1998: 904) refer to this internalisation as the norm achieving a 'taken-for-granted' quality. They go further to argue that internalised norms can be both extremely powerful and hard to discern – extremely powerful in the sense that the norm is no longer questioned; hard to discern given that actors no longer consider or discuss whether to conform or not.

Institutionalists in sociology have done what political scientists tended to ignore – they made internalised norms the centrepiece of the debate by problematizing and 'denaturalising' norms (mostly prominent Western norms) that have acquired that 'taken-for-granted' quality (Finnemore and Sikkink, 1998: 904). It is through this approach that IR scholars, in particular constructivists, tend to examine norms that shape the global community. For example, many in the Western world would argue that freedom (of expression, among others) is expressed through one's attire, in particular for women. This refers to the freedom to decide what to wear without objections from men and (to some extent) from religious bodies. This is a norm that has become internalised and part of Western culture. Of course, this is not a universal norm for women. Many Arab women might argue that the wearing of the hijab is a symbol of freedom and religious expression for them. However, seeing how powerful the (Western) norm has become over the years (and in particular the 21st century), those in the Western world might regard the wearing of the hijab by Arab women as a symbol of their oppression.

Also, Finnemore and Sikkink (1998: 905) argue that one's profession and professional training have a powerful effect on internalised norms among its members. Professional training, they argue, actively socialises people to value certain things above others. For example, a doctor values life above all else, while soldiers are trained to sacrifice life for certain strategic goals. Essentially, professional training leads to normative biases among its members regarding the norm in question. If we take human rights discourse as an example, it is possible to see that an individual working (advocating) in the field of human rights in the

Western world, who have also received professional training from a Western institution, might have a strong normative bias towards human rights as defined or constructed by Western actors. This means that this individual in question will regard states that do not practice this ‘Western’ model of human rights as problematic or backward. Finnemore and Sikkink (1998: 905) go on to state that the internalisation of norms occurs as a result of repeated behaviour and habit. In other words, the norm in question is repeated continually by actors to the point where it is done out of habit and accepted as a given. In effect, the norm has been internalised.

Conclusion

This chapter described and explained the utility of constructivist perspectives in relation to how norms in IR emerge, how these norms then diffuse into legal frameworks, and how they become internalised. It has done so by providing a brief overview of the history of IR, which touched on the dominance of realism and idealism. This chapter also highlighted how the peaceful end of the Cold War opened up space for constructivism to emerge as a challenge to conservative theories by examining the different ways to study important political changes in the global system.

This chapter also discussed the importance of queer theory and queer IR perspectives, showing that contributions by queer studies scholars have been an intricate part of the IR discipline. These contributions in IR have been particularly evident in the three core areas of IR – war and peace, international political economy, and state and nation formation – through a queer lens. This chapter also provided detailed definitions of norms and institutions. It discussed extensively the utility of the three stages of Finnemore and Sikkink’s (1998) norm life-cycle model: (1) norm emergence, (2) norm cascading, and (3) norm internalisation. The women’s suffrage movement was used as an example to illustrate the strength of this model.

The following chapter applies Finnemore and Sikkink’s (1998) norm life-cycle model to the Marriage Equality Movement. The model is used to illustrate the emergence, cascading and internalisation of norms in the debate on marriage equality, i.e. the legalisation of gay marriage. It identifies important norm entrepreneurs who championed the norm of marriage equality, how the legislation regarding same-sex marriage became diffused to other countries, and whether or not the norm of marriage equality has been internalised. It is important to analyse this in order to see how institutions influence decision-making and policy-making of (homo)sexual and queer governance in contemporary global politics.

CHAPTER 4

Global Championing of Same-Sex Marriage: Equality Movement

Introduction

This chapter attempts to explain the diffusion of marriage equality by applying a constructivist lens. It starts by examining the first stage of the norm life cycle – norm emergence. This section identifies norm entrepreneurs who were influential in getting the norm of marriage equality onto the agenda of the state and its elites. This chapter specifically identifies Axel and Eigil Axcil as well as Jack Baker and Matthew McConnell as champions of marriage equality. It also discusses the curious connection between the HIV/AIDS epidemic and same-sex marriage. The chapter then turns to the second stage of the norm life cycle – norm cascading. This section examines the Netherlands as a pioneer state for marriage equality and looks at the way that other countries draw inspiration from pioneering countries. It also discusses the impact that the framing of same-sex marriage as a human right had on the marriage equality debate, as well as the ‘peer pressure’ that countries conform to in order to construct their identity in the international community around (homo)sexual and queer governance. The final section of this chapter evaluates marriage equality moving towards norm internalisation – the third stage of the norm life cycle – and whether or not same-sex marriage has achieved a ‘taken-for-granted’ quality.

As such, the structure of this chapter is based on Finnemore and Sikkink’s (1998) norm life-cycle model as illustrated in the previous chapter. Their model is utilised in order to identify, explain and describe the evolution of marriage, specifically same-sex marriage. The model is useful for this chapter as it helps to explain how the shift in states’ and state elites’ normative behaviour led to the materialisation and diffusion of marriage equality in the respective legal frameworks. This links back to the study’s primary research question, as outlined in Chapter 1, asking how and why marriage equality emerged as an important issue in contemporary global policy and practice. It is important to keep in mind that this chapter does not focus on all the individual countries that legalised gay marriage as individual case studies. Instead, the focus is on the movement towards marriage equality, with selected countries used for illustrative purposes.

Norm Identification

It can be said that 1 October 1989 is the single most important date that changed the conversation around the legal recognition of same-sex partnerships. Denmark’s Registered

Partnership Act came into effect on that October day allowing same-sex couples to enter into legal civil ceremonies for the first time as recognised by the state (Nielson, 1990: 298). This civil institution was called a Registered Partnership and was not the same as an official marriage. Kollman (2013: 67) lists four differences between a registered partnership and an official marriage in Denmark: (1) the word ‘marriage’ and its symbolism did not include same-sex couples; (2) same-sex couples could not participate in religious ceremonies as orchestrated by the state-sponsored Lutheran churches – the religious affiliation of 90% of the Danish population; (3) same-sex couples could not adopt children – this was prohibited even in the case of one of the partner’s biological children; (4) lesbian couples were barred from accessing fertilisation technology – a privilege that was extended only to heterosexual married women at the time. Aside from those differences, same-sex couples in registered partnerships were entitled to most tax benefits and inheritance rights as with traditional marriage. Inevitably, Denmark’s unprecedented move allowed for other Nordic countries to follow suit. However, it was not until the start of the new millennium that the norm of marriage equality was first established in the legal structures.

The Netherlands is known as the first country in the world to legalise gay marriage. According to Waaldijk (2001: 437), marriage was first opened up to gay and lesbian couples in the Netherlands when its same-sex marriage bill was signed into law on 21 December 2000, and came into effect on 1 April 2001. Since 2001 more than 20 countries have legalised gay marriage. From a constructivist perspective, major changes have taken place in legal structures over the past three decades in various countries, specifically in relation to contemporary queer politics. The norm of marriage equality put (homo)sexual and queer governance at the centre of the political debate – a debate that is robust, intricate and on-going.

Stage 1: Norm Emergence

According to Finnemore and Sikkink (1998:896) “norms do not appear out of thin air.” It is the norm entrepreneurs who introduce and actively build norms that individuals within their community will regard as representing appropriate or desirable behaviour. Of course, it is impossible to pinpoint an exact date and time as to when the idea of gay marriage first emerged. This is not only due to the fact that same-sex relationships and cohabitation date back centuries, but also because many of the same-sex couples who lived together as ‘married’ couples never advocated for traditional marriage to include same-sex couples, and

as such they remain nameless and faceless. However, there are a few gay marriage pioneers who were instrumental in putting the issue of marriage equality on the political agenda. The following section focuses on the norm entrepreneurs and the emergence of the marriage equality norm, as well as the role these norm entrepreneurs played in getting the norm onto the political agenda of the state and state elites.

Axel and Eigil Axgil

According to Article 2 of the 1948 Universal Declaration of Human Rights, “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, natural or social origin, property, birth or other status” (United Nations, 2015: 6). Notable exclusions from the Declaration of Human Rights of 1948 are provisions for protection around sexual orientation and gender identity. In the light of this notable omission of gay rights, Axel Lundahl-Madsen founded the League of 1948 (or *Forbundet af 1948*), Denmark’s first gay rights organisation. The League of 1948 is now known as LGBT Denmark – The Danish National Organization for Gay Men, Lesbians, Bisexuals and Transgender persons (LGBT Denmark, 2017). According to LGBT Denmark (2017), the objectives of the organisation were stipulated as: “[t]hrough personal connections and correspondence to create a free association of people who feel solidarity with other people with the same approach to homosexual and bisexual problems, as well as giving support and help with any difficulties.”

In 1949 Axel met his partner, Eigil Eskildsen, at one of the League’s meetings (Williamson, 2011). The following year they got engaged and started to live together as a ‘married’ couple. It was in 1957 that they legally changed their last name to Axgil (a combination of Axel and Eigil) to show their commitment to one another (Eskridge and Spedale, 2007: 44). The union between Axel and Eigil, although not legally recognised at the time, was a way of showing to the public that lifelong commitment and romance were not exclusively reserved for heterosexual relationships. As mentioned earlier, norm entrepreneurs are those who introduce and actively build norms that individuals within their community will regard as representing appropriate or desirable behaviour (Finnemore and Sikkink, 1998: 897). With Axel and Eigil’s engagement in 1950, they became norm entrepreneurs in the fight for marriage equality.

Both Axel and Eigil were very active in the League. According to Edelberg (2014: 62), the League started as a social club and was not regarded as a political organisation. For example,

the League was popular for organising special events for its members that included dance nights, art and literature evenings as well as women's evenings. The League also ran a very popular gay magazine called *Vennen* that focused on "homosexuals in society, poems, short stories, scientific articles on sexuality, contact adverts, international homosexual news, literature reviews, letters to the editor, erotic and romantic drawings, photographs and much more" (Edelberg, 2014: 62). One could argue that the magazine was in fact political – although not overtly so – given that it conveyed the message that queer people were just like everyone else who deserved the same civil rights. In other words, being gay and being in gay relationships are the norm. According to Edelberg (2014: 63), one specific way in which the magazine portrayed this message was by replacing the term 'homosexual' with 'homophile'. This showed that homophilia was about emotion and not just sex.

In the first stage of Finnemore and Sikkink's (1998) norm life cycle, organisational platforms play a very important role in advancing a particular norm. It is often this organisational platform that allows the norm entrepreneur to be successful in promoting the norm. In the case of Axel and Eigil, over the years the League began to shift its focus more towards civil rights and political activism for the LGBTQ community in Denmark. It was in the 1960s that the League started to focus more on the issue of marriage equality. In 1966 the League and its members started to target established institutions such as universities, demanding that gay and lesbian couples had access to the same student housing opportunities that straight married couples had (Eskridge and Spedale, 2007: 45). With the reach and resources of the organisation, the issue of marriage equality was exposed to a wider audience. As highlighted in the previous chapter, Elgstrom (2000: 460) argued that by having an organisational platform, the norm entrepreneur will be able to persuade more individuals within the organisation itself – existing and new members. This will allow the emerging norm, in this case marriage equality, to establish a bureaucratic presence that will lead to further promotion of the norm.

What was so crucial in Denmark's case is that Axel and Eigil, along with the League, managed to get the norm onto the agenda of the Danish Parliament. Finnemore and Sikkink (1998: 900) argue that when the norm entrepreneur and the organisation get the support of state actors, the process will lead to norm socialisation. It was in 1968 that the Socialist People's Party (SF) introduced Denmark's first bill in Parliament to recognise different forms of cohabitation. According to Eskridge and Spedale (2007: 46), the bill aimed to recognise

couples (heterosexual and homosexual) as married if they lived together for at least three years. The bill was rejected by Parliament on the basis that it would create ‘forced’ marriages. The following year the Danish Parliament created a special parliamentary committee, the Marriage Committee, that focused solely on legislation pertaining to marriage. Throughout the late 1960s, the 1970s and 1980s the Marriage Committee worked on numerous proposals and recommendations on the issue of marriage equality. It was only in 1989 that Denmark allowed legal unions for same-sex couples through its Registered Partnerships Act (Rydström, 2011: 53).

It is important to briefly acknowledge that Sweden’s national gay and lesbian organisation (the National Organisation for Sexual Equality (RFSL)), which was founded after drawing inspiration from Denmark’s League of 1948, sent a letter to the Swedish Parliament in 1953 to call for the legalisation of gay marriage. This letter was ignored. However, in subsequent years the Swedish Parliament created a similar committee to Denmark’s Marriage Committee, and in 1973 the Swedish Parliament stated that “cohabitation between two partners of the same-sex is, in society’s opinion, a fully acceptable lifeform” (Eskridge and Spedale (2007: 69). Eskridge and Spedale (2007) argue that this statement by the Swedish Parliament can be regarded as the earliest form of a government endorsing same-sex relationships in contemporary politics.

Nonetheless, Denmark’s Registered Partnership Act led to a string of other European countries adopting similar laws to recognise RPs between same-sex couples – Finnemore and Sikkink (1998) would call this process norm cascading, the second stage of the norm life cycle. It was only in 2012 that Denmark legalised gay marriage. The impact of Axel and Eigil Axcil and the League of 1948 is undeniable in the successful achievement of marriage equality not only in Denmark but across Western Europe.

Jack Baker and Michael McConnell

Jack Baker and Michael McConnell are two norm entrepreneurs who are very important in the marriage equality debate, particularly in the American context. In the USA they are known as the first same-sex couple to apply for a marriage license (Mumford, 2015). In American society, just as in Scandinavian countries, same-sex couples had been living in committed relationships since the 1950s, if not earlier than that. These same-sex couples got engaged as a heterosexual couple would, and the vast majority of them married in private ceremonies without legal recognition from the state. Some scholars and activists would argue

that the on-going same-sex marriage license debates in Hawaii during the 1990s, and a Massachusetts court ruling in 2003 that denying gay and lesbian couples to marry was unconstitutional, were the earliest times that the issue of same-sex marriage burst upon the political scene (see Hull, 2001: 207; Brewer and Wilcox, 2005: 599). However, it was Jack and Michael's application for a marriage license that made marriage equality a public issue in the USA.

In 1967 Jack proposed to Michael. This was the same year the United States Supreme Court ruled that banning interracial couples from marrying was unconstitutional. Michael agreed to Jack's proposal under one condition: that Jack find a way for them to marry legally. During an interview with *Lavender Magazine*, Jack said he decided to go to the University of Minneapolis to study law in order to research ways in which he and Michael could become a legally married couple (Lueck, 2015). At the University Jack joined and subsequently became president of its gay student group called FREE (Fight Repression of Erotic Expression). It was this organisational platform that allowed Jack to promote the norm of marriage equality. Through his studies Jack found that Minnesota's marriage statute did not specifically state that marriage was reserved only for unions between a man and a woman. Jack recalled that "[u]nder the rule of law, what's not forbidden is permitted" (Raphael, 2015). According to Chenier (2017: 37), FREE sent out a press release announcing Jack and Michael's intention to obtain a marriage license at Minnesota's Hennepin County courthouse. On 18 May 1970 Jack and Michael went to the courthouse and filled out their marriage application in front of reporters and a photographer. Chenier (2017: 38) states that the event was favourably covered at the time in the following media outlets: the *Advocate*, the *Minneapolis Star*, the *Minneapolis Tribute*, the *Minnesota Daily*, the *New Republic*, the *New York Mattachine Times*, and *Time*. Two months later Jack and Michael's marriage license application was denied by the clerk, Gerald Nelson.

It is important to be aware of the fact that Jack and Michael applied for a marriage license at a time in America's history when sexual acts between consenting men were against the law, and being gay was regarded as a mental illness (Meyer, 2003: 674). What this explicitly shows is that being gay was frowned upon (to put it mildly) in a society that regarded a heterosexual identity as the norm. As such, traditional marriage was seen (and is arguably still seen) as a deeply embedded norm in the American society – a norm Jack and Michael challenged.

As indicated in the previous chapter, Finnemore and Sikkink (1998) list empathy, altruism and ideational commitment as possible motives for norm entrepreneurs in their pursuit of promoting their particular norm. One could argue that at the onset of the fight for marriage equality Jack, in particular, was motivated by altruism, defined by Finnemore and Sikkink (1998: 898) as an actor taking “action designed to benefit another even at the risk of significant harm to the actor’s own well-being.” Gay rights activist and member of FREE at the time, Jean Tretter, said that gay students were not so much afraid that they would be discriminated against based on their sexual identity, but rather that they would be targeted with a shotgun. With that in mind, when asked during an interview with *Minnesota Public Radio* why he pursued their gay marriage case, Jack Baker replied “the love of my life insisted on it” (Condon, 2012). Of course, as the years went on Jack and Michael were mainly motivated by ideational commitment, given that they genuinely believed in the ideals and values embodied in the norm of marriage equality (Finnemore and Sikkink, 1998: 898). In the interview with *Lavender Magazine*, Michael said:

We began to talk about those things that were really important that we felt were for the bigger change that would come to society. And we knew that marriage would be the thing that would do that because it is the bedrock of society. It defines relationships, it determines what rights and privileges are passed down in society through the law, it works in distribution or conservation of wealth, it deals with children — a whole host of things. We knew this would have a huge impact. But more importantly for us, personally, it was an important part of our commitment that this was something that we wanted for ourselves. We wanted to have the same respect and the same kind of relationship that members of the rest of our family did (Lueck, 2015).

Even though their marriage license application was rejected, they successfully managed their proposed norm to get the attention of a state actor.

After a failed appeal to the Supreme Court, Jack and Michael tried a different tactic to have the marriage validated – adoption. According to Case (2005: 1762), Judge Lindsay Arthur granted the legal adoption of Jack by Michael in August 1971. Judge Arthur argued that legal adoption was not only limited to children. This allowed Jack to legally change his name on paper from Richard John Baker to Pat Lyn McConnell, which was more gender-neutral (Jack continued to use the name Jack Baker). Michael was the one who went down to the

courthouse with the adoption certificate to apply for a marriage license. There was no inquiry into the genders of the two parties. As a result, the clerk issued a marriage license, and Jack and Michael's wedding was performed by a Methodist pastor a month later (Raphael, 2015).

Case (2005: 1763) points out that Blue Earth's County Attorney later "declared the license void on statutory grounds" after Judge Arthur made the adoption public. Jack and Michael took the case to the Supreme Court. This time Jack and Michael had a bigger organisational platform behind them, ACLU (American Civil Liberties Union) (ACLU, 2017). On 10 October 1972 the Minnesota Supreme Court refused to hear arguments by Jack and Michael and dismissed their appeal "for want of a substantial federal question" (Case, 2005: 1763). Jack stated that the reason provided by the Supreme Court essentially translated to "now is not the time; we will answer that question but not now" (Lueck, 2015). The interesting aspect about the now-famous *Baker v Nelson* case is that, although all their subsequent appeals to the Supreme Court throughout the 1970s failed, the marriage license that they were granted in 1971 was never challenged in a court. During an interview with Public Radio International, Jack emphasised that "[o]nly a court can invalidate a lawful contract, so it [their marriage license] has remained legal until this day" (Raphael, 2015). This means that Jack and Michael were the first same-sex couple to legally marry. It is Jack and Michael's norm entrepreneurial efforts with the *Baker v Nelson* case that paved the way for marriage equality and that had a long-lasting impact that eventually led to the legalisation of gay marriage in the USA in 2015.

The Importance of the HIV/AIDS Epidemic on Marriage Equality

Although HIV/AIDS was not a norm entrepreneur in itself, the epidemic of the 1980s had a very significant impact on the marriage equality movement – an impact that is not so obvious. The HIV/AIDS epidemic was covered in Chapter 2 of this study; however, it is useful to briefly turn back to the account of the epidemic in order to illustrate its significance.

In 1981 the *New York Times* reported the first cases of HIV/AIDS in gay men (Engel, 2001: 47). It has been estimated that between 1981 and 1998 as many as 200,000 out of the 300,000 HIV/AIDS-related deaths in the USA were those of gay men. In Western countries today HIV affects predominantly MSM (Avert, 2017). As pointed out in Chapter 2, in non-Western countries today HIV affects predominantly heterosexual women. However, it started out as a disease that primarily affected gay men. Many gay men living with HIV during the 1980s were faced with regular and different forms of discrimination. According to Bronksi (2011), gay relationships were often disregarded by hospitals, doctors, family members and even

social work organisations. Given that same-sex relationships were not legally recognised, many gay men were refused visitation rights for their HIV-positive partners. Some were not allowed to make medical decisions for their dying partner and most were denied inheritance rights.

What AIDS did across Western countries is that it gave the gay community a more public and a more humane image. On the one hand, many only saw the AIDS crisis as nature's way of punishing the gay community for their promiscuity and their lifestyle. On the other hand, others were able to see gay couples love and lose their partners – the loss of a partner (or possibility thereof) was something straight couples could relate to. Although the issue of marriage was not a priority during a time when thousands of gay men were losing their lives, the epidemic forced gay people to point out the inequalities and discrimination they faced as a result of their relationships not being recognised. Denmark, for example, was known as the country in Europe with the highest HIV infections per inhabitant during the early 1980s (Edelberg, 2014: 68). According to Eskridge and Spedale (2007: 49), after many months of activism from its queer community, Denmark's Homo-Commission adopted legislation in 1987 that allowed both straight and gay couples to be taxed the same – even if the gay couple was not legally married. The condition was, however, that the gay couple had shared a residence upon the death of the one partner. Two years later Denmark legalised RPs for gay and lesbian couples. Whatever significance the HIV/AIDS epidemic had for the fight for gay marriage, Caldwell (2004) argues the following: “Acknowledging that gay marriage had its beginnings in the Aids crisis, if gay marriage advocates are capable of doing so, will strengthen the endurance of the institution they have just won.”

Stage 2: Norm Cascading

The Netherlands: The Pioneer for Same-Sex Marriage

In 2001 the Netherlands became the first country to allow same-sex couples to enter into marriage. Since then the norm of marriage equality has cascaded across 25 other countries that have opened the institution of marriage to same-sex couples. Why and how did the Netherlands become the pioneer for marriage equality? The following section discusses the success of gay marriage in the Netherlands and how the championing of gay marriage in the Netherlands influenced other countries to follow suit.

Waldijk (2001: 439) argues that there are three standard sequences in the legislative recognition pertaining to (homo)sexual governance that need to take place that will inevitably

lead to the legalisation of same-sex marriage. First, homosexuality and homosexual acts need to be decriminalised – this is sometimes followed or accompanied by setting the same age of consent for heterosexual and homosexual individuals. Secondly, anti-discrimination policies around sexual orientation are often introduced. Lastly, some form of legal partnerships and parenting are introduced for same-sex couples. With that in mind, the Netherlands decriminalised homosexual acts in 1811 and the equal age of consent was recognised in 1971; the Netherlands introduced anti-discrimination legislation that included sexual orientation in 1983;³ and registered partnerships were legal in 1998. Note that same-sex couples in the Netherlands could adopt children only when same-sex marriage became legal on 1 April 2001 (Waldijk, 2001: 438).

Kollman (2013: 105) credits the Netherlands' well established LGBTQ organisations and prominent figures as important factors in the push towards same-sex marriage. Similarly, Ratele (2017) credits well-organised LGBTQ lobbying globally as one of the reasons why marriage equality has emerged as an important issue in contemporary global politics and practice (Interview, Kopano Ratele, 05/07/2017). In the late 1980s *Gay Krant* – a high-profile Dutch gay and lesbian newspaper – took on a prominent role in promoting the gay marriage norm. The newspaper's editor, Henk Krol, can be regarded as one of the most important norm champions in the Netherlands. According to Kollman (2013: 109), the newspaper started to focus a significant portion of its reporting on the legal trouble that gay couples faced. A subsequent policy advisory group, the Friends of the Gay Krant Foundation, was set up by Krol in order to study legislation pertaining to state relationship recognition. What is important to note about *Gay Krant* and Krol is that from the outset the focus was on opening the institution of marriage to gay couples and not just to have a registered partnership law. According to Waldijk (2001: 447), many Dutch advocates for gay marriage argued that having a registered partnership for gay couples and marriage for straight couples rested upon the 'separate but equal' status and was therefore unacceptable.

According to Kollman (2017: 105), Krol was instrumental in organising a campaign calling for gay couples to register for marriage licenses arguing that the Dutch statute did not differentiate on the basis of gender. With the help of prominent Dutch lawyers, they managed

³ Article 1 of the Netherlands' 2008 constitution states that "[d]iscrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted" (Kingdom of the Netherlands, 2008: 5). Waldijk (2001: 438) argues that "on any other ground whatsoever shall not be permitted" is interpreted to include discrimination based on sexual orientation.

to get the issue of gay marriage onto the agenda of the Supreme Court in 1990. The Court ruled that marriage was a union between a man and a woman. However, it is often argued that the so-called ‘Purple’ coalition in the Netherlands had a significant impact on the marriage equality debate (Waaldijk, 2001: 447; Kollman, 2013: 109; Kollman, 2017: 106).

The so-called ‘Purple’ coalition that came into power in 1994 and again in 1998 consisted of Social Democrats, and right-of-centre Liberals and Social-Liberal Democrats. Waaldijk (2001: 447) points out that this was the first time in 80 years in the Netherlands that a coalition government did not include Christian Democrats. This allowed the issue of gay marriage to be placed high on the political agenda (Kollman, 2013: 109). What the new coalition managed to do was to create an advisory commission with the sole purpose of “opening up of civil marriage to persons of the same sex” (Waaldijk, 2001: 447). This commission was known as the Kortmann Commission. The Commission recommended that gay couples be allowed to marry and be able to adopt children. However, the Dutch government focused on creating a law for registered partnerships with almost all rights extended to gay couples. Waaldijk (2001: 449) goes on to argue that the reason the Dutch government did not opt to open marriage to gay couples was because there was no precedent anywhere in the world, and same-sex marriages would not be recognised in other countries. This argument came particularly in the wake of the USA’s Defense of Marriage Act (DOMA), which stated that marriage is a union between a man and a woman (Adam, 2003: 259).

According to Kollman (2017: 110), marriage equality supporters in the Netherlands framed their argument around the issue of human rights and equality. Finnemore and Sikkink (1998: 897) argue that this framing of the issue is more likely to resonate successfully with the broader public’s understanding. Gay marriage supporters argued that having different legislation for gay couples means that gay citizens are not fully equal to straight citizens. Kollman (2013: 105) claims that marriage equality in the Netherlands benefitted greatly from this argument and so did the norm entrepreneurs with their ability to distinguish clearly between a registered partnership and marriage. This type of framing of the issue was something activists in other countries failed to achieve. Kollman (2013) goes on to highlight a few reasons as to why the equality argument succeeded in the Netherlands. First, the strength of the norm of registered partnerships in Europe, championed by Nordic countries in particular, was growing. Secondly, international norms enjoyed legitimacy in the

Netherlands. Thirdly, the Netherlands had a good reputation recognising the rights of minorities. Lastly, the public and political elites took pride in the country's international reputation for policy innovation.

The possibility of the Netherlands becoming the first country to potentially open up marriage to same-sex couples was important for its international image. Kollman (2017: 112) points to a Christian Democratic Appeal (CDA) official who said that the Netherlands wanted to be modern, progressive and the first country to legalise gay marriage. Maxwell (2001: 154) points to the Kortmann Commission, which emphasised that by legally recognising same-sex relationships the Netherlands might inspire other countries to do the same. Kollman (2017: 113) quotes the following extract published by the *Gay Krant*'s Henk Krol:

Some countries will recognise the Dutch marriage, others will wait. In those cases, couples can challenge discriminatory laws and force new rights by going to court. The more couples do so, the quicker the rest of the world will follow the Dutch example of recognising equality.

What this shows is that by legalising gay marriage, the Netherlands prided itself on its progressive reputation. Finnemore and Sikkink (1998) point out that, in the second stage of the norm life cycle, enhancing esteem is one of the main reasons that states and state officials follow certain norms. This is particularly the case in Western democracies. Finnemore and Sikkink (1998: 903) go on to state that the need for esteem "suggests that leaders of states sometimes follow norms because they want others to think well of them, and they want to think well of themselves." This is evident in the Netherlands and in many European countries. Kollman (2013: 136) argues that by extending marriage rights to gay couples, the Netherlands would serve as an inspiration for other European countries and the rest of the world. Gay marriage proponents, for example, emphasised that the Netherlands' liberal prostitution and drug policies would allow its elites to further cement their international reputation for social policy innovation. The idea of being considered a norm innovator resonated with the Dutch policy elites. One could argue that with the legalisation of gay marriage, the Netherlands became a norm entrepreneur that allowed the cascading of marriage equality to diffuse to other countries.

Framing Same-Sex Marriage as a Human Right

According to Finnemore and Sikkink (1998: 904), “some state leaders care deeply about their international image as human rights violators and make significant policy changes in order to change that image.” This is an argument that marriage proponents took advantage of. Kollman (2013: 80) points out that LGBTQ activists in Western democracies realised that framing the issue of marriage equality as a fundamental human right would make it resonate more effectively with political elites. This move became particularly popular in Western Europe after all the groundwork had been laid by Europe’s ILGA during the 1990s. This period in Europe manifested increasing support for (neo-)liberal democratic states and human rights activism (Kollman, 2013: 74). It is interesting to note, however, that even though the ILGA was founded in 1978, the association and LGBTQ movement at large gained access to the European Union (EU) only in the 1990s. According to Swiebel (2009: 22), the European Commission granted small subsidies to the ILGA for research projects. In 1993, for example, the European Commission funded a book, *Homosexuality: A European Community Issue*, which was edited by Kees Waaldijk and Andrew Clapham (Waaldijk and Clapham, 1993). This publication focused on the situation of Europe’s LGBTQ community within the European Community at the time and how they would be affected by the evolution of the European Community into the EU. This created a gateway for Europe’s LGBTQ movement to gain access to the European Commission as well as the European Parliament.

Similar to the situation in the Netherlands, gay marriage proponents in Germany also used a rights-based argument to push for marriage equality in the country. Given Germany’s history during WWII, as discussed in Chapter 2, advocates framed their argument around the treatment of homosexuals under the Nazi regime. Kollman (2013) refers to Herta Daeubler-Gmelin, Germany’s justice minister, who sponsored its original Registered Partnership bill in 2000; she said that legally recognising same-sex couples would help to dismantle discrimination towards LGBTQ people in Germany. Daeubler-Gmelin is quoted in *The Same-Sex Unions Revolution in Western Democracies* by saying “[i]t’s not just about the Nazis... This discrimination continued in the cultural and legal traditions of the Federal Republic of Germany until the 1970s. For some it is still practiced” (Kollman, 2013: 120). This argument was very important in framing same-sex marriage as a human right in Germany, even though Germany only legalised same-sex marriage almost two decades later.

The idea of framing same-sex marriage as a human right spread across different European countries. In “Pioneering Marriage for Same-Sex Couples in the Netherlands”, Kollman (2017: 108) points out that it was easier in countries such as Canada and South Africa to utilise the human rights argument, given that these two countries had already built up international human rights reputations. For example, Canada adopted its Charter of Rights and Freedoms in 1982 and South Africa held its first national democratic election in 1994 after dismantling its apartheid regime. South Africa presents a particularly interesting study given that to date it remains the only African country to have legalised same-sex marriage.

In 1996 South Africa became the first country in the world to explicitly prohibit discrimination based on sexual orientation in its constitution (Newstrom, 2007: 781). This constitutional foundation allowed marriage equality proponents in South Africa to successfully challenge its Constitutional Court to extend marriage rights to same-sex couples. What is important to note here is that before apartheid ended, South Africa’s LGBTQ rights leaders had formed coalitions with the African National Congress (ANC) and the United Democratic Front (UDF), despite the fact that these groups were relatively powerless at the time and open to unlikely alliances for political support. Thus, when these two groups gained power in post-apartheid South Africa, LGBTQ rights leaders were able to ensure that the new constitution prohibited discrimination on the grounds of sexual orientation. Newstrom (2007: 786) argues that the coalition with the ANC and UDF before South Africa became a democracy was a clever move by LGBTQ leaders, especially given the fact that South Africa had very high levels of homophobia. Fransch (2017) points out that the role of South Africa’s queer activism was instrumental in the championing of rights around sexual orientation, because they highlighted to the government that it would in no way be able to justify any forms of discrimination, given the country’s oppressive history (Interview, Chet Fransch, 09/06/2017).

Keep in mind that before South Africa legalised same-sex marriage, it had already bestowed various rights on same-sex couples. For example, in 2002 the Constitutional Court ruled to extend the right of gays and lesbians to have their partners immigrate and/or receive a portion of certain government pensions due to legal spouses (*Satchell v President of the Republic of South Africa*). Also in 2002 the Constitutional Court ruled that same-sex couples have the right to adopt children and raise children as co-parents (*Du Toit v Minister for Welfare and Population Development*). Four years later South Africa legalised same-sex marriage. This

shows a similar pattern to the one in Waaldijk's (2001: 439) argument on the sequences that need to occur in the legislative recognition of (homo)sexual governance in a country that will inevitably lead to the legalisation of same-sex marriage.

The *Minister of Home Affairs v Fourie* case of 2005 can be regarded as the entrepreneurial moment that allowed marriage equality to reach its tipping point in South Africa. A lesbian couple, Marié Adriaana Fourie and Cecelia Johanna Bonthuys, challenged the Constitutional Court to address the couple's exclusion from the common law definition, which states that marriage is "a union of one man with one woman, to the exclusion, while it lasts, of all others" (Goldblatt, 2006: 261). The Constitutional Court ruled that it is unconstitutional to deny same-sex couples legal recognition and gave Parliament one year to formulate legislation that would legally recognise same-sex relationships. Given that human rights played an integral role in the South African context, the Constitutional Court made it explicitly clear to Parliament that it was not allowed to formulate legislation that is based on the 'separate but equal' argument (De Vos, 2008). In the decision the Constitutional Court stated:

Historically the concept of 'separate but equal' served as a threadbare cloak for covering distaste for or repudiation by those in power of the group subjected to segregation.

Given South Africa's history and its embracing of a human rights regime, the successful framing of marriage equality as a human right was embraced by its state actors. South Africa also took a more holistic human rights approach to marriage. According to Newstrom (2007: 793), the court acknowledged that what is regarded as 'traditional' marriage or family is a construct that is constantly evolving, and that the state has no right to establish one form of marriage or family that everyone has to conform to.

Needless to say, opponents of marriage equality argued against the re-defining of marriage – not only in South Africa but also in countries where same-sex marriage was being debated or legalised. For example, before the Netherlands legalised same-sex marriage, its conservative MPs argued that the re-definition of marriage will devalue Dutch marriage in the eyes of foreign governments and societies (Kollman, 2013: 118). De Vos (2008; 165) points to opponents in South Africa who argued that marriage is fundamentally a religious institution

and re-defining marriage would inevitably violate the freedom of those who base their religious identity on a heterosexual definition of marriage.

Similar arguments were proffered in the USA. Two arguments in particular that stand out in the American context which involves the human rights discourse were put forward by the Supreme Court of New Jersey and the Court of Appeals of New York. Same-sex couples challenged these two states by arguing that denying same-sex couples marriage is an infringement of their human right as citizens. Newstrom (2007: 783) points out that the reason American courts tended to struggle with the framing of marriage equality is because the American constitution does not address discrimination based on sexual orientation as clearly as it does discrimination based on race or religion, for example. In the case of *Lewis v Harris* the Supreme Court of New Jersey argued that same-sex marriage has no deep roots in America's history, which means that there was no fundamental right at stake. In the case of *Hernandez v Robles* the argument was that the rights of gays and lesbians were not violated, given that the marriage statute at the time allowed them to marry – it just meant that they had to marry members of the opposite sex (Newstrom, 2007: 793).

Legitimation, Conformity and Esteem

According to Finnemore and Sikkink (1998: 902), states and state elites construct their political self or political identity in relation to the international community. The degree to which this construction takes place with regards to norm adoption can be ascribed to 'peer pressure' among different countries. This type of 'peer pressure' is not explicit, but rather implicit, especially with regards to marriage equality. Finnemore and Sikkink (1998: 903) list legitimation, conformity and esteem as possible motivations for responding to such 'peer pressure'.

Some academics claim that legitimation is important for states and that it influences a state's normative behaviour. Finnemore and Sikkink (1998) argue that when a state does not conform to certain international normative behaviour, it risks the chance of being labelled a 'rogue state'. This means that a state can lose its reputation trust, and/or its credibility. Given how young the norm of marriage equality is, and that it continues to cascade and diffuse into different frameworks, a 'rogue' status is not really applicable to states in this regard. It is important to acknowledge this, given that there is no international law in place that recognises same-sex marriage as a universal human right, which means that states are not

legally required (in terms of international law) to legalise same-sex marriage (Kollman, 2007: 342). Nevertheless, same-sex marriage is fully legal in 26 countries around the world.

International legitimation is important for states, because it reflects perceptions of its domestic legitimacy among its citizens. Finnemore and Sikkink (1998: 903) define domestic legitimation as “the belief that existing political institutions are better than other alternatives and therefore deserve obedience.” Political and policy elites in Western democracies are very aware of other countries’ status regarding same-marriage legislation and they often learn from these developments. For example, after the Netherlands and Belgium became the first two countries to legalise same-sex marriage, Canada’s policy elites justified the re-definition of marriage in 2003, arguing that this would address “fundamental concerns of equality and fairness” (Kollman, 2013: 82; National Liberal Caucus Research Bureau, 2003). In their policy paper, Canada’s policy elites made clear reference to the Netherlands and Belgium. This type of international interaction and learning between states influences their domestic legitimation. Finnemore and Sikkink (1998: 903) argue that a state’s citizens tend to take note of international alternatives and make judgements about whether or not their government’s policies are better than those alternatives. They go on to argue that citizens are aware of what other people and other states say about their country.

In the light of the marriage equality debate, these observations tend to come from LGBTQ activists and organisations. For example, when Canada and Spain legalised same-sex marriage, the Lesbian and Gay Federation (LSVD) in Germany issued a press release with the headline “Canada and Spain are in the Passing Lane: Equality in Germany is Long Overdue” (Kollman, 2007: 341). Also, in 2016 LGBTQ campaign groups in Australia invited Tiernan Brady to assist in Australia’s referendum on gay marriage at the time. Brady was the director of the ‘Yes’ campaign and was very influential in Ireland’s historic legalisation of gay marriage in a referendum (Gartland, 2016). Australians citizens are very critical of its government having not yet legalised gay marriage, pointing to countries such as Ireland that have legalised gay marriage by a national vote. Australia’s 2016 referendum was subsequently blocked by its senate (BBC News, 2016). In September 2017 Australian citizens participated in a national Australian Marriage Law Postal Survey in which citizens said whether or not they believe the law should be changed to allow same-sex couples to marry (Browne, 2017). These results will be made available on 15 November 2017, after which a

‘yes’ or ‘no’ vote will take place in its parliament.⁴ According to News Corp Australia Network (2017), a recent Newspoll found that 67% of respondents will vote yes in the postal survey.

The second motivation Finnemore and Sikkink (1998) talk about when states respond to ‘peer pressure’ is conformity. They refer to Robert Axelrod (1986: 1105), who claims that conformity involves ‘social proof’, which means that states comply with norms to illustrate that they have adapted to the social environment and that they belong. With the on-going marriage equality debate in Australia, it became clear that some felt Australia was somewhat of an outsider in the international community. In 2016 MP Adam Bandt of the Australian Greens party told Parliament that “we are now the only developed, English-speaking country to not have equal marriage laws” (Smith, 2017). Smith (2017) points out that this statement by Bandt is factually incorrect, given that Singapore, an advanced English-speaking country, has not legalised gay marriage and neither has Northern Ireland, which forms part of the UK. This shows that citizens and political elites define part of Australia’s identity in terms of its shared identity with other Western countries. A year prior to this a similar argument was put forward by Australia’s then Marriage Equality director, Rodney Croome. In 2017 Nick Greiner, Australia’s Liberal Party Federal President stated:

Today, more than a billion people live in countries that have embraced the freedom to marry for all their citizens. Britain, the US, New Zealand and Canada are often compared to Australia. Each of these nations in the “Anglosphere” now permits same-sex marriage. In these countries, as well as Catholic Spain, Ireland and Argentina, the religious celebration of marriage has also been protected. The experience in these countries has been that no one has become more gay, or less married, and the achievement of the reform has been a unifying moment for people across the political spectrum (quoted in Bickers, 2017).

Finnemore and Sikkink (1998: 903) point back to Axelrod (1968), who argues that states who conform to the actions of other states, or who want to conform, fulfil a psychological need to be part of a group. Before legalising same-sex marriage, many citizens and advocates for marriage equality in countries such as Belgium, Canada, and Germany pointed to the Netherlands as a pioneer and urged their political elites to follow suit. As seen in Australia,

⁴ The announcement of the results will take place on 15 November 2017, after this study has been completed.

the state feels pressured to follow normative behaviour as expressed by other countries and consequently to adapt to the current social and political environment.

The third and final possible motivation for a state to respond to ‘peer pressure’ indicated by Finnemore and Sikkink (1998: 903) is esteem. Although esteem is closely linked to legitimacy and conformity, it implies that states tend to follow international norms not only so that others might think well of them, but also because they want to think well of themselves. For example, two years before Canada opened marriage to gay couples Egale Canada Human Rights Trust, its national charity promoting lesbian, gay, bisexual and trans human rights, argued for the legalisation of gay marriage during a parliamentary committee hearing. Egale argued that “Canada prides itself on being a world leader when it comes to international human rights. The longer we drag our feet domestically, however, the further we fall from our leadership position” (Kollman, 2013: 161; Egale, 2017).

Finnemore and Sikkink (1998) point out that norm following can often be explained by a state’s desire to build or defend its esteem or pride, and this was illustrated in the case of Canada. This attitude is particularly prevalent in Western democracies, where states often care deeply about the norms associated with liberalism, given that being regarded as a ‘liberal state’ forms part of a state’s identity and something they take pride in. Kollman (2013: 83) argues that gay marriage proponents – policy elites and activists – in the Western world had internalised the idea that not allowing same-sex couples to enter into legal marriage is no longer appropriate in a Western democracy. This is also evident in state leaders. For example, when Barack Obama was the USA presidential candidate in 2008, he opposed gay marriage but was in favour of civil unions for gay couples. In 2011, however, President Obama informed members of Congress in a letter that prohibiting gay couples from marrying is unconstitutional (Gorman, 2015). According to Finnemore and Sikkink (1998: 904), “state leaders conform to norms in order to avoid the disapproval aroused by norm violation and thus enhance national esteem.” What is interesting to note here is that Obama’s support for gay marriage came at a time when he was running for re-election. One year after his new-found support for gay marriage, he was elected to serve as president for a second term.

The Issue of Coercion

According to Finnemore and Sikkink (1998), the dominant mechanism of a norm cascade is socialisation. They define socialisation as “the mechanism through which norm leaders persuade others to adhere” (Finnemore and Sikkink, 1998: 902). In international politics this

mechanism often involves diplomatic praise or censure from states, which is often reinforced by material sanctions and/or incentives. What is evident in the debate around marriage equality is that there is virtually no evidence that point to states trying to coerce other states to legalise gay marriage (Kollman, 2013: 85). In fact, a state gains no obvious material benefits by legalising gay marriage or pressuring other states to do so. This is particularly evident in that the USA and Germany, two of the most powerful nations in the world, have been late to legalise gay marriage compared to other countries where gay marriage is legal. The USA legalised gay marriage only in 2015 and Germany in 2017.

Kollman (2013: 88) argues that a national government tends to be influenced by a prominent international norm if it ‘fits’ well within its domestic political system. The growing international norm of marriage equality in the last two decades had for the longest time not resonated with the US electorate, especially the argument that same-sex marriage is a fundamental human right. Newstrom (2007: 783) and Kollman (2013: 88) link this to the intricacies of the US political system. Kollman (2013) refers to Deborah Pearlstein (2005), who argues that many political elites in the USA as well as its public citizens tend to be reluctant to have international legal principles and precedents influence their own political decisions. This stands in contrast with Canada and Western European countries. There are, of course, Western European states such as Italy, Switzerland and Northern Ireland that have not legalised same-sex marriage and have not been pressured by other states to do so.

As mentioned earlier, socialisation often involves diplomatic praise or censure, which is reinforced by material sanctions and/or incentives. There is no precedent for a Western country to pressurise another Western country to conform to the norm of marriage equality.

Stage 3: Norm Internalisation

A norm achieves a ‘taken-for-granted’ quality that deems it so widely accepted that it is internalised by actors (Finnemore and Sikkink, 1998: 904). The following section examines to what extent the norm of marriage equality achieved a ‘taken-for-granted’ quality. In other words, it asks whether marriage equality has been internalised by the state as well as the broader public.

‘Separate but Equal’

As discussed earlier, many gay marriage proponents argued against the ‘separate but equal’ argument. This was seen in Nordic countries and especially in the Netherlands. Gay marriage

proponents argued that by having separate legislation for gay couples and straight couples regarding marriage, i.e. registered partnerships vs. traditional marriage, would defeat the purpose of true equality. Even South Africa's Constitutional Court explicitly instructed Parliament not to formulate 'separate but equal' legislation. However, respecting the symbolism of traditional marriage and its significance as a religious institution, South Africa currently has two official pieces of marriage legislation. One is exclusively reserved for straight couples, while the other legalisation allows straight and gay couples to legally recognise their relationships as either a marriage or a civil partnership. The latter legislation is known as the Civil Union Act, while the former is known as the Marriage Act. So with that in mind, it is difficult to argue that the norm of marriage equality has been internalised in the South African context – a country where gay marriage has been legal for the past 11 years.

According to Bonthuys (2008: 727), civil servants or religious officials can conduct marriages or civil partnerships between same-sex couples under South Africa's Civil Union Act. As mentioned above, heterosexual couples are also able to marry under the Civil Union Act. Those marrying under the Civil Union Act will be afforded the same rights as heterosexual couples who opt to marry under the Marriage Act. De Vos (2008: 171) points out one very important criticism of the difference between the two pieces of legislation. With regard to the Marriage Act, certain civil servants such as magistrates and commissioners are automatically qualified to be marriage officers. Other diplomatic officers or state officials can also be appointed as marriage officers by the relevant Minister. Furthermore, Section 3(1) of the Marriage Act states that "a marriage officer for the purpose of solemnizing marriages according to Christian, Jewish or Mohammedan rites or the rites of any Indian religion" may be appointed in order to accommodate religious practices and beliefs (Union Gazette Extraordinary, 1961: 50). What is important to note here is that Section 31 of the Marriage Act clearly states that religious marriage officers are not compelled to marry any couple in the event that the marriage does not conform to the "rites, formularies, tenets, doctrines or discipline of his religious denomination or organization" (Union Gazette Extraordinary, 1961: 62). Keep in mind that marriage officers who are civil servants are not exempt from this – they are obliged to marry couples even if they disagree with their religious beliefs.

De Vos (2008: 172) points out that "the Civil Union Act deals with this matter in an entirely different – and constitutionally problematic – way." The Civil Union Act does not state that religious officers may refuse to marry couples based on religious beliefs. This is largely

attributed to the fact that religious denominations or organisations must apply in order to get approval to conduct a marriage or civil partnerships under the Civil Union Act. Of course, for a religious denomination to apply to conduct marriages under the Civil Union Act one can infer that the issue of religious objection would not arise. However, Section 6 of the Civil Union Act states that civil servants who are marriage officers may refuse to marry same-sex couples in the event “that he or she objects on the ground of conscience, religion and belief to solemnising a civil union between persons of the same sex, whereupon that marriage officer shall not be compelled to solemnise such civil union” (Republic of South Africa, 2006: 6). De Vos (2008) makes the very important point that civil servants may refuse to solemnise civil marriages or partnerships for religious reasons, which essentially allows state officials to discriminate against couples based on sexual orientation, whereas these civil servants are obliged to solemnise marriages under the Marriage Act. For example, a Christian civil servant cannot refuse to marry an atheist or Muslim couple based on religious grounds.

According to Haden (2017), given the Section 6 clause in the Civil Union Act, many same-sex couples are often turned away by many Home Affairs branches in South Africa. Collison (2017) points out that South African Minister of Home Affairs, Hlengiwe Mkhize, said that out of its 1,130 marriage officers, 421 were exempt from conducting same-sex marriages or civil partnerships after having “objected on the grounds of conscience, religion or belief.” This provision of the Civil Union Act is problematic in one very important way. According to De Vos (2008: 173), same-sex couples in small South African towns are often less wealthy and less educated, and in order to get married they would typically have to go their local magistrate courts where the local magistrate would then act as an official marriage officer. These local magistrates can refuse to marry these same-sex couples according to Section 6 of the Civil Union Act. When this happens, these same-sex couples would more often than not accept the refusal by the local magistrate and not pursue the matter further out of ignorance or lack of resources.

Finnemore and Sikkink (1998: 905) argue that iterated behaviour and debates contribute to the consolidation and universalisation of norms during the third stage of the norm life cycle. It is clear that the norm of marriage equality has not yet been internalised in the South African context. Not only are there two separate laws for marriage. On the one hand, the Marriage Act is solely applicable to heterosexual couples. This clearly illustrates how deeply embedded the norm of traditional marriage is in society. On the other hand, the Civil Union

Act makes it legal for civil servants working for the state to refuse to conduct marriages for same-sex couples based on religious beliefs. What this translates into is that civil servants who believe that homosexuality is wrong (whether that belief is truly based on religion or not) and that homosexual couples do not deserve to marry are essentially – legally – discriminating on the basis of sexual orientation and practising a form of homophobia. Similarly, Clayton (2017) argues that section 6 of the Civil Union Act is deeply problematic insofar that it emboldens people to be homophobic, which is a clear violation of the South African Constitution (Interview, Matthew Clayton, 11/07/2017). What makes this particularly troubling is that South Africa has a reputation as a human rights champion.

A Queer Critique of Marriage

Over the past three decades marriage equality has been at the forefront of policy reform in many countries. For many, legalising gay marriage would mean the ultimate liberation for lesbian and gay citizens. However, even though gay marriage has become the dominant issue in contemporary queer politics, there are many queer scholars and activists who actively argue against marriage and who are opposing the normalisation of marriage equality. Marriage critics in the LGBTQ movement see the fight for marriage equality as a way for gays and lesbians to conform to heteronormativity. Warner (2000: 143) argues that the framing of gay marriage as the ultimate goal has created further divisions between national gay and lesbian movements and queers. Warner (2000) admits that the marriage equality debate has contributed towards the increasing normalisation of the LGBTQ movement as a whole as well as the context in which marriage can become a meaningful option for gays and lesbians; however, gay marriage has not yet been normalised.

As discussed earlier in this chapter, gay marriage proponents often frame their argument around the issue of full equality, which can also be interpreted as full citizenship. These arguments are based on the notion that by not extending marriage to gay and lesbian couples, the state automatically sees them as second-class citizens. Before Massachusetts became the first state in the USA to issue marriage licenses to same-sex couples in 2004, its Supreme Judicial Court linked marriage and citizenship by stating:

The Massachusetts Constitution affirms the dignity and equality of all individuals. It forbids the creation of second-class citizens... The dissimilitude between the terms ‘civil marriage’ and ‘civil union’ is not innocuous.... It is a considered

choice of language that reflects a demonstrable assigning of same-sex, largely homosexual, couples to second-class status (Josephson, 2005: 270).

The question then arises as to whether or not marriage equality will end second-class citizenship for queer people. How will marriage equality end second-class citizenship for queer people, when the USA does not have a federal law prohibiting discrimination based on sexual orientation in the work place? For example, the Equal Employment Opportunity Commission (EEOC) said that it is illegal for employers to discriminate against LGBTQ workers as it will violate Title VII of the 1964 Civil Rights Act. Under Title VII employment discrimination is prohibited on the grounds of race, colour, religion, sex and national origin (Alter, 2015). However, the Department of Justice pointed out the loophole, i.e. that it is not illegal under federal law to fire an employee based on sexual orientation, given that ‘sex’ be interpreted to refer to one’s biological sex – male or female (Berry, 2017). These are the types of arguments that queer theorists as well as feminist scholars make – that marriage equality does not address the inequalities the institution itself creates.

Some queer theorists draw from some feminist scholars who are critical of the institution of marriage. Feminist scholarship shows that marriage still produces a different social status for women and for men. Gender roles in marriage affect women at home as well as in the workplace (Josephson, 2005: 275). For example, at home women are expected to do housework and care work; at work women still earn less than men. Feminist scholars also argue that marriage perpetuates a gender hierarchy and in many cases violence against women. Of course, gay marriage disrupts the institution itself. For example, gay marriage does not reinforce gender hierarchy as two people of the same gender would share the institution of marriage. However, some queer scholars argue that, although the legalisation makes the institution of marriage somewhat queer, queer individuals tend to conform to heteronormative traditions. Clayton (2017) makes a very interesting argument around the queer community and heteronormativity:

I think that LGBTQ people do a fair enough job by emulating the worst bit of heteronormativity without same-sex marriage. For example, some still have very static ideas around gender roles. Where you see that some of the same drivers of intimate partner violence of different-sex couples – unequal power relations – come into play with same-sex partnerships as well. However, I don’t think it’s our

business to tell people how their decisions perpetuate heteronormativity (Interview, Matthew Clayton, 11/07/2017).

Furthermore, some queer scholars maintain that gay marriage should not be the ultimate goal for liberation – sexual justice should be (Warner, 2000: 90). Similar to Warner (2000), Judge (2017) argues that activism regarding (homo)sexual and queer governance should be focused on full equality – economic and social justice – not just marriage. She points out that “marriage is a small piece of a much more complex and much more interconnected puzzle of human relations and their relationship to social justice” (Interview, Melanie Judge, 11/07/2017). This raises the question around the inequalities that marriage sustains: why should benefits that are reserved for married couples, such as health care or tax equality, not be extended to couples who choose not to marry, or single people? Queer scholars are very critical of gay and lesbian organisations’ silence on the consequences that marriage will have for queer people who choose not to marry, or those who are single.

Those who argue against marriage equality from a conservative and religious point of view base their arguments on marriage being reserved for procreation purposes as well as being a private institution with religious symbolism. Josephson (2005: 270) points out the irony in this argument, stating that “marriage is a public institution that creates a right to private sexual relations, and yet is defined by public policy.” Judge (2017) went on to argue that marriage has become deeply politicised. Marriage has become a way of disciplining queers so that they do not become too radical. It is a way to make sure that queers do not have sex in public, or have multiple partners, and that they marry and settle down with their long-term partners. Judge (2017) points out that these ideas should be critiqued, because queers can also become complacent people who are apolitical (Interview, Melanie Judge, 11/07/2017).

Kollman (2013: 28) maintains that marriage as well as family life are heavily regulated by the state. This regulation usually takes place on the assumption that marriage and family are based on a heterosexual identity – an identity that is a deeply embedded norm in society and the legal framework. For example, Article 6(1) of Germany’s constitution states that “[m]arriage and the family shall enjoy the special protection of the state” (Federal Republic of Germany, 2014: 16). The problem that gay marriage proponents in Germany faced is that even though its constitution does not explicitly define marriage or family as institutions comprised of one man, one woman, and their biological children, Kollman (2013: 138) points out that German courts and policy elites interpreted it that way. Although Article 6 was never

used and is still not used to discriminate against same-sex couples; it did, however, weaken the arguments by marriage equality proponents.

Same-sex marriage is legal in Germany as of 2017; however, it is important to note that Germany's Chancellor, Angela Merkel, voted against opening up marriage to gay and lesbian couples. She stated that "[f]or me, marriage in the Basic Law is marriage between a man and a woman and that is why I did not vote in favour of this bill today" (Reuters, 2017). This clearly shows how deeply embedded traditional marriage is when even the state leader votes against marriage equality, especially in light of the fact that Germany's constitution (or Basic Law as it is known) does not define marriage as an institution solely reserved for heterosexual couples as maintained by Merkel. In reference to Merkel's position, Clayton (2017) argues that anyone who denies others their rights based on sexual orientation is *de facto* homophobic (Interview, Matthew Clayton, 11/07/2017). Nevertheless, it is evident that marriage in itself is assumed to be based on an inherently heterosexual identity.

Warner (2000: 82) provides one critical reason as to why many straight people tend to have reactionary outbursts of homophobia in relation to the legalisation of gay marriage. Warner (2000) argues that straight people want the privilege and symbolism of marriage to be solely reserved for them as this would continue to reinforce the idea that heterosexuality is something special. This is often to the extent that a state can legalise gay marriages, but the word 'marriage' can still be claimed exclusively by straight couples. This is evident in the case of South Africa. As discussed earlier, gay and lesbian couples who marry under the Civil Union Act can opt to have their union defined as either marriage or civil partnership. Straight couples in South Africa can marry under the Marriage Act and their union will automatically be defined as a marriage. Newstrom (2007: 803) argues that by withholding the word 'marriage' from gay and lesbian couples, or even having it as an option, does nothing to fight the isolation of queer people from the existing legal structures. Certainly, having the option of marriage or civil partnership will allow queer people who do not want the word 'marriage' to be associated with their legal union to opt for a civil partnership. At the same time, the fact that the option exists in the legal framework indicates that the norm of marriage equality still has a long way to go in order to reach the point of internalisation.

Moving Towards Normalisation

It is impossible to say or predict whether or not marriage equality will reach a 'taken-for-granted' quality and become internalised. Gay marriage has materialised and diffused across

many countries over the past two decades, but at the same time there has also been a backlash in recent years, even in many Western societies such as the USA and Europe with the rise of neo-fascist movements. This type of backlash is troubling for LGBTQ rights. For example, in 2017 the USA, under leadership of Donald Trump, announced a ban on transgender citizens serving in the military (Bruno, 2017). Despite these troubling developments in the West, Judge (2017) is hopeful that perhaps a new kind of politics can emerge in Latin America or post-colonial Africa that will dispel the myth that the direction the West is going is the best way to go (Interview, Melanie Judge, 11/07/2017). Bouchard (2017) believes that gay marriage – at least on a surface level – is moving towards normalisation and that the backlash against gay marriage is indicative that it is becoming more real and more normalised (Interview, Danielle Bouchard, 13/07/2017). Even so, Kollman (2013: 197) points out that countries are still measuring their progressivity on international human rights on how progressive they are on LGBTQ rights (see also Corrales and Pechney, 2010b).

The legalisation for gay marriage has for the most part been decided either by a country's parliament or through court rulings. This has been the case in all but one country. In May 2015 Ireland became the first country to legalise gay marriage through a public referendum. More than 62% of Irish citizens voted in favour of amending the country's constitution in order for gay and lesbian couples to marry (BBC News, 2015). In most countries the legal framework often moves forward faster than the social attitudes of its citizens. Ireland is different in that Ireland's popular vote on gay marriage shifts the conversation of normalisation as the legalisation of gay marriage was decided by the majority of its citizens. Fransch (2017) argues that Ireland's successful referendum and election of its first openly gay prime minister might be an example of a society that is progressing along with its law (Interview, Chet Fransch, 09/06/2017). Clayton (2017) shares Fransch's (2017) sentiments; however, he makes the very important argument that it is inherently problematic to put people's fundamental rights to a vote (Interview, Matthew Clayton, 11/07/2017).

One very important factor to take into account when assessing the move towards normalisation is the social attitudes of citizens. It is often the case that marriage equality has been achieved in a country within its legal framework; however, the social attitudes of its citizens towards LGBTQ rights and gay marriage might be completely different. This trend is changing in certain countries. For example, in South Africa 48% of citizens 'strongly disagree' with same-sex marriage in 2012, compared to 23% of citizens who said they

‘strongly disagree’ in 2015. Note that 14% did not take a definite position on same-sex marriage. There is a clear change in attitudes among South Africans on same-sex marriage; however, at the same time the study conducted by Progressive Prudes found that 72% of South Africans believe that same-sex activity is “morally wrong” (The Other Foundation, 2016).

Similarly, in 2015 the Inter-American Commission on Human Rights (IACHR) found that between January 2013 and March 2014 770 acts of violence were committed against the LGBTQ community in Latin America – nearly 600 of those violent acts resulted in death (IACHR, 2015; Eulich, 2016). It is important to highlight this, given that by 2014 three Latin American countries had fully legalised gay marriage (Argentina, Brazil, and Uruguay). This study acknowledges that it might be a bit problematic to link the normalisation of same-sex marriage to violence against LGBTQ people, especially given that traditional marriage is a deeply embedded norm globally, yet 1 in 3 women still experiences physical or sexual violence, mostly by an intimate partner (UN Women, 2016). However, it is still important to highlight this connection given that violence against LGBTQ people more often than not stems from the belief that homosexuality, for example, is wrong and that it deviates from the norm, and that violence against LGBTQ people would rectify this deviation. So, the argument is then that if homosexuality is wrong, then gay marriage would also be seen as wrong.

Bouchard (2017) presents a very interesting argument that can possibly explain the gap between the legal norms and social attitudes of people in countries where gay marriage is legal, particularly in the USA. She cites Chandan Reddy’s (2011) work, *Freedom with Violence: Race, Sexuality, and the US State*, where Reddy argues that in 2010 the USA’s Shepard-Byrd Hate Crimes Prevention Act – an expansion of the federal definition of hate crimes to include those motivated by the perception of one’s sexual orientation or gender identity – was attached to the National Defense Authorization Act that increased the military budget to \$680 billion. The argument here then is that in the USA freedom for queer-identified individuals is often regulated by violence. Bouchard (2017) points out that sometimes legislation for queer protection is often used, or at least in this case, to justify military dominance. She continues to argue that this might be a possible reason as to why, socially speaking, American society might be less on board with queerness in general, because it is not so much about the acceptance of queer people but rather about the instrumentalisation of American exceptionalism (Interview, Danielle Bouchard, 13/07/2017).

Nevertheless, the norm of marriage equality has definitely grown and strengthened over the past few years. The social attitudes of people are changing and gay marriage continues to be high on the priority list for policy reform. The USA is another example. Josephson (2005: 296) points out that in the USA polling data have consistently indicated that the American public shows more support for non-discrimination policies in employment, for example, for gay and lesbians than they do for gays and lesbians to get married. In 2007 only 32% of Americans supported gay marriage (Baunach, 2011: 347). In a recent 2017 poll by Pew Research Center 62% of Americans support gay marriage (Pew Research Center, 2017). In Western Europe attitudes towards same-sex marriage are significantly more favourable compared to the rest of the world. For example, in a 2017 survey on same-sex marriage 91% of Dutch respondents believe that same-sex marriage should be legal across Europe. Swedish respondents were 90% in agreement, and Spanish respondents 84% (Debating Europe, 2017). Ratele (2017) points out that social normalisation is much more significant than legislation. Although same-sex marriage might be legal in a country, it is then the social arrangements that still need to be changed, which is much harder to do. Ratele (2017) puts forward the following argument regarding the normalisation of same-sex marriage:

When you start to think about marriage and your first thought is not about a female-bodied person getting married to a male-bodied person. If this thing has happened, then you have done this psycho-social normalisation (Interview, Kopano Ratele, 05/07/2017).

Eastern European countries show a different trend, however. In Latvia 76% of respondents believe that same-sex marriage should not be legal in across Europe. For Lithuania it is 71% and 69% for Slovakia (Debating Europe, 2017). The resistance to the legalisation of gay marriage in Eastern Europe as well as in African states, Asian nations and Middle Eastern countries draws attention to a different kind of norm – a reactionary norm to marriage equality, the norm of anti-homosexuality, that is discussed in the following chapter.

Conclusion

Ever since the Netherlands became the first country to legalise same-sex marriage in 2001, 25 other countries have changed their legislation to allow same-sex couples to marry in all jurisdictions. The usefulness of Finnemore and Sikkink's (1998) norm life-cycle model was demonstrated in this chapter to illustrate the different stages the norm of marriage equality has to go through before it can achieve a (possible) 'taken-for-granted' quality. Marriage

equality continues to be at the forefront of the policy agendas of many countries, which can largely be attributed to the advocacy work of gay marriage proponents. Many of these marriage proponents served as norm entrepreneurs. The identification of norm entrepreneurs such as Axel and Eigil Axlil as well as Jack Baker and Matthew McConnell in this chapter described the ways in which these norm champions allowed marriage equality to get onto the agenda of the state and its elites. The norm cascade phase illustrated the role pioneering countries play in shaping norm behaviour in the international community, as well as how important framing the issue or the norm is in its success. The norm cascade process also demonstrated how countries respond to international ‘peer pressure’ to the norm of marriage equality in order to construct their own identity. The move towards normalisation and internalisation of marriage equality was discussed in the context of the final stage of the norm life cycle. It is clear that even though marriage equality has been established in the legal frameworks of these countries, the social attitudes of its citizens are not always in agreement. However, these attitudes are shown to be changing over time – a change that can be interpreted as a step in the right direction. Given that the norm of marriage equality is still relatively new, only time will tell whether marriage equality will endure and achieve a ‘taken-for-granted’ quality.

Nevertheless, it is evident that marriage equality continues to cascade across different countries. Note that Finnemore and Sikkink (1998: 906) argue that Western norms are more likely to diffuse internationally than non-Western norms. Therefore, the next chapter applies the norm life-cycle model in order to investigate the norm of anti-homosexuality (or homophobia) in the legal frameworks of non-Western countries and how anti-homosexuality policies have grown and strengthened in these countries. This is done in order to illustrate the usefulness of the life-cycle model when applied to the Reactionary Movement.

CHAPTER 5

Global Opposition to Same-Sex Marriage: Reactionary Movement

Introduction

In the previous chapter Finnemore and Sikkink's (1998) norm life-cycle model was applied to the norm of marriage equality in order to determine whether or not the norm has achieved a 'taken-for-granted' quality. Although the norm of marriage equality is still moving towards normalisation, the norm life-cycle model was useful in illustrating the different stages the norm has to go through before it becomes internalised. This chapter attempts to explain the diffusion of the norm of anti-homosexuality by applying a constructivist lens. Before one can discuss the Reactionary Movement, it is important to note that, apart from their fundamental opposition, there is a critical difference between the Equality Movement and the Reactionary Movement. The main difference is that the Equality Movement is focused on the legalisation of same-sex marriage, whereas the Reactionary Movement is focused on the criminalisation of same-sex relations.

This chapter provides a brief overview of the legacies of colonialism and more specifically its effects on contemporary (homo)sexual and queer governance. Then the first stage of the norm life cycle – norm *re*-emergence – is discussed. This section identifies the norm entrepreneurs who played key roles in the passing of various anti-homosexuality policies. This chapter identifies Haruna Sebi, Jennifer Nabafu and David Bahati of Uganda as well as Vitaly Milonov and Yelena Mizulina of Russia as norm entrepreneurs who were integral in advocating for the norm of anti-homosexuality. This chapter then turns to norm cascading, which is the second stage of the norm life cycle. What is critical to note here is that the second stage of the life-cycle model provides a theoretically interesting and challenging phenomenon in the Reactionary Movement: norm cascading does not occur. As such, this chapter evaluates this stage of the life-cycle model through the lens of norm affirmation, given that Finnemore and Sikkink's (1998) model proves difficult to apply here. In order to explain norm affirmation, this section provides a critique of marriage from a feminist and queer perspective to illustrate how the institution of marriage and the nuclear family is used to justify anti-homosexuality. It also discusses the role that religion plays in preventing norm cascading as well as the arguments around the notion that same-sex relations are a Western import. The final section evaluates norm *re*-internationalisation – the third stage of the norm life cycle – and assesses whether or not the norm of anti-homosexuality has been internalised and achieved a 'taken-for-granted' quality. It examines the resistance to and protests within

various countries against governments with draconian laws, as well as the impact the norm of anti-homosexuality has on the HIV/AIDS epidemic; this is an important point to highlight, because the criminalisation and stigmatisation of queer men or MSM hinders HIV/AIDS research and treatment. This chapter concludes by providing a critique of the norm life-cycle model.

The structure of this chapter is based on Finnemore and Sikkink's (1998) norm life-cycle model. Their model is used here to identify, explain and describe the contemporary evolution of anti-homosexuality. This chapter utilises the life-cycle model to see whether or not it is useful to explain the normative behaviour of the state and state elites with respect to anti-homosexuality rhetoric and legislation, given that same-sex behaviour has always been criminalised. Some of these countries have legally prohibited same-sex marriage, and many of the state leaders in the Reactionary Movement have denounced same-sex marriage and Western tolerance of the LGBTQ community. It is, therefore, important to examine the Reactionary Movement to see if and how it links to the study's primary research question: How and why marriage equality emerged as an important issue in contemporary global policy and practice. It is important to keep in mind that this chapter does not highlight all individual countries with anti-homosexuality policies in their legal structures. Instead, the focus is on the movement towards the acceptance of anti-homosexuality, with selected countries used for illustrative purposes.

Norm Identification

Anti-homosexuality, or beliefs that being queer deviates from what is supposed to be normal or natural, has its roots in ideas around marriage, the nuclear family, sexuality and patriarchy. Rhetoric around anti-homosexuality has become increasingly evident and is shared by many countries around the world, primarily non-Western countries. In recent years the world witnessed various countries implement or strengthen laws that criminalise, among other things, homosexual propaganda, same-sex sexual acts, and/or same-sex marriage. For example, in 2013 Russia passed its Gay Propaganda Bill; in 2014 Nigeria signed its Same-Sex Marriage Prohibition Act into law; that same year Uganda passed its Anti-Homosexuality Act, which was later nullified. Fransch (2017) argues that the irony, especially in Africa, is that these laws have been inherited from its colonial past and re-interpreted as authentic African traditions and values, while in contemporary politics even these former colonial powers have rejected these laws in their own countries as discriminatory (Interview, Chet

Fransch, 09/06/2017). In the previous chapter it was possible to pinpoint who introduced the norm of same-sex marriage into the legal framework, and when and how this was done. It is beyond the scope of this study to do the same for the norm of anti-homosexuality, because legislation that outlaws same-sex relations existed in the legal structure before and after these countries gained independence from their colonisers. For this reason, this chapter uses Finnemore and Sikkink's (1998) norm life-cycle model to follow the (re-)emerging norm of anti-homosexuality in the discourse of contemporary (homo)sexual and queer governance, where homosexuality and homosexual acts are still criminalised. *Re-emerging* is the key term here, given that anti-homosexuality policies had already existed in the legal framework, yet in recent years there has been an intensification of these policies. This is in stark contrast to countries that have legalised same-sex marriages.

It is perhaps not too farfetched to argue that the legalisation of same-sex marriage in countries with anti-homosexuality laws is not even an idea for LGBTQ citizens or activists to advocate for, because their queer existence in itself is illegal. As was mentioned in Chapter 4, Waaldijk (2001) lists three legislative processes that need to take place before the legalisation of same-sex marriage can be achieved. He calls these *standard sequences*, which he applies to European countries. According to Waaldijk (2001: 440), in order for marriage equality to be attained, the following standard sequence has to occur: (1) the decriminalisation of homosexuality and same-sex sexual relations needs to materialise, which is often followed or accompanied by an equal age of consent; (2) anti-discrimination policies based on sexual orientation are introduced into the legal framework; (3) some form of legal partnerships and parenting is introduced for same-sex couples.

One could argue that the standard sequence process has a norm cascading or domino effect in the recognition of homosexuality. This means that step (2) can only happen once step (1) has been completed, and in order to get to step (3), both step (1) and step (2) must have been realised. For example, Waaldijk (2001: 440) argues that logically it would be difficult to outlaw discrimination based on sexual orientation in the workplace – step (2) – while legislation exists in the legal framework that punishes same-sex sexual acts, i.e. step (1). This chapter regards Waaldijk's (2001) standard sequence as providing proxy norms in the contemporary politics of (homo)sexual and queer governance. These proxy norms are identified as the norm of (homo)sexual decriminalisation, the norm of (homo)sexual anti-discrimination, and the norm of (homo)sexual partnerships and parenting. Step (4) of the process would then be the norm of marriage equality. Evidently, in many non-Western

countries step (1) has not even materialised yet, which makes reaching step (4) incredibly difficult. The fact that so few of these steps, or in many instances none of these steps, have been achieved in so many countries clearly indicates a deeply embedded anti-homosexuality rhetoric in the legal structures of these states.

Homophobic Legacies of Colonialism

As pointed out earlier, it is beyond the scope of this study to trace the exact origins of anti-homosexuality. Bouchard (2017) cautions against making blanket statements about other nations and their cultures regarding their beliefs on homosexuality. She argues that doing so would be a legacy of colonialism in itself, and that it is important to look at a country's history first (Interview, Danielle Bouchard, 13/07/2017). As such, the following section briefly explores the impact of colonialism on colonised nations, and how the rhetoric of anti-homosexuality and the associated legislation that came into effect as a result of colonial rule still linger actively to this day.

According to Braun (2013: 24), almost 80% of Commonwealth countries criminalise same-sex sexual acts, which is a direct result of their colonial past. It is believed that as early as 1533 England imposed the death penalty on men who engaged in sodomy with another man. In 1861 the UK implemented its Offences Against the Person Act, which meant that sodomy was no longer punishable by death; instead, men found guilty of sodomy were imprisoned for up to 10 years. Braun (2013) further points out that English lawmakers used the Criminal Law Amendment Act of 1885 to add a more generic offence – gross indecency – applicable only to men who engage in sexual intimacy with other men. This was punishable by one year in prison – with or without hard labour. Han and O'Mahoney (2014: 273) point out that the 1860 Indian Penal Code (IPC) was the first comprehensively codified criminal law of its kind in the British Empire. Section 377 of the IPC states the following:

377. Buggery. – Whoever voluntarily has carnal intercourse against the order of nature with any man or woman shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

and where such an offence is committed by a person over 18 years of age with a person under that age, the imprisonment may extend to over seven years.

Explanation:– Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section (Law Commission of India, 1971: 282).

According to Han and O'Mahoney (2014: 273), the IPC was drafted by the lawyers of the British Empire in order to protect Christians from corruption, and also to correct and Christianise what was regarded as 'native' custom. There was also a fear among the colonisers that their own soldiers and colonial officers would engage in sodomy in their new 'immoral' surroundings, especially those who were not married. As such, the 1860 IPC and the subsequent Queensland Penal Code of 1899 (QPC) served as models for the British Empire to export and impose similar legislation in other colonised nations throughout Africa, Asia and Oceania (Han and O'Mahoney, 2014; Morris, 1974). Human Rights Watch (2013: 86) highlights that these anti-homosexuality laws were introduced – forcibly imposed – onto these nations without any 'cultural consultations' with the natives. The colonisers felt that the native population did not punish 'perverse' sexual relations harshly enough and these penal codes would do exactly that. These laws allowed the colonisers to impose European standards of morality, and essentially re-educate the natives on 'proper' sexual values and customs. The effect of these laws was that they allowed the coloniser to be praised and protected, while the colonised were policed and subjected.

What is interesting to note is that France – the other big colonial power – decriminalised same-sex sexual acts between consenting adults in its French Penal Code in 1791 (Han and O'Mahoney, 2014: 273). According to Waaldijk (2001: 438), France became the first country to do so. This subsequently led to other countries following suit. For example, Belgium and Luxembourg decriminalised same-sex relations in 1792, and the Netherlands in 1811. There are, however, a few former French colonies that still criminalise same-sex relations, but the colonial legacies of anti-homosexuality had not been so clearly established as in former British colonies. As mentioned earlier, Braun (2013: 24) claimed that almost 80% of former British colonies still criminalise same-sex sexual acts between consenting adults – 42 out of the 54 Commonwealth countries in 2013. Since then, three more countries decriminalised same-sex relations, which means that in 2017, 39 out of the 54 (72%) Commonwealth countries still have laws in place against same-sex relations (Schlatter, 2016; Smith, 2015; Uramaie, Athanase and Vannier, 2016). The year 2017 also marks the 50th anniversary of the decriminalisation of homosexual acts in England and Wales. Even though the UK has decriminalised homosexual acts, the legacies of colonialism are still present in many of its former colonies, in particular African countries, where many African leaders regard homosexuality as 'un-African'.

Stage 1: Norm Re-Emergence

As Finnemore and Sikkink (1998: 896) argue: “norms do not appear out of thin air.” Norms are introduced and actively built by actors known as norm entrepreneurs. The norm entrepreneur constructs a norm in such a way that individuals within their community will regard it as appropriate or desirable behaviour. The norm of anti-homosexuality, as it is known today, was introduced predominantly by European colonial powers. While all of these former colonial powers have decriminalised consensual same-sex acts in their respective legal structures, and most of them have even gone as far as legalising same-sex marriage, in recent years there has been an increase in the strengthening of anti-homosexuality policies that criminalise same-sex relations or propaganda. As such, the following section identifies norm entrepreneurs who have been key in the construction of anti-homosexuality policies in the legal framework in recent years.

Haruna Sebi and Jennifer Nabafu

According to Mujuzi (2009: 278), Uganda adopted a new Constitution in 1995. It is through the drafting of this new Constitution that the issue of same-sex marriage in Uganda first arose. Section 145 of Uganda’s 1950 Penal Code clearly states that “any person who permits a male person to have carnal knowledge of him or her against the order of nature, commits an offence and is liable to imprisonment for life” (Republic of Uganda, 1950). As such, no one was advocating for the legalisation of same-sex marriage, given that the country already criminalised homosexual acts. However, during the process of drafting the new document it was proposed that the provision relating to marriage should state: “marriage shall be entered into with free consent of the intending parties” (Mujuzi, 2009: 278). Ugandan delegates, in particular Haruna Sebi and Jennifer Nabafu, argued that the aforementioned provision was too broad and open to various interpretations. According to Mujuzi (2009: 281), Sebi, the Koboko County representative, said during the Constituent Assembly proceedings:

I support the motion ... for the simple reason that we should specify who these intending parties are because [the draft clause] ... simply says “*marriage shall be entered into with free consent of the intending parties*” without specifying who these intending parties are. In fact, I was about to move an Amendment ... because you may find that there are cases where men would want to marry each other (*Laughter*) ... [W]e have to be very careful where we shall give freedom for men to marry each other or women to do the same. So why I am supporting this Article ... is that, it categorizes very clearly men marrying women and not – (*Laughter*).

Women representative for the Mbale district, Nabafu, echoed Sebi's remarks by stating during the same Constituent Assembly:

I would like also to agree ... that, to avoid homosexual and lesbian marriages creeping into our society, we need to say "*the man and woman intending to marry*" ... Let us be specific and say the man and the woman to avoid Sodom and Gomorrah coming in our society – (*Applause*) (quoted in Mujuzi, 2009: 281).

It is clear from Sebi's and Nabafu's remarks, as well as from the laughter and applause from the other delegates, that everyone in the Assembly shared their sentiments that marriage is an institution exclusive to heterosexual individuals. The result was section 31(3) of the Constitution which stated "Marriage shall be entered into with the free consent of the man and woman intending to marry" (Republic of Uganda, 1995). Finnemore and Sikkink (1998: 897) argue that norm entrepreneurs play a crucial role in the first stage of the life cycle seeing that they call attention to issues through the language they use. The language a norm entrepreneur uses specifically names, interprets and dramatizes these issues. Nabafu's reference to the biblical Sodom and Gomorrah is an example of how language can be used to frame the issue in such a way that it resonates with a broader audience. According to Mujuzi (2009: 281), the possibility of allowing same-sex marriage would lead to the destruction of Ugandan society similar to the way the cities of Sodom and Gomorrah were destroyed by God. This rhetoric can be linked to one of Finnemore and Sikkink's (1998) possible motives for a norm entrepreneur to promote a norm – ideational commitment. Ideational commitment suggests that a norm entrepreneur "believes in the ideals and values embodied in the norms, even though the pursuit of the norms may have no effect on their well-being" (Finnemore and Sikkink, 1998: 898). Sebi and Nabafu believed that prohibiting the possibility of same-sex marriages would protect the broader Ugandan society, as well as preserve and protect the deeply embedded norm that a marriage is between a man and a woman. In other words, the prohibition would protect its heterosexist ideology.

Interestingly, with the start of the new millennium Uganda's gay and lesbian movement became increasingly visible and vocal – many of these activists were advocating for the Ugandan government to decriminalise homosexual acts, i.e. the norm of (homo)sexual decriminalisation. Evidently government officials were not happy about this. For example, in 2004 one Uganda radio station was fined by Uganda's Broadcasting Council for having a gay activist on its show talking about gay rights, discrimination, same-sex relationships and the

need for HIV/AIDS services (DeBarros, 2006). Mujuzi (2009: 282) argues that the government saw the rise of the gay and lesbian movement as a threat to the institution of marriage. As a result, during the amendment process of its Constitution in 2005, the government added a new marriage clause, section 31(2a), which states explicitly that “Marriage between persons of the same sex is prohibited” (Republic of Uganda, 2005: 32).

David Bahati

One particular Ugandan who has gained notoriety in the discourse around anti-homosexuality is David Bahati. On 14 October 2009 Bahati, an Evangelical lawmaker, introduced the Anti-Homosexuality Bill into the Ugandan Parliament. This move was largely seen as a reaction to Uganda’s increasingly visible and vocal gay and lesbian movement. As mentioned earlier, Uganda’s Penal Code of 1950 already outlaws same-sex sexual acts. Bahati’s proposed Anti-Homosexuality Bill sought to apply the death penalty to those convicted of “aggravated homosexuality”, as stipulated in the Bill, which included serial sexual offenders, people living with HIV, and those who use drugs or alcohol to facilitate gay sex (Alessi, 2013: 77). The Anti-Homosexuality Bill was subsequently labelled by the media as the ‘Kill the Gays Bill’. Furthermore, anyone who witnessed a homosexual act being committed can face up to three years in jail if they do not report the incident to police within 24 hours. During an interview with MSNBC’s Rachel Maddow in 2010, Bahati said the following about his intentions in introducing the Bill:

I have a passion for children, and it’s what is really motivating me. I’m a God-fearing person. I want to make sure that this law is consistent with God’s law... It hurts my family when my child goes to school and is converted into gay... It hurts my family, it hurts the family of Uganda when the purpose of procreation is undermined (quoted in Mirkinson, 2011).

Bahati clearly expresses that his reason for the Bill is to protect children and family, and to protect the purpose of procreation (most likely within the institution of marriage). Turning back to Finnemore and Sikkink’s (1998) three possible motivations for a norm entrepreneur to advocate for their norm – empathy, altruism and ideational commitment – it is clear that Bahati was – theoretically, at least – motivated by altruism. Finnemore and Sikkink (1998: 898) argue that “altruism exists when actors take action designed to benefit another even at the risk of significant harm to the actor’s own well-being.” Bahati’s altruistic efforts are particularly evident given that a petition was started in order for the International Criminal

Court to investigate him for committing a crime against humanity in the persecution of gays in Uganda (Norman, 2013).

As expected, there was major backlash from the international community against the Bill. The Bill was called out for its Nazi overtones – witnesses not reporting homosexuals to the police can be jailed – and over the absurd double standards – gay and lesbian Ugandans abroad can be arrested and deported back home for trial and execution, yet murderers abroad are protected from deportation under Ugandan law (Ssebagala, 2011: 46). Many Western countries also threatened Uganda with aid cuts. Unsurprisingly, shortly after the international outcry the government issued a statement declaring that the Bill did not have any official backing and it was subsequently shelved, temporarily (BBC News, 2012). However, on 20 December 2013 the Anti-Homosexuality Bill was passed and on 24 February 2014 President Yoweri Museveni signed it into law (Nyanzi and Karamagi, 2015: 26). It was now known as the Anti-Homosexuality Act. Needless to say, the passing of the law drew heavy criticism from the international community. However, after a petition was filed in the Constitutional Court the Anti-Homosexuality Act was nullified on the grounds that it was passed without the proper quorum (Gettleman, 2014; Nyanzi and Karamagi, 2015: 26).

What is interesting about Bahati's norm entrepreneurial efforts is that he did not need to do much to actively promote his norm of re-criminalisation. Finnemore and Sikkink (1998) argue that norm entrepreneurs will follow the process of persuasion in order to convince the individuals within their community or state actors to accept the proposed norm. Bahati did not have to do any lobbying to get his norm on to the agenda of the state as he was already an MP. Also, the Ugandan community already believed homosexuality was wrong. According to Pew Research Center (2013), 96% of Ugandan citizens believe that homosexuality should not be accepted by society. During a talk – a talk not specially aimed at promoting his norm – to a packed crowd of students at Uganda's Makerere University, Bahati declared that “there are studies showing that if you are a homosexual, you are more likely to contract AIDS”, which received rousing applause from the audience (Alsop, 2009: 2043). Even though studies have shown that heterosexual women in Africa are most affected with HIV/AIDS, it is clear that the norm of anti-homosexuality is an established and internalised norm in Ugandan society.

Vitaly Milonov and Yelena Mizulina

The norm of anti-homosexuality is not only evident in Africa. Russia is also known for its anti-homosexuality rhetoric, and this became increasingly evident with the passing of its Gay

Propaganda Law in 2013. In contemporary Russia homosexuality is not regarded as criminal. Homosexual relations were decriminalised in 1993 and homosexuality was delisted as a mental illness in 1999 (Kondakov, 2011: 11; Williams, 2017). It is thus clear that Russia has adopted the norm of (homo)sexual decriminalisation – step (1). Although Russia has adopted step (1) of Waaldijk's (2001) standard sequences, it has not yet moved towards step (2) or (3). In fact, the country has remained hostile to LGBTQ rights. For example, in 2012 Moscow's city and district courts ruled that gay pride parades in Moscow will be banned for 100 years, i.e. from 2012 to 2112 (BBC News, 2012; Clemons, 2012).

According to Wilkinson (2014: 365), the Russian state Ryazan Oblast passed Russia's first gay propaganda law in 2006, which was applicable only to its local districts. It was on 30 June 2013 that President of the Russian Federation, Vladimir Putin, signed its nation-wide Gay Propaganda Law. The law is officially known as "For the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values" (Bennetts, 2015). Some authors refer to Vitaly Milonov as the architect of the Gay Propaganda law, while others refer to Yelena Mizulina as the one to have introduced the law. For the purpose of this section, the study regards both Milonov and Mizulina as norm entrepreneurs.

According to TV-Novosti (2013) the Gay Propaganda Law states that any individual who propagates non-traditional sex relations to minors shall be fined – this includes via the media, adverts and the internet. This law prohibits the LGBTQ community of distributing any pro-homosexual information to minors, and they are also prohibited from holding rallies in support of homosexuality. According to Bennetts (2015), Milonov first introduced the legislation in his hometown of St Petersburg in 2011. Similar to Bahati, Milonov argues that the Gay Propaganda Law is designed to protect the children of Russia from an early exposure to 'dangerous' information. He links this 'dangerous' exposure of homosexuality to Tabasco sauce:

Look, I love Tabasco, but it is harmful, that's why I don't give it to my three-year-old son on sausages. But, who knows, when he grows up, maybe he'll love Tabasco even more than me. But, right now, he doesn't need it. This can wait (quoted in Bennetts, 2015).

Milonov says his political moves regarding legislation opposing LGBTQ rights stems from a belief in traditional attitudes toward homosexuality and the traditional family unit. He attributes this to conservative European political traditions. In 2013 Pew Research Center

released a poll showing that 74% of Russians do not believe homosexuality should be accepted by society (Pew Research Center, 2013). It is clear that the majority of Russians share Milonov's sentiments. The same can be said for Mizulina, who has also been influential in promoting Russia's Gay Propaganda Law. Mizulina, the chairperson of the Russian Duma's Committee on Family, Women and Children, is known in Russia as the "champion of high moral standards" (Lipman, 2013). According to Flintoff (2013), Mizulina justified the legislation by arguing that it will give the public what they want. She pointed to surveys that indicated that 88% of Russians were in favour of the anti-homosexuality legislation, although critics argued against this figure. Nevertheless, Mizulina said about the passing of the Gay Propaganda Law:

Traditional sexual relations are relations between a man and a woman, which ... are a condition for the preservation and development of the multi-ethnic Russian people. It is precisely these relations that need special protection by the state (quoted in Grove, 2013).

It is clear that Russia's norm entrepreneurs are using the norm of anti-homosexuality to preserve the country's heterosexual identity. What is so interesting about norm entrepreneurs advocating for anti-homosexuality legislation is that all of them have direct access to their respective parliaments and other state actors – unlike the norm entrepreneurs in the Equality Movement. Norm entrepreneurs in the Reactionary Movement do not need an organisational platform to promote their norm. More often than not, when the norm is introduced to parliament, it is strongly supported as the rest of the house usually shares the sentiments of the norm. For example, Russia's Gay Propaganda Law passed with a 436 – 0 majority (Grove, 2013).

Stage 2: Norm Affirmation

As the world becomes more interconnected and complex, both the assertion of homosexuality and opposition to any claim for sexual rights are on the rise. According to Altman (2013: 182), there has been a significant divide between those who claim that diverse sexual identities and behaviours are fundamental to human rights and those who argue that they represent degeneracy and a threat to the moral order. This has been evident in the divide between the Western world and the non-Western world, which has become a clear reference point in terms of religion, freedom and human rights.

According to Finnemore and Sikkink (1998: 901), a norm reaches a tipping point after the norm entrepreneurs manage to persuade “a critical mass of states to become norm leaders and adopt new norms.” They argue that once this tipping point is reached, the norm will be adopted by more countries and it will inevitably diffuse or cascade through the international community. In terms of the norm of anti-homosexuality, this diffusion or cascading process has not yet transpired, which stands in contrast to the norm of marriage equality. Symons and Altman (2015: 62) calls this clash between two groups – in this case, the Marriage Equality and Reactionary Movements – international polarisation, where two groups of states adopt contradictory norms. In the previous chapter it was more straightforward to utilise the norm life-cycle model to explain the cascading of same-sex marriage. The utility of the model, specifically the second stage, proves difficult to apply to the Reactionary Movement, because norm change does not occur – the norm of anti-homosexuality has always been a deeply embedded norm in these societies. Given this theoretical challenge, this chapter uses ‘norm affirmation’ instead of ‘norm cascading’. The reason for is that the norm of anti-homosexuality is not a new norm that reactionary states use to define appropriate behaviour; instead, anti-homosexuality is an existing norm that is used to re-affirm states’ religious, national, cultural and/or traditional identities.

Reactionary norm entrepreneurs tend to form their arguments around religious, national, cultural, and/or traditional identities and regard marriage as an institution exclusively reserved for heterosexual people. It is therefore important to provide a critique of marriage in order to illustrate how it contributes toward norm affirmation. Marriage equality is not resisted only by reactionary states. In fact, some feminist and queer scholars reject marriage as an oppressive and/or heteronormative institution. A feminist perspective is useful, because struggles around sexuality and same-sex relations come directly out of feminist teachings and feminist struggles. Ratele (2017) argues that feminist scholars and activists put sexuality and sexuality (and queer) studies into circulation, which is part of the reason why the issue of marriage equality was able to achieve global recognition (Interview, Kopano Ratele, 05/07/2017). Judge (2017) takes it one step further arguing that marriage is a product of the development of modern capitalism:

[Marriage] was ultimately designed to produce certain forms of gender relations in the home and to assign certain roles and expectation to men and to women, respectively, in the context of the rise of capitalism. So the idea of marriage is being the site in which the women figure raises the children and is involved in

social reproduction, whereas the male is involved in economic reproduction (Interview, Melanie Judge, 11/07/2017).

The following section therefore examines marriage from a feminist and queer perspective. These perspectives prove useful to explain reactionary norm champions' use of marriage not only to re-affirm existing morals and values, but also to maintain a heterosexist ideology that is rooted in traditional gender relations.

A Feminist and Queer Critique of Marriage

According to Peel and Harding (2004: 591), marriage has always been and continues to be “a vehicle for securing men’s power and status, and women as property” (see also Rubin, 1975). Some feminist scholars, particularly radical feminists, have argued that the institution of marriage is rooted in patriarchy, and that it exploits and oppresses women (Garcia-Rodrigo, 2001: 113). Marxist feminists have taken this one step further by arguing that marriage has created gender roles and entrenched domination over women that are socially constructed in order to serve not only the interests of men but also the interests of a capitalist system, where the role of the wife/mother is to guarantee the system provide a consistent supply of labour power (through housework and care work as well as biological reproduction).

For many people there seems to be a shared belief that marriage functions as a universal institution. Ingraham (1994) argues that this assumption is rooted in heteronormative views on marriage and romance. These heteronormative views are shared by citizens of both the Western world and the non-Western world. Ingraham (1994: 11) points out that this implies that one’s “identity in relation to marriage is universal and not in need of explanation.” Of course, these assumptions are embedded in heteronormative understandings of marriage in order to naturalise the institution as exclusively heterosexual. According to Symons and Altman (2015: 75), marriage has always been understood as “unproblematically heterosexual.” Ingraham (1994: 203) refers to these heteronormative assumptions as the ‘heterosexual imaginary’, defined as a “way of thinking which conceals how heterosexuality structures gender and closes off any critical analysis of heterosexuality as an institution” (see also Ingraham and Saunders, 2016).

According to Finnemore and Sikkink (1998: 913), “[w]hen norms become internalised by actors, actors are no longer choosing to conform to them in any meaningful way.” In other words, norms have become so deeply embedded that alternative behaviours are no longer viable options. In terms of the institution of marriage in the non-Western world, actors no

longer think seriously about whether marriage laws are the best form of legislation to govern the institution. They just promulgate more and more legislation to exclude other forms of relationships. These actions have prohibited normative change to occur. Judge (2017) argues that the idea that marriage should be regarded as the most significant form of relationship should be critiqued, because this idea marginalises other forms of relationships – for example, couples who choose not to marry or those who are in polyamorous relationships – which sets up a system where these forms of relationships are not seen as equal and they do not enjoy the same privileges, benefits or protection married couples enjoy (Interview, Melanie Judge, 11/07/2017).

Peel and Harding (2004: 591) claim that traditional notions of romance – love and intimacy – have been socially constructed in superficial and consumerist terms. This has often been enforced through celebrating relationships or marriage anniversaries, Valentine’s Day, or planning the perfect wedding. Fransch (2017) argues that marriage has moved beyond an institution based on religious symbolism – marriage has in fact become a lucrative business (Interview, Chet Fransch, 09/06/2017). BusinessTech (2016) revealed that the global wedding industry rakes in approximately \$300 billion, annually. According to Ingraham (1994: 212), weddings serve as a type of “ideological control” to indicate that “the bride and groom are normal, moral, productive, family-centered, good citizens, and, most importantly, appropriately (hetero)gendered.” It is important to note that some queer theorists argue that gays and lesbians who choose to marry tend to conform to these heteronormative traditions (Picq and Thiel, 2015: 5). Ratele (2017) is critical of the fact that queer people who choose to marry are not inventing new ways of getting married; instead, they continue to borrow from heteronormative traditions, i.e. having the traditional white wedding (Interview, Kopano Ratele, 05/07/2017). Judge (2017) posits the view that in some instances the idea of marriage tends to have a negative effect on a more radical sexual and gender political agenda, mostly because marriage is historically a conservative institution. She claims that although the legalisation of same-sex marriage has allowed the institution to become somewhat queered, it remains a conservative institution that revolves around monogamy and the nuclear family (Interview, Melanie Judge, 11/07/2017).

Riddiough (1981: 77) argues that heterosexual marriage is not only oppressive for women, but it also allows for the oppression of gays and lesbians. As discussed in Chapter 2, the nuclear family is the bedrock of heterosexual marriage. The nuclear family and heterosexual marriage entrench the idea that the bond between sexuality and reproduction is natural. It

passes on views on culture, religion, as well as sex/gender roles. Reactionary norm entrepreneurs try to solidify these views by claiming that anything that does not fit into the framework of the nuclear family and heterosexual marriage is regarded as abnormal and unnatural. Finnemore and Sikkink (1998: 892) refer to this phenomenon as “norm-breaking behaviour.” They argue that norm-breaking behaviour creates disapproval or stigma. Ratele (2017) insists that arguments around what is considered natural are problematic, because everyone’s sexual life is embedded in politics. It is politics that determines who is recognised and who is denied access to rights (Interview, Kopano Ratele, 05/07/2017). Part of the reason why the cascading of the norm of anti-homosexuality is not applicable, is because ideas around what is considered a ‘normal’ family and/or marriage have always been a widely internalised norm, and politics have always been used to govern sexuality rights in such a way that the norm of anti-homosexuality continues to be a deeply embedded norm.

Riddiough (1981: 81) provides three ways in which the notion of family, in particular, oppresses gays and lesbians. Firstly, the act of coming out as gay or lesbian. Riddiough (1981) argues that the process of coming out is often experienced in isolation. What makes the process of coming out so hard for gays and lesbians is that the act of coming out goes against a fundamentally heteronormative society as well as the heteronormative values of one’s family and friends. As mentioned in Chapter 2, after Stonewall the act of coming out was encouraged within the queer community. It was not only politically motivated, but for many it symbolised personal liberation (see Cruikshank, 1992; Engel, 2001). Needless to say, the act of coming out is not as easy, or even possible, for queer individuals who live in countries with anti-homosexuality legislation, as this would be a form of punishable norm-breaking behaviour (Finnemore and Sikkink, 1998: 892).

Secondly, other forms of oppression faced by gays and lesbians are rejection, discrimination and violence after coming out. For example, in 2006 – the year same-sex marriage was legalised in South Africa – the current president of South Africa, Jacob Zuma, was quoted as saying about gay men:

When I was growing up, *ungqingili* (gay man) would not have stood in front of me. I would knock him out (quoted in Mathibe, 2015: 81).

Mathibe (2015) links homophobic rhetoric by many African leaders to a dominant heterosexist ideology that exists in most African countries. It is a heterosexist ideology that is rooted in their cultural norms as well as their religious beliefs on how society should

function, i.e. through family and marriage. These normative views tend to be extremely difficult to change. Finnemore and Sikkink's (1998) norm life-cycle model is focused on normative change; however, the norm of anti-homosexuality clashes with the model's second stage, norm cascading. Instead of diffusing through international structures, the norm of anti-homosexuality is re-affirmed as a way of resisting other (Western) forms of relationships. Symons and Altman (2015: 68) argue that "when a norm is challenged, its most ardent adherents usually respond by clarifying, rearticulating, and sometimes deepening their commitment to the established norm." This can take the form of the 'corrective rape' of black lesbians, the criminalisation of endorsing same-sex relations, or the criminalisation or execution of homosexual men.

According to Riddiough (1981: 82), the third way in which the nuclear family and heterosexual marriage oppress gays and lesbians is through the 'closet'. The closet serves as a mechanism for queer individuals to protect themselves. It also represents hiding aspects of their lives from loved ones as well as society. The closet serves as a way to keep gay men and lesbian women invisible. Riddiough (1981: 82) argues that this invisibility is important, because a visible queer body challenges heteronormative ideas around sex and gender roles, and sexuality. Thus, what this invisibility inevitably does is allow the dominant heterosexist ideology to remain through the nuclear family, (hetero)sexuality and women. Over the years many Western countries have completed Waaldijk's (2001) standard sequence of same-sex recognition by accepting (1) the norm of (homo)sexual decriminalisation, (2) the norm of (homo)sexual anti-discrimination, (3) the norm of (homo)sexual partnerships and parenting, and (4) the norm of marriage equality. In these societies the homosexual or queer is able to live openly and visibly in a homosexual or queer way. In contrast, in many non-Western countries same-sex relations are criminalised and in some cases even punishable by death. Mbisi (2011: 57) suggests that draconian laws are ways in which the state uses its power to silence those who engage in same-sex relations. Mbisi (2011) refers to Tamale (2007: 18), who said in response to the oppression of queer individuals in many African countries:

... by maintaining a tight grip on certain activities, and silencing the voices of those individuals and groups that engage in them, the patriarchal state makes it extremely difficult for these individuals to organise and fight for their human rights.

As such, the silencing and legal oppression of queer individuals by the state allows for the norm of anti-homosexuality to be re-affirmed and to remain normalised in the legal structure and social attitudes of its citizens. It also hinders the process of norm cascading.

The Role of the Religion in Preventing Norm Cascading

Religion in particular has been the basis for many to justify their anti-homosexuality rhetoric, beliefs and legislation. This has been evident in the Christian faith as well as in Islam. In Christianity the Bible denouncing same-sex relations is used to condemn homosexuality, while Muslims point to the Qur'an and Sharia law. What is so interesting with regards to the Qur'an, as was also pointed out in Chapter 2, is that the Qur'an is not that clear on Islam's position on homosexuality. Ireland (2013: 53) argues that "[t]he Qur'an contains only one passage (4:15–16) that can be interpreted as laying down a legal position toward homosexuality." Even so, Hélie (2004: 120) argues that even though the Qur'an's position is still ambiguous, anti-homosexuality and a homophobic culture within Islam has become an internalised social norm. This internalisation has allowed some Muslim majority countries such as Iran, Saudi Arabia, Sudan and Yemen to apply the death penalty for individuals who engage in same-sex behaviour (Carroll and Mendos (2017: 40).

As Kuhar (2013: 6) points out, religious teachings generally interpret homosexuality as a sin and as immoral. Therefore, if one adheres to these religious values and norms, one cannot accept homosexuality. This can be seen in Christianity as well. African Catholic Church leaders and also the Eastern European Orthodox Church leaders have been very vocal in promoting the norm of anti-homosexuality, to the point where religion can be seen as preventing the process of norm cascading. Symons and Altman (2015: 73) argue that the strong support for Russia's anti-homosexuality laws is largely a result of the influence of its Orthodox Church in politics. These church leaders can be regarded as reactionary norm champions. For example, in 2015 a Catholic Church priest in Nigeria, Rev. Fr. Raymond Tyohemba condemned homosexuality (Ajasa, 2015). Rev. Tyohemba said about homosexuality destroying the institution of marriage:

God has instituted the institution of marriage so that a man and a woman would come together as husband and wife, but not the other way round. It is unfortunate that today, some groups of persons have chosen to violate what God has ordained and go about having sex with persons of the same sex with them... So, the devil

introduced lesbianism and homosexuality to destroy the institution of marriage (quoted in Ajasa, 2015).

These sentiments are shared by other church leaders in Africa such as the Catholic Archbishop of Abuja Diocese, John Onaiyekan, who said that “the stand on homosexuality by churches in Nigeria is irrevocable” (Okonkwo, 2015). Archbishop Onaiyekan stressed that even though other nations have accepted homosexuality and marriage equality as a norm in their respective societies, this would never happen in Nigeria – in 2014 Nigeria’s Same Sex Marriage Prohibition Bill was signed into law. Reiterating and actively pushing a religious agenda allows for the norm of anti-homosexuality to be re-affirmed.

In Central and Eastern Europe some religious leaders have incited violence against the LGBTQ community. According to Kuhar (2013: 8), some religious leaders explicitly called on the “normal majority” to act violently against those who choose to participate in gay pride marches. For example, in 2012 a Bulgarian Orthodox Priest encouraged people to throw stones at those participating in pride marches in Sofia (see also Montgomery, 2012). Interestingly, during a 2017 interview with Russia’s National News Service, Metropolitan Kornily – Primate of the Russian Orthodox Old Believer Church – urged Russian men not to shave their beards as this would protect them from homosexuality (Williams, 2017). Kornily contends that shaving one’s beard would go against God’s word, while having a beard clearly promotes a heterosexual image. The irony here is that the existence of Conchita Wurst clearly disrupts this view.⁵ What is so interesting about Kornily’s argument is that it echoes the sentiments of the Nazi regime in Germany, as discussed in Chapter 2, who called on the feminisation of women in order to solidify traditional gender norms (see Grau, 1995).

It is clear that religion plays a big role in the normalisation of anti-homosexuality in countries with some form of anti-homosexuality legislation, mostly because in these countries one’s religious identity is integral to one’s national identity and the way one defines oneself in relation to the state (Kuhar, 2013: 8). Finnemore and Sikkink (1998: 902) argue that states comply with certain norms for reasons that relate to their identities as members of an international community. It can be argued that this is not particularly true for reactionary countries, especially since many Catholic states have experienced a rapid shift in opinions toward the acceptance of homosexuality since 1989 (Symons and Altman, 2015: 86). For

⁵ Conchita Wurst is a fictitious character created and portrayed by Austrian singer and drag queen artist Tom Neuwirth. The existence of Wurst, a woman with a beard, became a catalyst for discussions around (normative) genders and sexualities.

example, many prominent religious leaders of the Catholic Church in many non-Western countries who work closely with government officials have been very critical of the Catholic Church in the West for not being critical enough or for showing tolerance towards the LGBTQ community. This can be seen as an example of norm resistance. Furthermore, many religious figures and state officials, mostly in Africa, have denounced LGBTQ rights as human rights, and have argued that homosexuality is un-African and a Western import.

Same-Sex Relations: A Western Import

Homosexuality is often portrayed by countries with anti-homosexuality policies as a Western import, and a phenomenon that is immoral and unnatural. The re-emergence of the norm of anti-homosexuality is largely a reaction to the norm cascading and legalisation of same-sex marriage in the West. This links to this study's research problem: the norm cascading of same-sex marriage in one direction, and the norm affirmation of anti-homosexuality in the opposite direction. Reactionary norm entrepreneurs champion the norm of anti-homosexuality as a way of resisting Western influence (see Symons and Altman, 2015: 66). It is important to examine reactionary claims that homosexuality is a Western import in order to illustrate how these arguments are used to prevent a norm cascade, and instead used to re-affirm the norm of anti-homosexuality.

As mentioned earlier, anti-homosexuality rhetoric in Africa is in fact largely one of the legacies of colonialism. Most African leaders have not acknowledged this. Instead, they argue that homosexuality is un-African. The idea that homosexuality is un-African rests on the assumption that homosexuality did not exist before the Europeans colonised Africa. In fact, many scholarly work has shown that same-sex behaviour and relationships have existed in Africa for centuries (see Epprecht, 2008; Mbisi, 2011; Roscoe and Murray, 1998; Spurlin, 2006; Tamale, 2013). Instead, Awokoya (2016) argues that homophobia is a Western import, and not homosexuality.

There are some African leaders who have acknowledged that same-sex behaviour and relations have existed in Africa since pre-colonial times. For example, in 2009 Ugandan President Yoweri Museveni said the following:

We used to have very few homosexuals traditionally. They were not persecuted but were not encouraged either, because it was clear that is not how God arranged things to be (quoted in Ssebagala, 2011: 50).

Interestingly, Museveni also acts as a norm champion here with his use of language. According to Finnemore and Sikkink (1998: 897), norm champions frame issues through their “language that names, interprets, and dramatizes them.” It is through this framing that a norm champion can push a specific political strategy that will resonate with a broader public understanding. Similar to norm entrepreneur, Jennifer Nafabu, Museveni’s choice of words that homosexuals are not the way “God arranged things to be” is a clear reference to the belief that heterosexuality is normal and the way one should be, which will inevitably lead to a heterosexual marriage and a family. These arguments resonate with citizens – usually the overwhelming majority – who have already internalised the norm of anti-homosexuality, and this allows for norm affirmation to occur.

Ssebagala (2011) proffers the argument that homosexuality in Africa is not a Western import, but it is the ‘flaunting’ of one’s queerness that is a Western import. In other words, you can be queer in private, but just do not live an openly queer life. This argument might hold true in some cases but not all. For example, in 2014 the Ugandan tabloid newspaper, *The Red Pepper*, published a list of the ‘top 200’ homosexuals in the country, many of whom had not publicly admitted to being gay (Fry, 2014). In 2011 a similar list was published in Uganda. After that 2011 list came out, prominent gay rights activist in Uganda, David Kato, was murdered. According to BBC News (2012), at Kato’s funeral the priest condemned gay people.

According to Reddy (2001: 84), in 1997 then President of Namibia, Sam Nujoma, said about homosexuality and the West:

Most ardent supporters of these perverts are Europeans who imagine themselves to be the bulwark of civilisation and enlightenment ... we made sacrifices for the liberation of this country and we are not going to allow individuals with alien practices such as homosexuality to destroy the social fabric of our society.

Two years prior to Nujoma’s statement Zimbabwe President Robert Mugabe called homosexuals “worse than pigs and dogs” and stated that homosexuality is a form of Western imperialism (Tamale, 2013: 39). It is clear that many African leaders blame homosexuality on the West, and that they believe homosexuality goes against African norms and values. African leaders are also very critical of Western actors interfering in their affairs regarding (homo)sexual and queer governance. For example, during the 2010 negotiations over the

Cotonou Agreement,⁶ the European Parliament demanded that any action taken by participating states should be without any form of discrimination on the grounds of, among others, sexual orientation. Symons and Altman (2015: 80) notes that “African, Caribbean, and Pacific states unanimously rejected this effort and made written demands that the European Union ‘refrain from any attempts to impose its values’ concerning the ‘phenomenon of homosexuality.’”

According to Judge (2017), the West is also implicated in homophobia in certain African countries. She argues that the re-criminalisation of homosexuality in Uganda, for example, is not so much a reaction to the West legalising same-sex marriage; instead, it is more a consequence of the interference of right-wing American Evangelical churches that are pushing an anti-homosexuality agenda, and it is this interference that is actively producing homophobia in certain African countries (Interview, Melanie Judge, 11/07/2017). Ireland (2013: 55) argues that reactionary governments often disapprove of Western donors who support local LGBTQ organisations. Ireland (2013: 55) refers to Massad (2002: 383), who goes even further to argue that the advocacy work of international gay rights groups who are pushing for a human rights discourse in places where LGBTQ rights are not considered human rights, might inadvertently be contributing the affirmation of the norm of anti-homosexuality in Africa.

Peter Tatchell, a prominent human rights campaigner, had an appropriate response to Africa’s history with anti-homosexuality:

It’s one of the great tragedies of Africa that so many people have internalised the homophobia of that colonial oppression and now proclaim it as their own authentic African tradition (quoted in Awokoya, 2016).

Unlike Africa, where homophobia is a result of the legacies of colonialism, Eastern Europe’s anti-homosexuality rhetoric is rooted in its communist traditions. Kuhar (2013: 8) argues that the prominence of anti-homosexuality in the legal structure and societal beliefs is attributed to the revival of nationalism in Eastern Europe in the late 1980s and early 1990s as well as the process of re-traditionalisation, which was regarded as returning to the true (patriarchal) values of the nation that were erased by the communist regime. Although the norm of anti-homosexuality is present in Eastern Europe, same-sex relations are not criminalised in any

⁶ The Cotonou Agreement is the overarching framework for EU relations with African Caribbean and Pacific (ACP) countries. The aims of the Cotonou Agreements are to reduce and eventually eradicate poverty and contribute to the gradual integration of the ACP countries into the world economy (European Council, 2017).

Eastern European country. Symons and Altman (2015) point to Hungary as an interesting example of a country that possesses both equality and reactionary traits. For example, as an EU member Hungary tends to vote in favour of sexuality rights internationally and has even gone as far as accepting the norm of (homo)sexual partnerships – step (3) of Waaldijk's (2001) standard sequences. At the same time, having close ties with Russia, Hungary often bans gay pride marches and its police fail to protect LGBTQ activists from violence (Symons and Altman, 2015: 82).

Russian officials in particular have been very critical of the West's tolerance of homosexuality. For example, Vitaly Milonov, one of the norm entrepreneurs for Russia's Gay Propaganda Bill, said of Western Europe:

While I still consider Europeans our partners and friends, their values have altered. And values are the skeleton of a society. We are seeing a moral weakening of European nations. Western Europe is becoming something like the Weimar Republic, which was so ultra-democratic and tolerant that it perished (quoted in Bennetts, 2015).

This sentiment echoes Kuhar's (2013) argument that Eastern Europe's disdain for homosexuality is rooted in its nationalist identity and traditional norms and values (see also Symons and Altman, 2015: 83). Finnemore and Sikkink (1998) acknowledge that Western norms tend to be more likely to cascade internationally than non-Western norms. They argue that "[n]orms held by states widely viewed as successful and desirable models are thus more likely to become prominent and diffuse" (Finnemore and Sikkink, 1998: 906). There is a clear divide between Western European countries and Central and Eastern European countries within the EU with regard to LGBTQ rights and norms (Gill, 2015). The EU consists of 28 member states, of which 15 are considered Western European countries and 13, all of whom joined the EU after 2004, are considered Central or Eastern European countries; 12 out of the 15 of Western European member states have legalised same-sex marriage (Austria, Greece and Italy have not yet legalised same-sex marriage). Among the Central and Eastern European member states, only 2 out of 13 countries have legalised same-sex marriage (Malta and Slovenia – both in 2017).

Some have argued that Russia's strong anti-homosexuality rhetoric has spilled over to other Eastern European countries. According to Carroll and Mendos (2017: 42), Russia (2013) and Lithuania (2014) are the only two European countries with explicit anti-homosexuality

legalisation in place. In 2017 Vladimir Putin declared that it is his “duty” to stop the legalisation of same-sex marriage, because gay and lesbian couples cannot produce children. He also said that he is obligated “to uphold traditional values and family values” (Marusic, 2017). Finnemore and Sikkink (1998: 901) argue that part of the success of norm entrepreneurs is their ability to persuade states or state actors to become norm entrepreneurs themselves and adopt norms. Putin can be regarded as a norm entrepreneur, given the fact that he has championed the norm of anti-homosexuality through his actions and use of language (see Finnemore and Sikkink, 1998: 897). Although the norm of anti-homosexuality has been affirmed in Russia’s legal structures, Clayton (2017) raises an interesting argument that the prominence of contemporary governance around queer politics is a useful distraction to Russia’s widespread corruption, its faltering economy and all the other social ills that the Russian government is not dealing with (Interview, Matthew Clayton, 11/07/2017).

Legitimation, Conformity and Esteem

Finnemore and Sikkink (1998: 902) argue that in the second stage of the norm life-cycle model states construct their political identity in relation to the international community. They do so in order to conform to ‘peer pressure’ from other states and international norms. This has not been the case for countries with anti-homosexuality policies, which is explained below. Finnemore and Sikkink (1998) give legitimation, conformity and esteem as reasons for a state’s response to ‘peer pressure’.

States view legitimation as an important factor that influences its normative behaviour. According to Finnemore and Sikkink (1998), a state can be labelled as a ‘rogue state’ if it does not adapt to certain international normative behaviour. The cost of being regarded as a ‘rogue state’ often “entails loss of reputation, trust, and credibility” (Finnemore and Sikkink, 1998: 903). International legitimation is important for states, given that it is seen as a reflection of its citizens’ perceptions of a state’s domestic legitimation. Domestic legitimation is defined as “the belief that existing political institutions are better than other alternatives and therefore deserve obedience” (Finnemore and Sikkink, 1998: 903). In terms of the norm of marriage equality, Western democracies are very aware of the status of marriage equality in other countries. They often learn from these developments and reconstruct their position to legitimise their international image. The same cannot be said for countries that follow the norm of anti-homosexuality. Finnemore and Sikkink (1998: 903) believe that citizens take note of international alternatives and debate whether or not their government is better than these alternatives. Citizens in countries with anti-homosexuality legalisation believe that their

government offers a better alternative than international norms. For example, in Nigeria same-sex marriage and same-sex relations are prohibited, with 90% of Nigerians believing that same-sex relationships should be criminalised (Nwaubani, 2017). For these countries and its citizens, domestic legitimation is more important than international legitimation. Keep in mind that many non-Western countries, particularly African and Middle Eastern societies, do not regard rights around sexuality as human rights. Therefore, part of the reason why the conflict between the two movements (marriage equality vs anti-homosexuality) exist – international polarisation – is because Western states tend to believe that rights around sexuality have a universal application (Symons and Altman, 2015: 68).

Furthermore, Finnemore and Sikkink (1998) argue that conformity is another possible reason for states to comply to ‘peer pressure’. According to Axelrod (1986: 1105), “[b]y conforming to the actions of those around us, we fulfil a psychological need to be part of a group.” It is possible to argue this point with regard to African states. African state elites are adamant about protecting their African values relating to heterosexuality, marriage and family. Many have argued that homosexuality and homosexual behaviour are un-African, and any deviation from belief that would be conforming to a Western imperialist agenda. For example, when South Africa legalised same-sex marriage in 2006, many other African states criticised South Africa for violating its African values and not being “authentically African” (Awondo, Geschiere and Reid, 2012: 157; Symons and Altman, 2015: 80). Ireland (2013: 54) quotes former President of Somalia, Sheikh Sharif Ahmed, who said about South Africa’s decision to legalise same-sex marriage:

This is a foreign action imposed on Africa. This is not something that is indigenous to Africa; it is something that has come from abroad.

Re-affirming the norm of anti-homosexuality conveys the perception that African elites are part of a group that is staying true to what they believe to be their African values. Lastly, Finnemore and Sikkink (1998: 903) refer to esteem as another form of ‘peer pressure’, where norms are followed in order for others to think well of them, and for them to think well of themselves. States with anti-homosexuality policies are not so much concerned with what other countries think of them. Symons and Altman (2015: 65) argue that states with anti-homosexuality policies are more concerned with defending their (hetero)sovereignty as a state than their international image. These states are more critical of other states’ involvement or interference in their own political affairs. In 2010 David Bahati called on the USA to

respect Uganda's belief that LGBTQ rights are not human rights, in the same way that Uganda respects the USA's belief that the opposite to be true (Mirkinson, 2011). Ugandan President Museveni also called on the West to "[l]eave us alone with our options" in response to criticism regarding Uganda's (homo)sexual and queer governance (Awokoya, 2016). It is clear that Finnemore and Sikkink's (1998) reasons for norm cascading is limited in explaining the prominence of the norm of anti-homosexuality. These states are not concerned whether or not other states are following their norm; they are more concerned about protecting their (hetero)sovereignty as a state, staying true to their values, and focusing on the issues that enhance their domestic legitimation.

In order for a norm cascade to occur, the process of socialisation needs to be achieved. Finnemore and Sikkink (1998: 902) argue that socialisation is the "mechanism through which norm leaders persuade others to adhere." They claim that in international politics, the process of socialisation involves diplomatic praise or censure by states that is reinforced by material sanctions and incentives. States who share the norm of anti-homosexuality tend not to impose material sanctions or incentives on other states. In fact, it is Western nations that tend to impose sanctions or aid cuts on non-Western nations that include anti-homosexuality policies in their legal structures. Symons and Altman (2015: 68) argue that the economic and security risks for reactionary states who champion the norm of anti-homosexuality are minor, which makes the material sanctions or incentives by Western states insignificant in stimulating a norm cascade.

Stage 3: Norm Re-Internalisation

Finnemore and Sikkink (1998: 904) argue that a norm achieves a 'taken-for-granted' quality that deem it so widely accepted that the norm has been internalised by actors. The following section examines to what extent the norm of anti-homosexuality has achieved a 'taken-for-granted' quality. In other words, has anti-homosexuality been internalised by the state as well as the broader public?

Public Opinion

In contemporary (homo)sexual and queer politics, one of the ways in which to analyse to what extent a norm has been internalised is to look at the social attitudes of a country's citizens towards its LGBTQ community. Unlike the norm of marriage equality which has not yet been internalised, it can be argued that the norm of anti-homosexuality has in fact been internalised. During the period of 2014/2015 Afrobarometer conducted a study to determine

how tolerant African citizens are – the study measured the tolerance levels of 33 African countries (Dulani, Sambo and Dionne, 2016). The study found that Africans in general are very tolerant, despite perceptions that Africa is a continent filled with religious divisions and intolerance. However, the study showed that Africans show high levels of intolerance towards homosexuality. When asked whether respondents would like or not care if they had certain communities as neighbours, 91% of respondents said they would like or not care if they had people of different ethnicities as neighbours, 87% said the same about people with different religions, 81% for immigrants or foreign workers, and 68% for people living with HIV/AIDS. Only 21% of respondents said that they would like or not care if they had homosexuals as neighbours.

In 2013 Pew Research Center (2013) found that 98% of Nigerians believe that homosexuality should not be accepted by society, the figure is 96% for Ghana, 96% for Senegal, 96% for Uganda, and 90% for Kenya. In 2017 a NOI Poll found that 90% Nigerians believe that same-sex relationships should be criminalised (Nwaubani, 2017). In Jordan 97% of its citizens believe homosexuality should not be accepted by society, 95% for Egypt, 94% for Tunisia, and 80% for Lebanon (Pew Research Center, 2013). In 2017 a Pew Research Center (2017) poll found that the majority of citizens in Central and Eastern European countries believe that homosexuality should not be accepted by society: 97% of Armenians believe that homosexuality should not be accepted by society, 93% of Georgians, 86% of Russians and Ukrainians, 85% of those in Romania, 84% of those in Belarus, and 69% of those living in Lithuania.

These figures are clear indications that the norm of anti-homosexuality is a deeply embedded and internalised norm in sub-Saharan Africa, the Middle East and North Africa, as well as Central and Eastern Europe.

Internal Resistance

Although the anti-homosexuality can be seen as having achieved a ‘taken-for-granted’ quality in many non-Western countries, there has been resistance to these governments and their criminalising legislation. In Russia Nikolai Alexeyev who is known as Russia’s most prominent gay rights activist, has been vocal in his resistance to the government’s silencing of its queer citizens. In 2015 Alexeyev organised a pride march in the city of Moscow, where pride marches are illegal. Subsequently, he was jailed for 10 days (Marcin, 2015). Also in 2015 a lesbian couple was on a flight from Moscow en route to St Petersburg when they

noticed Vitaly Milonov on the same flight. They posted a photo that went viral on social media of them kissing, with a sleeping Milonov in the background, protesting his anti-homosexuality policies (Gani, 2015). One particular protest that made international headlines was that by the Pussy Riot.

On 21 February 2012 five women held a protest in Moscow's Cathedral of Christ the Saviour – the tallest Orthodox Church in the world. These women are known as Pussy Riot, a Russian punk band (Zychowicz, 2012: 13). According to Bernstein (2013: 220), the group performed on the Church's alter criticising the close relations between Putin and the Russian Patriarch Kirill through their lyrics as well as the Orthodox Church's conservative views on women's rights and LGBTQ rights. They were arrested before they could finish their performance and were charged with "hooliganism motivated by religious hatred" (Bernstein, 2013: 220). Three of the group members – Maria Alyokhina, Yekaterina Samutsevich and Nadezhda Tolokonnikova – were found guilty and sentenced to two years in prison. Samutsevich was released on appeal, while Alyokhina and Tolokonnikova served 21 months of their sentence (Banks, 2017). Needless to say, the sentencing and treatment of Pussy Riot received international criticism from celebrities such as Paul McCartney and Madonna to German Chancellor Angela Merkel, to Amnesty International. Although the criminalisation of anti-Putin activism is troubling, Zychowicz (2012: 14) suggests that the Pussy Riot protest is a reflection of the tensions of a generation who are "fed up with the inequality, decadence, and instability of the 1990s in Russia." These kinds of resistance and condemnation have not only been seen in Russia, but in Africa as well.

After Nigeria passed its Same-Sex Marriage Prohibition Act and Uganda its Anti-Homosexuality Act in early 2014, the African Commission on Human Rights and People's Rights (ACHPR) has been critical of these legislative moves, condemning both countries (ACHPR, 2014a; ACHPR, 2014b). During its 55th Ordinary Session held from 28 April – 12 May 2014, the ACHPR, which promotes and protects human rights throughout the African continent, went one step further by adopting a landmark resolution – Resolution 275 – that condemns "acts of violence, discrimination and other human rights violations against persons on the basis of their sexual orientation and/or gender identity" as it violates the African Charter on Human and People's Rights (IJRC, 2014). There are also countless gay rights activists in Africa speaking out against their governments' draconian laws, many of whom faced criminalisation and assault, and some of whom have even been murdered. Even though the Reactionary Movement can be seen as a form of resistance to the Equality Movement, it

has become evident that there has been resistance within the Reactionary Movement itself and in the respective countries with anti-homosexuality policies. Only time will tell whether or not these forms of resistance will be strong enough to move towards the Equality Movement for its queer citizens, or whether the Reactionary Movement will become even stronger and more oppressive.

Reactionary Effects on the HIV/AIDS Epidemic and Research

In the Reactionary Movement HIV/AIDS has been a very important issue, because the criminalisation of same-sex relations, and the stigmatisation and denial of homosexuality or MSM, hinder the fight against HIV/AIDS. In the case of the Equality Movement, as seen in Chapter 4, the HIV/AIDS epidemic had a surprisingly positive impact on the legalisation of same-sex marriage. This has not been the case with the Reactionary Movement. Semugoma, Nemande and Baral (2012: 313) point out that research on HIV/AIDS in countries with anti-homosexuality policies is incredibly difficult to conduct, given that most queer men in these countries are either closeted or hidden, and these men are also subject to arrest if their queer status is known. Also, HIV/AIDS remains stigmatised as a disease only affecting gay men. Semugoma, Nemande and Baral (2012) go on to say that queer men living with HIV/AIDS or MSM who want to be tested for HIV are not the only ones in danger (see also Alsop, 2009: 2043). Health-care providers working for specialised clinics reaching out to these men are also in danger of attacks or arrests – attacks on these specialised clinics have been reported. For example, in 2010 religious leaders in Kenya disrupted a government health centre that provides HIV/AIDS services to the Mtwapa community (Ireland, 2013: 48). In the case of Uganda, after its Anti-Homosexuality Act was enforced, people who witnessed or had knowledge of people who have engaged in same-sex sexual acts could be arrested if they did not report this behaviour. Of course, health-care providers treating MSM would be required under the law to report these individuals for their same-sex relations, or they could be arrested.

Needless to say, anti-homosexuality legislation discourages people from taking HIV tests and makes it impossible to live an openly queer life. Annually, millions of foreign dollars are given to the fight against HIV/AIDS, particularly in Africa, where the epidemic is most prevalent. The USA's President's Emergency Plan for AIDS Relief, and the Global Fund to Fight AIDS, Tuberculosis and Malaria are the world's leading entities fighting HIV/AIDS each year. In 2009 these two entities contributed approximately US\$300 million to Uganda (Alsop, 2009: 2043). Note that most programmes that directly target sexual minorities in

Uganda were not allowed to register with the government and as such did not qualify for funding. Only one group pursuing prevention work among sexual minorities was able to register with the government. It received only US\$5000. Aslop (2009: 2043) refers to Dennis Wamala, spokesman for Icebreakers Uganda, which is a group that works towards HIV/AIDS prevention and making care accessible to sexual minorities, who said that the mere fact that you are applying as an LGBTQ organisation in Uganda is illegal. It is clear that those who do not conform to the norm of anti-homosexuality in African countries are increasingly marginalised. It is this marginalisation that severely hinders the progress against HIV/AIDS not only in Uganda but also in other developing countries.

As pointed out in Chapter 2, one's sexuality (or sexual orientation) is not a fixed identity (see Stryker, 2008; Valochi, 2005). It is often the case that MSM do not see a correlation between their sexual identity and the sexual behaviour. According to Cáceres (2002: S24), male homosexual behaviour does not usually imply a homosexual or bisexual identity. There are, of course, misconceptions among MSM that men who are on the receiving end of anal sex are gay, and not those who are giving it. In fact, a lot of MSM tend to adopt a heterosexual identity. This complexity and fluidity of sexual identities are more widely acknowledged in non-Western countries than in Western countries, mostly because in Western countries there tends to be a more rigid distinction between heterosexuality and homosexuality. Mumtaz *et al.* (2011) point specifically to the Middle East and North Africa (MENA), where the nature and functionality of MSM (sexual) identities within the sociocultural context of MENA complicates the conversation around MSM and HIV/AIDS. For example, in Yemen *khafya* (bisexual males who hide their same-sex sexual orientation) is known as a distinct typology of MSM identity, and so too are *hijras* in Pakistan, who are known as transgender men who dress as women (Mumtaz *et al.*, 2011: 3). In MENA countries, similar to sub-Saharan African countries, HIV/AIDS research is hindered due to the stigma around same-sex relations and HIV as well as the criminalisation of same-sex acts. Mumtaz *et al.* (2011: 4) found that there has been an increase in recent years of HIV infections among MSM populations in MENA. For instance, in 2008 MSM transmissions accounted for 52.3% of reported HIV cases in Lebanon.

Finnemore and Sikkink (1998: 892) point out that “by definition, there are no bad norms from the vantage point of those who promote the norm.” For example, slavery was once considered a ‘good’ norm and accepted as such. Similarly, those promoting the norm of anti-homosexuality believe that their norm is appropriate behaviour. It is clear that countries that

have internalised the norm of anti-homosexuality are doing a great disservice to queer individuals living with HIV or those at risk. Much scholarly work, international health bodies and donors have made it clear that HIV/AIDS predominantly affects the heterosexual population of the developing world. Aslop (2009: 2044) argues that the interpretation of that message by queer men was that anal sex is safe. The denial of queer people or MSM by governments who are actively policing the norm of anti-homosexuality has led to unsafe sexual practices, which inevitably leads to an increase in HIV/AIDS among these individuals. For example, in MENA it is reported that only between 31.1% and 50.7% of MSM were aware that condoms can prevent HIV transmissions (Mumtaz *et al.*, 2011: 7). Whether or not the norm of anti-homosexuality can be justified based on religion, culture or tradition, it is clear that anti-homosexuality rhetoric and/or legislation has a negative impact on the HIV/AIDS epidemic in developing countries, particularly for queer men and MSM.

A Critique of the Norm Life-Cycle Model

Throughout this study it has become clear that international norm change is a central focus of constructivist research. Constructivists rediscovered the importance of non-material and ideational factors, which neorealist and neoliberal scholars tended to ignore (Hofferberth and Weber, 2014: 1). According to Finnemore and Sikkink (1998: 894), “international structure is determined by the international distribution of ideas.” This means that constructivists believe that shared ideas, expectations and belief regarding what is considered appropriate behaviour give the world structure, order and stability. Finnemore and Sikkink (1998: 916) claim that empirical research on norms is focused on people’s ideas about what is considered appropriate and how what ‘should be’ translates into political reality. In other words, what ‘ought to be’ becomes the ‘is’. In order to explain this (international) norm change, Finnemore and Sikkink (1998) designed their norm life-cycle model. However, their model poses a theoretical challenge to explaining resistance to norm change, as seen with the Reactionary Movement.

Symons and Altman (2015: 66) call this resistance “international norm polarisation,” which they define as a “process wherein a candidate norm is accepted by some states but is resisted by others, leading to a period of international disputation between two groups in each of which socialising pressures pull states toward compliance with rival norms.” The Reactionary Movement (advocating the re-criminalisation of same-sex relations) is a resistance movement against the Equality Movement (advocating the legalisation of same-sex marriage). The norm life cycle was useful in explaining the change towards the norm acceptance of marriage

equality in Chapter 4, given that norm research and the norm life cycle are focused on norm change. It was difficult to apply the norm life cycle in the same way in this chapter, mostly because norm change did not occur – the norm of anti-homosexuality was already established in both the legal structures and societal perceptions. The Reactionary Movement is not only – partly – a form of resistance to the norm of marriage equality, it is also a move to re-establish and re-affirm the norm of anti-homosexuality as a way for states to consolidate solidify their religious, national, cultural and/or traditional identities.

Finnemore and Sikkink (1998: 896, 897) argue that “norms do not appear out of thin air”, and that it is the norm entrepreneur who “creates” issues that contribute toward the success of norm emergence. Hofferberth and Weber (2014: 7) are critical of Finnemore and Sikkink’s (1998) use of the term ‘creation’ in stage 1 of the norm life-cycle model, because the model deals inadequately with the question of how a particular norm emerges in the first place. In other words, a norm’s existence is simply stated. Although it is possible to utilise the model to identify reactionary norm entrepreneurs who have re-introduced anti-homosexuality policies, the model is limited in tracing the exact origins of the norm of anti-homosexuality, given its historical legacy. In other words, the norm of anti-homosexuality in contemporary politics does not neatly fit into Finnemore and Sikkink’s (1998) conceptualisation of norm emergence, because the norm of anti-homosexuality is not a new norm. It is the re-emergence of an old norm that has been deeply embedded for centuries. Similarly, Krook and True (2010: 107) argue that “interest in norm-building by ‘norm entrepreneurs’ does not translate into exploration of the origins and internal transformation of norms.” They critique the norm life-cycle model for not exploring “the contested space within and among norms and how it might result in the fluidity or evolution of norms themselves” (see also Finnemore and Sikkink, 1998: 897).

Hofferberth and Weber (2014: 8) criticised the life-cycle model’s conceptualisation of the socialisation process in the second stage as simply “a one-way street that ultimately leads to full compliance.” In other words, there is no room for the norm to be interpreted differently or to be reconsidered. Finnemore and Sikkink (1998: 902) regard the process of socialisation as “the dominant mechanism of a norm cascade” – it is how norm leaders persuade others to adhere to their norm. In terms of the Reactionary Movement, the norm leaders did not need to persuade state elites or citizens to adhere to their norm, given that they had already shared the same values when the norm of anti-homosexuality was re-introduced by the norm leaders. Also, the norm leaders did not have to persuade international actors to conform to their norm,

because they are more focused on defending their (hetero)sovereignty as opposed to fulfilling a psychological need to be part of a group as seen with Western states accepting the norm of marriage equality (Finnemore and Sikkink, 1998: 903; Symons and Altman, 2015: 65).

In recent years one key part of (hetero)sovereignty has been conceptualised by Western states as having a “responsibility to protect human rights” (Symons and Altman, 2015: 75). In the vast majority of non-Western countries with anti-homosexuality legislation, LGBTQ rights are not seen as human rights, which indicates clear a difference in the conceptualisation of sovereignty between Western and non-Western countries. This complicates the discourse around (homo)sexual and queer governance, since it indicates a dichotomy between two groups. Symons and Altman (2015: 74) argue that the norm life-cycle model has not sufficiently engaged with the prospect of long-running international disputation. This is mostly a result of constructivist theories not anticipating that states will adopt opposing positions with regards to a disputed norm – in this case, the norm of marriage equality vs. the norm of anti-homosexuality.

This chapter was able to use the norm life-cycle model to identify the norm entrepreneurs who re-established the norm of anti-homosexuality in the first stage of the model as well as illustrate that the norm is in fact an internalised norm in the third stage. What is interesting, however, is that the norm of anti-homosexuality had already achieved a ‘taken-for-granted’ quality even before the identified norm entrepreneurs introduced re-criminalisation policies. Symons and Altman (2015: 85) argue that champions of reactionary norms tend to construct the norm of anti-homosexuality in such a way that they enable themselves to define “sexual minorities as a threatening ‘other’ and themselves as defenders of national traditions.” They tend to adopt this normative approach before significant LGBTQ mobilisation can occur, and not as a response to it. This shows that the natural progression of the norm life cycle is not applicable to the norm of anti-homosexuality, because stage 3 had been achieved even before stage 1 started.

The norm life-cycle model is designed to explain how a norm moves from A (norm emergence) to B (norm cascading) to C (norm internalisation) to demonstrate normative change. For example, in Chapter 4 it was evident that marriage was not open to same-sex couples. As such, the norm of marriage equality was introduced, it diffused and became legalised – a clear move from A to B to C. In terms of anti-homosexuality, the norm was already legal and internalised from the outset. The illegalisation of same-sex relations was re-

introduced and re-accepted. There is no clear move from A to B to C. Hofferberth and Weber (2014: 8) argue that the model does not allow for a shift in direction, and it ignores diverging interpretations of a norm. Therefore, the utility of Finnemore and Sikkink's (1998) norm life-cycle model – although useful in demonstrating norm compliance – has limited value for explaining resistant norms, or norms that are moving towards re-establishment or re-affirmation.

Given the theoretical limitations of the norm life-cycle model, this study proposes an alternative model that might prove useful in accounting for contesting norms: the norm resistance life-cycle model. This model is an adaptation of the norm life-cycle model. Where the life-cycle model explains norm change through its three stages such as norm emergence, norm cascading and norm internalisation, the resistance life-cycle model aims to explain norm resistance through the three stages of norm re-emergence, norm affirmation and norm re-internalisation. The norm resistance life cycle is illustrated as follows:

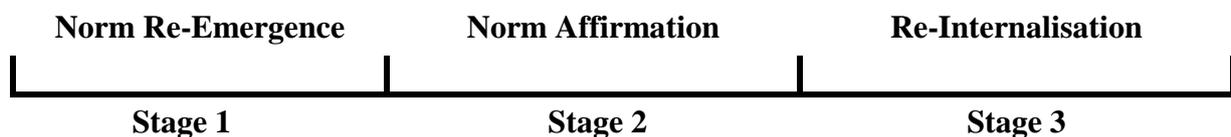


Figure 2. *Norm Resistance Life Cycle*

(Adapted from Finnemore and Sikkink, 1998: 896)

Conclusion

Over the last few years, it has become clear that many non-Western countries have strengthened or introduced new legislation that criminalises same-sex relations or apparent propaganda. Finnemore and Sikkink's (1998) norm life-cycle model was used to test its utility in explaining the diffusion of the norm of anti-homosexuality. This chapter used this model to identify the norm entrepreneurs who re-introduce their norm and the reasons behind this re-introduction. This re-introduction of the norm of anti-homosexuality has its roots in colonialism – laws criminalising same-sex relations were introduced by colonisers and this Western norm at the time inevitably became a non-Western norm over time in contemporary post-colonial politics. The norm cascade illustrated – perhaps unsuccessfully – that the norm

of anti-homosexuality does not follow the same pattern as the norm of marriage equality did. States that uphold the norm of anti-homosexuality are more concerned about protecting and enhancing their state sovereignty, their values and their domestic legitimation. It is clear that religion plays a big role in the acceptance of the norm, and if anything, the norm of anti-homosexuality is an instance of clear resistance to Western propaganda and/or imperialism. The norm life-cycle model showed that the norm had achieved a ‘taken-for-granted’ quality; however, this internalisation had already been achieved even before the norm life-cycle model identified its norm entrepreneurs in stage 1. Therefore, as discussed in this chapter, Finnemore and Sikkink’s (1998) model is not useful in explaining norm resistance. The model is focused on norm change, which it was clearly able to demonstrate with the norm of marriage equality in the previous chapter; however, the model provides limited room for reconsideration or reinterpretation of norms, especially given that no change had occurred with regard to the re-criminalisation of same-sex relations. In terms of the Reactionary Movement, the model has proved to be restricted in explaining norms that have always been internalised but that have seen a resurgence to become reaffirmed and re-internalised. For this reason, this chapter proposed an alternative model that explains contesting norms: the norm resistance life-cycle model.

CHAPTER 6

Conclusion

At the start of the new millennium marriage equality has become the dominant issue in the global politics around LGBTQ rights. This progression is interesting, because after the Stonewall riots of 1969 queer activism has mostly revolved around contesting the criminalising policies against homosexuality, discrimination policies in the workplace, and hate crimes against LGBTQ individuals, to name a few. Although some of these practices are still common, there has been a drastic shift towards advocating for the legalisation of same-sex marriage after Denmark became the first country in the world to legally recognise RPs and the Netherlands gay marriage. The interesting backlash that came with marriage equality advocacy was the strengthening of anti-homosexuality policies in many non-Western states – for example, a country such as Nigeria criminalises any form of same-sex relations. The emergence of two contesting norms – the norm of marriage equality and the norm of anti-homosexuality – presented an interesting problem that this study aimed to resolve. As such, constructivist perspectives were utilised in order to describe and explain this international polarisation by asking how and why marriage equality has emerged as an important issue in contemporary global policy and practice.

Synopsis of the Study

In order to understand how and why marriage equality has become such a dominant issue in global politics, the study examined the recent history of homosexuality and the evolution of marriage equality in Chapter 2. The Stonewall riots are regarded as *the* pivotal moment in LGBTQ history as it resulted in the formation of the modern gay and lesbian movement. Not only was Stonewall responsible for the emergence and formation of various LGBTQ organisations such as the GLF, the GAA, the National Gay Task Force (which subsequently became the National LGBTQ Task Force) and the GRNL, it also allowed gay people to adopt and claim the term ‘gay’. The claiming and coming out as gay strengthened the movement and signified personal liberation for gays and lesbians. Chapter 2 also demonstrated the devastating effects of the HIV/AIDS epidemic on the gay community, and how it managed to spark a broader conversation around human rights, sexual rights and health rights for everyone. The gay and lesbian movement has been and is still often hampered by internal conflicts pertaining to gender and race. The chapter specifically illustrated how race complicates the conversation around queer visibility and inclusivity, particularly in the light of the fact that queer and trans people of colour were mainly responsible for Stonewall, yet

the issues advocated for by the modern gay and lesbian movement often revolve around the needs of middle-class white gay men. For example, some queer scholars argue that marriage only privileges some and does nothing to improve the lived experiences of those who are of a lower socio-economic status in terms of race, class and/or disability.

The inclusion of queer theory in the study was important as it exposes and disrupts the (hetero)normative views around marriage equality. Some queer theorists have argued that the legislation of same-sex marriage should not be the ultimate goal for LGBTQ people – sexual justice should be. They warn that marriage equality will not necessarily translate into a change in societal attitudes, or that the oppressive sexual system will end. Chapter 2 also examined historical events such as WWII and the Cold War. The Holocaust of WWII and the Lavender Scare of the Cold War are reminders of the severe persecution and oppression of queer people, particularly gay men. History has shown that the persecution of, discrimination against and stigmatisation of queer people have been passed on from generation to generation, and the same arguments tend to influence contemporary (homo)sexual and queer governance.

Interestingly, Chapter 3 revealed that the theory of constructivism emerged as the Cold War was coming to an end in the late 1980s. The end of the Cold War allowed a constructivist perspective – a perspective often ignored by realists and idealists – to position itself in IR in order to explain the behaviour of actors in the international arena. This chapter purposefully included the queering of IR to illustrate that queer perspectives are not only limited to disciplines such as feminist, queer and poststructuralist studies. Weber's (2014, 2015, 2016) work on queer international theory has been influential. She argues that there is no real distinction between what is called IR and queer IR in that queer IR has seeped into conventional IR focal areas such as war and peace, international political economy, and state and nation formation. As such, the study aimed at utilising IR theory, specifically constructivism, to demonstrate its ability to explain norms around (homo)sexual and queer governance. Chapter 3 provided an in-depth exploration of Finnemore and Sikkink's (1998) norm life-cycle model to understand how norms work and how they lead to international change.

Chapter 4 applied the norm life-cycle model to the Marriage Equality Movement. Norm entrepreneurs in the first stage of the model are instrumental in championing new norms. This chapter identified Axel and Eigil Axgil from Denmark as instrumental in advocating for

same-sex marriage in the 1960s, which sparked a robust debate on marriage equality. Their norm entrepreneurial efforts led to Denmark's legalisation of RPs – the first country to do so. Jack Baker and Michael McConnell played an integral role as norm entrepreneurs in the USA. They went to great lengths to solemnise their relationship, even to the point where McConnell legally adopted Baker under a gender-neutral pseudonym. McConnell went to their local courthouse to apply for a marriage license and they were granted an official marriage license. Although the license was subsequently deemed invalid, it was never challenged in court. This makes Baker and McConnell the first legally married same-sex couple in the USA. This chapter illustrated that the success of the norm of marriage equality to cascade is largely attributed to the arguments proffered by norm entrepreneurs. These individuals argued that marriage equality should be a basic human right, because not extending it to same-sex couples renders them as second-class citizens. The norm life-cycle model was able to explain the cascading of the norm of marriage equality by identifying the implicit normative kinds of 'peer pressure' that Western nations subscribe to: legitimation, conformity and esteem. It is evident that Western nations have become increasingly aware of their international image and reputation as human rights champions. Although the majority of Western states have adopted the norm of marriage equality in their legal frameworks, the third stage of the norm life cycle showed that the norm has not yet achieved a 'taken-for-granted' quality. However, changing societal attitudes toward same-sex marriage do indicate a move towards norm internalisation or normalisation.

The study then applied the norm life-cycle model to the Marriage Reactionary Movement in Chapter 5. From the outset of this chapter it became clear that the utility of the life-cycle model might prove challenging, given that the norm of anti-homosexuality was not a new norm. In fact, it is an old norm that has its roots in colonialism and religious beliefs. Chapter 5 briefly explored the homophobic legacies of colonialism to illustrate how the norm of anti-homosexuality has been passed on from the colonisers onto the colonised, who subsequently adopted the norm as authentically part of their respective cultures. Norm entrepreneurs such as Uganda's Haruna Sebi, Jennifer Nabafu and David Bahati, as well as Russia's Vitaly Milonov and Yelena Mizulina, were identified as actors who managed to re-introduce and reaffirm the norm of anti-homosexuality. The theoretical challenge in this chapter was highlighted by the norm life-cycle model's inability to explain the norm cascading of anti-homosexuality. Instead, the study examined the norm of anti-homosexuality through the lens of norm affirmation. Feminist and queer perspectives, the role of religion, as well as

arguments around same-sex relations being a Western import were utilised to illustrate the prevention of norm cascading. The norm of anti-homosexuality has been re-affirmed through a state's identity based on religion, nationalism, culture and/or tradition. It is clear that although resistance is growing in countries with anti-homosexuality policies, the norm has been re-internalised not only in the legal structures of the state, but also in societal perceptions that show overwhelming support for criminalising legislation against queer individuals. The inclusion of a critique of the norm life-cycle model was important insofar as it highlighted the limitations of norm research in explaining resistant norms.

The utility of the model was clear in Chapter 4 in that it was able to illustrate the norm cascading of the norm of marriage equality. Finnemore and Sikkink (1998) specifically created their model to explain norm change in IR. This norm change is demonstrated through the model's three stages: norm emergence, norm cascading and norm internalisation. Their model's three stages explain how and when a new norm is introduced, how it cascades internationally after the tipping point is reached, and if the norm achieves a 'taken-for-granted' quality and becomes internalised. The model is illustrated as follows:

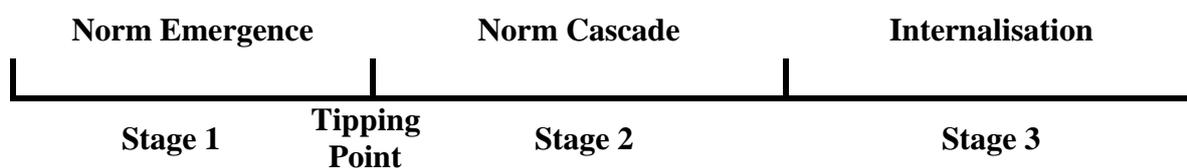


Figure 1. *Norm Life Cycle*

(Source: Finnemore and Sikkink, 1998: 896)

Chapter 5 highlighted that the life-cycle model was limited in explaining the norm of anti-homosexuality through its three stages, given that norm change did not occur. As such, this study proposed an alternative model to explain contesting norms: the norm resistance life-cycle model. This model is an adaptation of the norm life-cycle model. The resistance model aims to explain norm affirmation through the three stages of norm re-emergence, norm affirmation, and norm re-internalisation. The model's three stages explain how and when an existing norm is re-introduced, how it is re-affirmed (note that a tipping point is not applicable here, given that resistant norms tend not to cascade internationally), and whether or not it is re-internalised. In order to see the theoretical differences in the two models, the norm resistance life-cycle model is illustrated as follows:

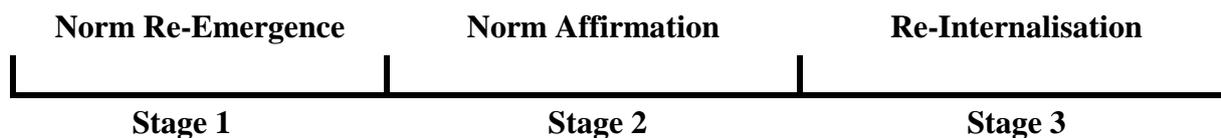


Figure 2. *Norm Resistance Life Cycle*

(Adapted from Finnemore and Sikkink, 1998: 896)

Solving the Research Problem

The study aimed to identify, describe and explain the emergence and diffusion of marriage equality by utilising constructivist perspectives. The utility of these perspectives has allowed this study to examine how norms function in the international system. When the Netherlands became the first country in the world to allow same-sex marriages in 2001, the norm of marriage equality was placed at the centre of modern LGBTQ politics. The emergence of marriage equality has also sparked a reactionary movement of explicit anti-homosexuality policies. Finnemore and Sikkink's (1998) norm life-cycle model was applied to the norms of marriage equality and anti-homosexuality by examining the model's three stages: norm emergence, norm cascading and norm internalisation. The model was specifically used, because it has become influential in demonstrating how norms work in the international system. The model proved useful to explain the different stages through which the norm of marriage equality has gone through before reaching a 'taken-for-granted' quality. The study identified key actors who have championed the legalisation of same-sex marriage. The activist work done by these individuals has allowed the norm to cascade through the international system. The cascading process managed to illustrate what states consider appropriate behaviour within a liberal democracy – extending the right to marry to same-sex couples became appropriate for Western nations. The life cycle showed that the norm had in fact reached the third stage, internalisation; however, it has not yet been fully internalised, as there is still a gap between the legal framework and societal perceptions. Nevertheless, the norm of marriage equality is moving towards (full) internalisation.

Interestingly, the norm life-cycle model presented a theoretical challenge for examining the norm of anti-homosexuality as norm cascading did not occur. Instead, the model was utilised to identify norm entrepreneurs who have re-introduced the norm of anti-homosexuality. The

activist work by these individuals, along with state support, allowed the norm to be re-affirmed and re-constructed as essential in maintaining a state's identity around traditional values. The third stage of the model showed that the norm had in fact been re-internalised. Although the life cycle model is influential in illustrating international norm change, it proved limited in explaining norm resistance. As such, this study proposed an alternative model – the norm resistance life-cycle model – that might explain resistant norms. This model is adapted from Finnemore and Sikkink's (1998) norm life-cycle model.

Answering the Research Questions

The study's primary research question is: How and why has marriage equality emerged as an important issue in contemporary global policy and practice as described and explained by IR?

The emergence of marriage equality as an important issue was the result of a number of developments in Western liberal democratic nations. Firstly, the extensive lobbying efforts by norm entrepreneurs and LGBTQ activists allowed the issue of marriage equality to enter the mainstream conversation. Secondly, marriage has become a symbol of the idea of gay and lesbian people being recognised as equal citizens in the eyes of the law and the state. Thirdly, marriage has come to represent a certain form of modern gay and lesbian politics i.e. the kind of politics that uses the law to advance certain civil claims around fully equality, and equal protection and benefits. Fourthly, marriage has also become a form of political resistance against legal exclusion, legal criminalisation as well as social stigmatisation. Lastly, marriage has come to represent the normative idea of a nation-state that is non-discriminatory and inclusive of gay and lesbian people, best captured in the idea of marriage.

The secondary research questions were addressed as follows:

1. Who have acted as the norm entrepreneurs in the framing and championing of global (homo)sexual and queer governance?

The study has identified the following norm entrepreneurs who have championed the norm of marriage equality: Axel and Eigil Axcil of Denmark, and Jack Baker and Michael McConnell of the USA. The norm entrepreneurs who have championed the norm of anti-homosexuality are Haruna Sebi and Jennifer Nabafu as well as David Bahati of Uganda, and Vitaly Milonov and Yelena Mizulina of Russia.

2. How have norms related to this materialised and diffused in the international sphere of thinking and practice?

The successful materialisation and diffusion of the norm of marriage equality, as illustrated in Chapter 4, is largely attributed to the active role played by norm entrepreneurs in framing the issue of same-sex marriage as a fundamental human right and around full citizenship. States that have accepted the norm of marriage equality, particularly Western nations, have done so in response to (implicit) ‘peer pressure’ that promotes them as exemplars of enlightenment, freedom and equality. States take pride in the championing of their liberal identity, and realise that by not extending the right to marry to same-sex couples would be deemed inappropriate behaviour for a Western democracy.

As illustrated in Chapter 5, the norm of anti-homosexuality has not managed to materialise and diffuse in the international sphere of thinking and practice. Instead, the norm has moved towards a process of re-affirmation that consolidates a state’s religious, national, cultural and/or traditional identity. The prevention of a norm cascade is attributed to the fact that the norm of anti-homosexuality is an old norm that has been deeply embedded in the legal structures and societal perceptions for centuries. As a way of resisting Western ideals and values, non-Western norm champions have managed to re-introduce, re-affirm and re-internalise the norm of anti-homosexuality. This was illustrated through the proposed norm resistance life-cycle model in order to explain resistant norms in IR.

3. Which institutions have been created and what norms inform their operation in global (homo)sexual and queer governance?

As mentioned in Chapter 2, there is no international law that recognises same-sex marriage as a basic human right. This means that domestic actors and organisations promote norms that lead to internationalisation. For example, the creation of the Kortmann Commission in the Netherlands was modelled after Denmark’s Marriage Committee, which focused on proposals and recommendation that would champion the norm of marriage equality. There are institutions that were created before the prominence of the norm of marriage equality that have played a prominent role in informing the norm’s operation in global (homo)sexual and queer governance. For example, norm entrepreneurs managed to get their respective countries’ constitutional courts or supreme courts to champion the norm of marriage equality by ruling it is unconstitutional to deny same-sex couples the right to marry. Also, an international

institution such as the UN has made progress in the last few years by implementing a marriage policy in 2014 that recognises the same-sex marriages of its staff who married in a country where gay marriage is legal, regardless of their nationality.

In terms of the norm of anti-homosexuality, no special institutions were necessary to be created in order to inform normative operations in global (homo)sexual and queer governance. Given that anti-homosexuality is a deeply embedded norm in the majority of non-Western societies, state homophobia is often used to reiterate a state's religious and traditional norms and values. Sub-Saharan African societies claim that homosexuality is 'un-African'. This type of rhetoric is used to deflect attention from the democratic demands or pressure from their own citizens, and has become a vibrant part of political rhetoric to drum up populist support.

Areas of Future Research

It is clear that research on norms has become one of the major reference points for constructivism in the field of IR. Constructivist perspectives have made tremendous contributions in understanding norm change; however, they have stopped short of developing theoretical frameworks that examine norm resistance. This norm resistance was evident in the discrepancy between groups of states that have championed the norm of marriage equality, and those that champion the norm of anti-homosexuality. Is it possible to build on Finnemore and Sikkink's (1998) norm life-cycle model to explain contesting norms? This could be an interesting study that could explain the international polarisation of norms such as LGBTQ rights as human rights, sexual and religious freedom, and the rise of neo-fascist movements.

Can the norm life cycle be utilised to explain the (possible) normalisation of adoptions by same-sex couples, immigration or MSM? It is evident that there are certain countries that allow same-sex couples to adopt children. However, the acceleration of this norm is slow. This is especially significant given that some research supports claims that same-sex parents are as well-equipped as heterosexual couples to raise children. This is an important (emerging) contemporary issue around (homo)sexual and queer governance, especially in the wake of a country such as Russia that has banned adoptions from countries that allow gay marriage.

Furthermore, in the last few years the issue of immigration has received global prominence. The policing of immigration often forces immigrants to choose between their ethnicity and sexuality. For example, it can be very difficult for people to immigrate to the USA without

some form of state-recognised family connection, which is usually heterosexual marriage by default (Interview, Danielle Bouchard, 13/07/2017). It would be interesting to follow the norm of immigration through the life-cycle model.

Lastly, given the stigma that surrounds MSM – in particular those who adopt a heterosexual identity – may present an interesting study as the normalisation of MSM might prove not only to benefit these men but also research on HIV/AIDS.

Also, research could be conducted on the impact that international norms constructed by international organisations such as the UN have on international norm cascades. International organisations play a big role in the norm-cascading process, given that numerous states have accepted the Declaration of Human Rights and regard it as a universal norm. Yet organisations such as Amnesty International made many failed attempts to repeal Uganda's Anti-Homosexuality Act, for example. The research could focus on the effectiveness of these international organisations. A state's (hetero)sovereignty would be a significant part of the research as the aim would be to investigate whether or not international organisations are of any relevance, and whether or not they have jurisdiction to extend their authority to sovereign states. The reason for this is that even though international organisations draw up universal laws, sovereign states still draw up their own laws that may be in conflict with international legislation and that often infringe on universal human rights. This is evident in countries where same-sex relations are criminalised.

Further research could also be conducted on the role South Africa plays in the debate around the norm of anti-homosexuality in Africa. South Africa is regarded as the human rights champion of the African continent. For example, South Africa became the first country in the world to protect sexual orientation in a bill of rights, and remains the only African country to have legalised same-sex marriage. The focus of the study could be on the blurring of lines between South Africa's domestic policy and foreign policy, as well as its quiet diplomacy with other African states on (homo)sexual and queer governance. As such, research can be conducted on whether South Africa is contributing to the norm acceptance of anti-homosexuality or not.

BIBLIOGRAPHY

- ACHPR. 2014a. *Press Release on the Implication of the Same Sex Marriage [Prohibition] Act 2013 on Human Rights Defenders in Nigeria*. [Online]. Available: <http://www.achpr.org/press/2014/02/d190/> [2017, September 22].
- ACHPR. 2014b. *Press Release on the implications of the anti-homosexuality Act on the work of Human Rights Defenders in the Republic of Uganda*. [Online]. Available: <http://www.achpr.org/press/2014/03/d196/> [2017, September 22].
- ACLU. 2017. *ACLU History: The Fight for Marriage*. [Online]. Available: <https://www.aclu.org/other/aclu-history-fight-marriage> [2017, July 28].
- Adam, B. D. 2003. The Defense of Marriage Act and American Exceptionalism: The “Gay Marriage” Panic in the United States. *Journal of the History of Sexuality*, 12(2): 259 – 276.
- Adamczyk, A. and Pitt, C. 2009. Shaping attitudes about homosexuality: The role of religion and cultural context. *Social Science Research*, 38(2): 338 – 351.
- Adler, E. 1997. Seizing the Middle Ground: Constructivism in World Politics. *European Journal of International Relations*, 3: 319 – 363.
- Aganthelelou, A. M. 2013. Neoliberal Geopolitical Order and Value. *International Feminist Journal of Politics*, 16(4): 453 – 476.
- Ajasa, F. 2015. *Devil introduced lesbianism, homosexuality to destroy marriage – cleric*. [Online]. Available: <https://www.vanguardngr.com/2015/12/devil-introduced-lesbianism-to-destroy-marriage-cleric/> [2017, September 15].
- Alessi, V. 2013. Resisting Oppression in Uganda, in Zukowski, P. and Vinyard, D. (eds.). *The Student Writing Anthology*. United States of America: Pearson Learning Solutions. 77 – 80.
- All-Russian Public Opinion Research Centre. 2013. *Law Banning Gay Propaganda: Pro Et Contra*. [Online]. Available: <https://wciom.com/index.php?id=61&uid=830> [2016, November 22].
- Alsop, Z. 2009. Ugandan bill could hinder progress on HIV/AIDS. *The Lancet*, 374: 2043 – 2044.

- Alter, C. 2015. *Discrimination Against LGBT Workers Is Illegal, Commission Rules*. [Online]. Available: <http://time.com/3962469/lgbt-discrimination-eeoc/> [2017, August 20].
- Altman, D. 2013. *The End of the Homosexual?* Chicago: University of Queensland Press.
- Altman, D. and Symons, J. 2016. *Queer Wars*. Cambridge: Polity Press.
- Anguita, L. A. 2012. Tackling corrective rape in South Africa: the engagement between the LGBT CSOs and the NHRIs (CGE and SAHRC) and its role. *The International Journal of Human Rights*, 16(3): 489 – 516.
- Avert. 2017. *Men who have Sex with Men, HIV and AIDS*. [Online]. Available: <https://www.avert.org/professionals/hiv-social-issues/key-affected-populations/men-sex-men> [2017, August 05].
- Awokoya, A. 2016. *Un-African*. [Online]. Available: <https://www.theworldweekly.com/reader/view/magazine/2016-09-29/un-african/9109> [2017, September 15].
- Awondo, P., Geschiere, P. and Reid, G. 2012. Homophobic Africa? Toward A More Nuanced View. *African Studies Review*, 55(3): 145 – 168.
- Axelrod, R. 1986. An Evolutionary Approach to Norms. *The American Political Science Review*, 80(4): 1095 – 1111.
- Banks, G. 2017. *Pussy Riot Member Details Horrific Abuse in Russian Women's Prison*. [Online]. Available: https://broadly.vice.com/en_us/article/gy5pb9/pussy-riot-member-details-horrific-abuse-in-russian-womens-prison [2017, September 22].
- Barclay, S. and Fisher, S. 2003. The Status and the Differing Impetus for Divergent Paths on Same-Sex Marriage, 1990 – 2001. *Policy Studies Journal*, 31(3): 331 – 352.
- Baunach, D. M. 2011. Decomposing Trends in Attitudes Toward Gay Marriage, 1988 – 2006. *Social Science Quarterly*, 92(2): 346 – 363.
- BBC News. 2012. *Gay parades banned in Moscow for 100 years*. [Online]. Available: <http://www.bbc.com/news/world-europe-19293465> [2017, September 18].
- BBC News. 2012. *Uganda anti-gay bill 'not backed by government'*. [Online]. Available: <http://www.bbc.com/news/world-africa-16963339> [2017, September 09].

- BBC News. 2015. *Huge Republic of Ireland vote for gay marriage*. [Online]. Available: <http://www.bbc.com/news/world-europe-32858501> [2017, July 26].
- BBC News. 2016. *Australia senate stops gay marriage vote*. [Online]. Available: <http://www.bbc.com/news/world-australia-37892879> [2017, September 01].
- Bennetts, M. 2015. *Fear and family values in Putin's Russia*. [Online]. Available: <http://www.politico.eu/article/fear-and-family-values-in-putins-russia-gay-propaganda-law-vitaly-milonov/> [2017, September 07].
- Bernstein, A. 2013. An Inadvertent Sacrifice: Body Politics and Sovereign Power in the Pussy Riot Affair. *Critical Inquiry*, 40(1): 220 – 241.
- Berry, J. V. 2017. *Legal Insider: Sexual Orientation Discrimination – Dueling Government Positions*. [Online]. Available: <https://www.arlnow.com/2017/08/28/legal-insider-sexual-orientation-discrimination-dueling-government-positions/> [2017, September 01].
- Bickers, C. 2017. *Coalition MPs launch 'Yes' campaign for gay marriage postal survey*. [Online]. Available: <http://www.news.com.au/national/politics/coalition-mps-launch-yes-campaign-for-gay-marriage-postal-survey/news-story/e2d95f88b3cd00e4201a2796662e728b> [2017, September 01].
- Biryabarema, E. 2014. *Ugandan president signs anti-gay bill, defying the West*. [Online]. Available: <http://www.reuters.com/article/2014/02/24/us-uganda-gaybill-idUSBREA1N05S20140224> [2017, June 05].
- Bonthuys, E. 2008. Possibilities Foreclosed: The Civil Union Act and Lesbian and Gay Identity in Southern Africa. *Sexualities*, 11(6): 726 – 739.
- Braun, T. 2013. The Tenacity of British Colonial Laws in the Lives of Sexual Minorities in the Commonwealth. *The Barrister*. 18 April. Available: <https://issuu.com/bar01/docs/barmag35/24> [2017, September 05].
- Brewer, P. R. and Wilcox, C. 2005. Trends: Same-Sex Marriage and Civil Unions. *The Public Opinion Quarterly*, 69(4): 599 – 616.
- Bronski, M. 2011. *The Effect of AIDS on Same-Sex Marriage*. [Online]. Available: <https://zcomm.org/zmagazine/the-effect-of-aids-on-same-sex-marriage-by-michael-bronski/> [2017, August 15].

- Brown, C. (ed.). 2005. *Understanding International Relations*. 3rd ed. London: Palgrave Macmillan.
- Browne, R. 2017. *Explainer: Everything you need to know about the same-sex marriage postal vote*. [Online]. Available: <http://www.smh.com.au/federal-politics/political-news/explainer-everything-you-need-to-know-about-the-samesex-marriage-postal-vote-20170824-gy2yyyn.html> [2017, September 01].
- Bruno, L. 2017. *Donald Trump's transgender military ban: What you need to know*. [Online]. Available: <http://www.abc.net.au/news/2017-07-27/what-is-happening-with-trumps-transgender-military-ban/8747506> [2017, August 14].
- Burnham, P., Lutz, K.G., Grant, W. and Layton-Henry, Z. 2008. *Research Methods in Politics*. New York: Palgrave Macmillan.
- BusinessTech. 2016. *How much it costs to get married in South Africa*. [Online]. Available: <https://businesstech.co.za/news/lifestyle/113222/how-much-is-costs-to-get-married-in-south-africa/> [2017, September 07].
- Butler, J. 1990. *Gender Trouble*. United States of America: Routledge.
- Butler, J. 1993. Critically Queer. *A Journal of Lesbian and Gay Studies*, 1: 17 – 32.
- Butler, J. 2009. Performativity, Precarity and Sexual Politics. *Journal of Iberoamerican Anthropology*, 4(3): i – xiii.
- Cáceres, C. L. 2002. HIV among gay and other men who have sex with men in Latin America and the Caribbean: a hidden epidemic? *AIDS*, 16 (S3): S23 – S33.
- Caldwell, C. 2004. *Christopher Caldwell: How Aids gave gays marriage*. [Online]. Available: <https://www.ft.com/content/7c3c5b9c-d1b2-11d8-91d3-0003ba5a9905> [2017, August 05].
- Carroll, A. and Mendos, L. R. 2017. *State Sponsored Homophobia 2017: A world survey of sexual orientation laws: criminalisation, protection and recognition*. Geneva: International Lesbian, Gay, Bisexual, Trans and Intersex Association.
- Case, M. A. 2005. Marriage Licenses. *Minnesota Law Review*, 89: 1758 – 1797.
- Cerankowski, K. J. and Milks, M. 2010. New Orientations: Asexuality. *Feminist Studies*, 36(3): 650 – 664.

- Chappell, B. 2017. *Taiwan's High Court Rules Same-Sex Marriage Is Legal, In A First For Asia*. [Online]. Available: <http://www.npr.org/sections/two-way/2017/05/24/529841027/taiwans-high-court-rules-same-sex-marriage-is-legal-in-a-first-for-asia> [2017, June 15].
- Charles, D. M. 2012. Communist and Homosexual: The FBI, Harry Hay, and the Secret Side of the Lavender Scare, 1943 – 1961. *American Communist History*, 11(1): 101 – 124.
- Chenier, E. 2017. Liberating Marriage: Gay Liberation and Same-Sex Marriage in Early 1970s Canada, in Gentile, P., Kinsman, G. and Rankin, L. P. (eds.). *We Still Demand!: Redefining Resistance in Sex and Gender Struggles*. Vancouver: University of British Columbia Press. 29 – 50.
- Cianelli, R., Ferrer, L. and McElmurry, B. J. 2008. HIV prevention and low-income Chilean women: machismo, marianismo and HIV misconceptions. *Cult Health Sex*, 10(3): 297 – 306.
- Clements, B. and Field, C. D. 2014. The Polls – Trends: Public Opinion Toward Homosexuality and Gay Rights in Great Britain. *Public Opinion Quarterly*, 78(2): 523 – 547.
- Clemons, S. 2012. *Not The Onion: Moscow Bans Gay Pride for Next 100 years*. [Online]. Available: <https://www.theatlantic.com/international/archive/2012/06/not-the-onion-moscow-bans-gay-pride-for-next-100-years/258296/> [2017, September 18].
- Coleman, P. 2014. *The UN's Push for "Same-Sex Marriage"*. [Online]. Available: <http://www.thepublicdiscourse.com/2016/01/16281/> [2017, April 08].
- Collison, C. 2017. *Home affairs minister rejects call to amend discriminatory same-sex law*. [Online]. Available: <https://mg.co.za/article/2017-07-18-home-affairs-minister-rejects-call-to-amend-discriminatory-same-sex-law> [2017, August 28].
- Condon, P. 2012. *Minn. gay couple in '71 marriage case still joined*. [Online]. Available: <https://www.mprnews.org/story/2012/12/10/news/jack-baker-michael-mcconnell-same-sex-marriage> [2017, July 28].
- Conrad, R. 2014. Against Equality, in Maine and Everywhere, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 57 – 64.

- Corrales, J. and Pecheny, M. 2010b. Introduction: The Comparative Politics of Sexuality in Latin America, in Corrales, J. and Pecheny, M. (eds.). *The Politics of Sexuality in Latin America*. Pittsburgh: University of Pittsburgh Press. 1 – 30.
- Crossley, P. Gourlay, C. and Spraggon, B. 2017. *Pride, prejudice and punishment: Gay rights around the world*. [Online]. Available: <http://www.abc.net.au/news/2017-03-04/gay-lesbian-mardi-gras-rights-around-the-world/8126828> [2017, April 06].
- Cruikshank, M. 1992. *The Gay and Lesbian Liberation Movement*. New York: Routledge.
- D'Amico, F. 2015. LGBT and (Dis)United Nations: sexual and gender minorities, international law, and UN politics, in Picq, M. L. and Thiel, M. (eds.). *Sexualities in World Politics*. Oxon: Routledge. 54 – 74.
- D'Emilio, J. 2014. The Marriage Fight is Setting Us Back, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 51 – 56.
- Das, S. 2015. *The Transpeople Talk – Revisiting Society*. [Online]. Available: <https://feminisminindia.com/2015/09/01/the-transpeople-talk-revisiting-society/> [2017, April 01].
- De Vos, P. 2008. A judicial revolution? The court-led achievement of same-sex marriage in South Africa. *Utrecht Law Review*, 4(2): 162 – 174.
- DeBarros, L. 2006. *Ugandan Gays Targeted*. [Online]. Available: <http://www.mambaonline.com/2006/08/30/ugandan-gays-targeted/> [2017, September 14].
- Debating Europe. 2017. *Should same-sex marriage be legalised across Europe?* [Online]. Available: <http://www.debatingeurope.eu/2017/02/08/should-same-sex-marriage-be-legalised-across-europe/#.WahXPsgjHIV> [2017, August 27].
- Dulani, B., Sambo, G. and Dionne, K. Y. 2016. *AD74: Good neighbours? Africans express high levels of tolerance for many, but not for all*. [Online]. Available: <http://afrobarometer.org/publications/tolerance-in-africa> [2017, September 15].
- Duncan, R. F. 1997. From Loving to Romer: Homosexual Marriage and Moral Discernment. *B.Y.U. Journal of Public Law*, 12: 239 – 251.

- Edelberg, P. 2014. The Queer Road to Frisind: Copenhagen 1945 – 2012, in Cook, M. and Evans, J. V. (eds.). *Queer Cities, Queer Cultures: Europe since 1945*. London: Bloomsbury Academic. 55 – 74.
- Egale. 2017. *About Egale Canada Human Rights Trust*. [Online]. Available: <https://egale.ca/about/> [2017, August 24].
- Elgstrom, O. 2000. Norm Negotiations: The Construction of New Norms Regarding Gender and Development in EU Foreign Aid Policy. *Journal of European Public Policy*, 7(3): 457 – 476.
- Elliot, F. R. 1986. *The Family: Change or Continuity?* London: Macmillan Education.
- Engel, S. M. 2001. *The Unfinished Revolution*. Cambridge: Cambridge University Press.
- Epprecht, M. 2008. *Unspoken Facts: A History of Homosexualities in Africa*. Harare: GALZ.
- Eskridge, W. and Spedale, D. R. 2007. *Gay Marriage: For Better Or for Worse?: What We've Learned from the Evidence*. New York: Oxford University Press, Inc.
- Eskridge, W. N. 1993. A History of Same-Sex Marriage. *Virginia Law Review*, 79(7): 1419 – 1513.
- Eulich, W. 2016. *In Latin America, LGBT legal rights change more quickly than attitudes*. [Online]. Available: <https://www.csmonitor.com/World/Americas/2016/0520/In-Latin-America-LGBT-legal-rights-change-more-quickly-than-attitudes> [2017, August 27].
- European Council. 2017. *Cotonou Agreement*. [Online]. Available: <http://www.consilium.europa.eu/en/policies/cotonou-agreement/> [2017, October 29].
- Farrow, K. 2014. Is Gay Marriage Anti-Black???, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 33 – 44.
- Federal Republic of Germany. 2014. *Basic Law for the Federal Republic of Germany*. [Online]. Available: <https://www.btg-bestellservice.de/pdf/80201000.pdf> [2017, August 22].
- Fetner, T. 2001. Working Anita Bryant: The Impact of Christian Anti-Gay Activism on Lesbian and Gay Movement Claims. *Social Problems*, 48(3): 411 – 428.
- Finnemore, M. and Sikkink, K. 1998. International Norm Dynamics and Political Change. *International Organization*, 52(4): 887 – 917.

- Finnemore, M. and Sikkink, K. 2001. The Constructivist Research Program in International Relations and Comparative Politics. *Annual Review of Political Science*, 4: 391 – 416.
- Flintoff, C. 2013. *Russian Parliament May Pass Anti-Gay Law*. [Online]. Available: <http://www.npr.org/templates/story/story.php?storyId=193194578> [2017, September 15].
- Foucault, M. 1976. *The History of Sexuality. Volume I: An Introduction*. Translated by Robert Hurley. New York: Vintage.
- Freedom to Marry. 2013. *The Defense of Marriage Act*. [Online]. Available: <http://www.freedomtomarry.org/states/entry/c/doma> [2016, August 15].
- Fry, M. 2014. *Newspaper Outs 200 'Top' Gays in Uganda*. [Online]. Available: <http://time.com/9534/newspaper-outs-200-top-gays-in-uganda/> [2017, September 08].
- Gani, A. 2015. *Russian lesbians stage selfie kiss plane protest*. [Online]. Available: <https://www.theguardian.com/world/2015/feb/03/russian-lesbians-selfie-kiss-plane-protest-vitaly-milonov> [2017, September 22].
- Garcia-Rodrigo, C. A. 2008. An Analysis of an Alternative to the Radical Feminist Position on the Institution of Marriage. *Journal of Law & Family Studies*, 11: 113 – 131.
- Garrison, M. and Scott, E. S. 2012. *Marriage at the Crossroads*. Cambridge: Cambridge University Press.
- Gartland, F. 2016. *Irish campaigner aims to bring marriage equality to Australia*. [Online]. Available: <https://www.irishtimes.com/news/social-affairs/irish-campaigner-aims-to-bring-marriage-equality-to-australia-1.2595513> [2017, August 20].
- Gettleman, J. 2014. *Uganda Anti-Gay Law Struck Down by Court*. [Online]. Available: http://www.nytimes.com/2014/08/02/world/africa/uganda-anti-gay-law-struck-down-by-court.html?_r=0 [2017, September 12].
- Gettleman, J. 2014. *Uganda Anti-Gay Law Struck Down by Court*. [Online]. Available: http://www.nytimes.com/2014/08/02/world/africa/uganda-anti-gay-law-struck-down-by-court.html?_r=0 [2016, November 23].

- Gill, J. 2015. *Gay marriage and Europe's east-west divide*. [Online]. Available: <http://www.euronews.com/2015/05/21/gay-marriage-and-europe-s-east-west-divide> [2017, September 22].
- Goldblatt, B. 2006. Case Note: Same-Sex Marriage in South Africa – The Constitutional Court's Judgement. *Feminist Legal Studies*, 14: 261 – 270.
- Gorman, M. 2015. *President Obama: Gay Marriage Ruling 'Victory for America'*. [Online]. Available: <http://www.newsweek.com/president-obama-347265> [2017, August 22].
- Grau, G. 1995. *Hidden Holocaust*. London: Cassell.
- Grove, T. 2013. *Russia passes anti-gay law, activists detained*. [Online]. Available: <http://www.reuters.com/article/us-russia-gay/russia-passes-anti-gay-law-activists-detained-idUSBRE95A0GE20130611> [2017, September 17].
- Haden, A. 2017. *Over 400 Home Affairs marriage officers refuse to preside over over civil unions for gay couples*. [Online]. Available: <https://www.thesouthafrican.com/over-400-home-affairs-marriage-officers-refuse-to-preside-over-over-civil-unions-for-gay-couples/> [2017, August 28].
- Halberstam, J. J. 2012. *Gaga Feminism: Sex, Gender, and the End of Normal*. Boston: Beacon Press.
- Halperin, D. M. 2003. The Normalisation of Queer Theory. *Journal of Homosexuality*, 45(2): 339 – 343.
- Han, E. and O'Mahoney, J. 2014. British colonialism and the criminalization of homosexuality. *Cambridge Review of International Affairs*, 27(2): 268 – 288.
- Heger, H. 1980. *The Men with the Pink Triangle*. United States of America: Alyson Publications.
- Hélie, A. 2004. Holy Hatred. *Reproductive Health Matters*, 12(23): 120 – 124.
- Hofferberth, M. and Weber, C. 2014. Lost in translation: a critique of constructivist norm research. *Journal of International Relations and Development*, 1 – 29.
- Hull, K. 2001. The Political Limits of the Rights Frame: The Case of Same-Sex Marriage in Hawaii. *Sociological Perspectives*, 44(2): 207 – 232.
- Hull, K. E. 2006. *Same-Sex Marriage*. Cambridge: Cambridge University Press.

- Human Rights Watch. 2013. This alien legacy: the origins of ‘sodomy’ laws in British colonialism, in Lennox, C. and Waites, M. (eds.). *Human Rights, Sexual Orientation and Gender Identity in The Commonwealth: Struggles for Decriminalisation and Change*. London: School of Advanced Study, University of London. 83 – 123.
- IACHR. 2015. *Violence against LGBTI Persons*. [Online]. Available: <http://www.oas.org/en/iachr/reports/pdfs/violencelgbtipersons.pdf> [2017, August 27].
- IJRC. 2014. *African Commission on Human and People’s Rights Adopts Resolution Condemning Violence and Discrimination Against LGBTI Persons*. [Online]. Available: <http://www.ijrcenter.org/2014/06/10/african-commission-on-human-and-peoples-rights-adopts-resolution-condemning-violence-and-discrimination-against-lgbti-persons/> [2017, September 22].
- Ingraham, C. 1994. The Heterosexual Imaginary: Feminist Sociology and Theories of Gender. *Sociological Theory*, 12(2): 203 – 219.
- Ingraham, C. and Saunders, C. 2016. Heterosexual Imaginary, in Naples, N. A. (ed.). *The Wiley Blackwell Encyclopedia of Gender and Sexuality Studies*. 1st Edition. Chicester: John Wiley & Sons, Ltd.
- Ireland, P. R. 2013. A Macro-Level Analysis of the Scope, Causes, and Consequences of Homophobia in Africa. *African Studies Review*, 56(2): 47 – 66.
- Johnson, P. 2015. ‘Homosexual Propaganda’ Laws in the Russian Federation: Are They in Violation of the European Convention on Human Rights? *Russian Law Journal*, 3(2): 37 – 61.
- Josephson, J. 2005. Citizenship, Same-Sex Marriage, and Feminist Critiques of Marriage. *Perspectives on Politics*, 3(2): 269 – 284.
- Kate and Deeg. 2014. Marriage is Still the Opiate of the Queers, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 45 – 49.
- Keene, S. 2014. *Uganda Nullifies the Anti-Homosexuality Act and Backs Away from the Pursuit of Similar Legislation*. [Online]. Available: <http://www.natlawreview.com/article/uganda-nullifies-anti-homosexuality-act-and-backs-away-pursuit-similar-legislation> [2017, June 05].

- Kingdom of the Netherlands. 2008. *The Constitution of the Kingdom of the Netherlands 2008*. [Online]. Available: <https://www.government.nl/documents/regulations/2012/10/18/the-constitution-of-the-kingdom-of-the-netherlands-2008> [2017, August 10].
- Kollman, K. 2007. Same-Sex Unions: The Globalization of an Idea. *International Studies Quarterly*, 51(2): 329 – 357.
- Kollman, K. 2013. *The Same-Sex Unions Revolution in Western Democracies: International Norms and Domestic Policy Change*. Manchester: Manchester University Press.
- Kollman, K. 2017. Pioneering marriage for same-sex couples in the Netherlands. *Journal of European Public Policy*, 24(1): 100 – 118.
- Kondakov, A. 2011. Same-Sex Marriages inside the Closet: Deconstruction of Subjects of Gay and Lesbian Discourses in Russia. *Oñati Socio-Legal Series*, 1(1): 1 – 37.
- Koslowski, R. and Kratochwil, F. V. 1994. Understanding Change in International Politics: The Soviet Empire's Demise and the International System. *International Organization*, 48(2): 215 – 247.
- Kratochwil, F. 1993. The Embarrassment of Changes: Neo-Realism as the Science of Realpolitik without Politics. *Review of International Studies*, 19(1): 63 – 80.
- Krook, M. L. and True, J. 2010. Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality. *European Journal of International Relations*, 18(1): 103 – 127.
- Kuhar, R. 2013. In the Name of Hate: Homophobia as a Value. *Southeastern Europe*, 37: 1 – 16.
- Lautmann, R. 1998. The Pink Triangle, in Berenbraum, M. and Peck, A. J. (eds.). *The Holocaust and History*. Bloomington: Indiana University Press. 345 – 357.
- Law Commission of India. 1971. *Forty-Second Report: Indian Penal Code*. [Online]. Available: <http://lawcommissionofindia.nic.in/1-50/report42.pdf> [2017, September 08].
- Lawson, S. 2015. *Theories of International Relations: Contending Approaches to World Politics*. Cambridge: Polity.

- Lessig, L. 1995. The Regulation of Social Meaning. *The University of Chicago Law Review*, 62(3): 943 – 1045.
- LGBT Denmark. 2017. *Welcome to LGBT Denmark*. [Online]. Available: <http://lgbt.dk/english-2/> [2017, July 26].
- Lipman, M. 2013. *The Battle Over Russia's Anti-Gay Law*. [Online]. Available: <https://www.newyorker.com/news/news-desk/the-battle-over-russias-anti-gay-law> [2017, September 15].
- Lombardi, E. 2009. Varieties of Transgender/Transsexual Lives and their Relationship with Transphobia. *Journal of Homosexuality*, 56(8): 977 – 992.
- Lueck, S. 2015. *America's First Gay Marriage, 44 Years Later*. [Online]. Available: <http://www.lavendermagazine.com/my-lavender/americas-first-gay-marriage-44-years-later/> [2017, July 28].
- March, J. G. and Olsen, J. P. 1998. The Institutional Dynamics of International Political Orders. *International Organization*, 52(4): 943 – 969.
- Marcin, T. 2015. *Russia Gay Pride Parade Organizer Jailed: Nikolai Alexeyev Dealt 10-Day Sentence for 'Disobeying Police Orders.'* [Online]. Available: <http://www.ibtimes.com/russia-gay-pride-parade-organizer-jailed-nikolai-alexeyev-dealt-10-day-sentence-1947207> [2017, September 17].
- Markoff, J. 2003. Margins, Centers, and Democracy: The Paradigmatic History of Women's Suffrage. *Signs*, 29(1): 85 – 116.
- Marriage Equality USA. 2014. *A Historical Look at Marriage*. [Online]. Available: <http://www.marriageequality.org/historical-look> [2016, August 15].
- Marusic, K. 2017. *Vladimir Putin: It's My "Duty" To Stop Gay Marriage*. [Online]. Available: <http://www.newnownext.com/vladimir-putin-oliver-stone/06/2017/> [2017, September 21].
- Massad, J. 2002. Re-Orienting Desire: The Gay International and the Arab World. *Public Culture*, 14(2): 361 – 85.

- Mathibe, R. 2015. The conflicts: Christianity and homosexuality, in *Agenda: Empowering Women for Gender Equity. 'Non-Normative' Sexual and Gender Diversities in Africa*. South Africa: Agenda Feminist Media. 81 – 84.
- Maxwell, N. G. 2001. Opening Civil Marriage to Same-Gender Couples: A Netherlands-United States Comparison. *Arizona Journal of International and Comparative Law*, 18(1): 141 – 207.
- Meyer, I. H. 2003. Prejudice, Social Stres, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence. *Psychological Bulletin*, 129(5): 674 – 697.
- Mirkinson, J. 2010. *Rachel Maddow Interviews David Bahati, Author of Ugandan 'Kill The Gays' Bill (Video)*. [Online]. Available: http://www.huffingtonpost.com/2010/12/09/rachel-maddow-bahati-uganda-gays_n_794271.html [2017, September 09].
- Montgomery, P. 2012. *Orthodox Priest Encourages Violence against Pride Marchers, Religion Dispatches*. [Online]. Available: http://www.religiondispatches.org/dispatches/petermontgomery/6141/orthodox_priest_encourages_violence_against_pride_marchers/ [2017, September 24].
- Morris, H. F. 1974. A history of the adoption of codes of criminal law and procedure in British colonial Africa, 1876–1935. *Journal of African Law*, 18(1) :6 – 23.
- Msibi, T. 2011. The Lies We Have Been Told: On (Homo) Sexuality in Africa. *Africa Today*, 58(1): 55 – 77.
- Mujuzi, J. D. 2009. The Absolute Prohibition of Same-Sex Marriages in Uganda. *International Journal of Law, Policy and the Family*, 23(3): 277 – 288.
- Mumford, T. 2015. *For Mpls. couple, gay marriage ruling is a victory 43 years in the making*. [Online]. Available: <https://www.mprnews.org/story/2015/07/16/baker-mcconnell> [2017, July 28].
- Mumtaz, G., Hilmi, N., McFarland, W., Kaplan, R. L., Ayodeji Akala, F., Semini, I., Riedner, G., Tawil, O., Wilson, D. and Abu-Raddad, L. J. 2011. Are HIV Epidemics among Men Who Have Sex with Men Emerging in the Middle East and North Africa?: A Systematic Review and Data Synthesis. *PLoS Medicine*, 8(8): 1 – 15.

- Murray, S. O. and Roscoe, W. (eds.). 1998. *Boy-Wives and Female-Husbands: Studies in African Homosexualities*. New York: St. Martin's Press.
- Nair, Y. 2014. Against Equality, Against Marriage: An Introduction, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 15 – 21.
- National Liberal Party Caucus Research Bureau. 2003. *Ideas and Analysis: A Federal Civil Registry for Same-Sex Couples*. [Online]. Available: http://www.samesexmarriage.ca/legal/Liberal_caucus.htm [2017, August 26].
- NCSL. 2014. *Same-Sex Marriage Laws*. [Online]. Available: <http://www.ncsl.org/research/human-services/same-sex-marriage-laws.aspx> [2016, August 15].
- Neuman, W. L. 2005. *Social Research Methods: Qualitative and Quantitative Approaches*. Massachusetts: Pearson Education, Inc.
- News Corp Australia Network. 2017. *Majority of Catholics support same-sex marriage in Australia: Equality Campaign poll*. [Online]. Available: <http://www.news.com.au/lifestyle/gay-marriage/majority-of-catholics-support-samesex-marriage-in-australia-equality-campaign-poll/news-story/1cbf863f42e5c0344f16f7872afbf70d> [2017, September 01].
- Newstrom, L. 2007. The Horizon of Rights: Lessons from South Africa for the Post-Goodridge Analysis of Same-Sex Marriage. *Cornell International Law Journal*, 40(3): 781 – 804.
- Nielsen, L. 1990. Family Rights and the 'Registered Partnership' in Denmark. *International Journal of Law and the Family*, 4: 297 – 307.
- Nmehielle, V. O. 2004. Sharia Law in the Northern States of Nigeria: To Implement or Not to Implement, the Constitutionality is the Question. *Human Rights Quarterly*, 26(3): 730 – 759.
- Norman, M. 2013. *International Criminal Court: Investigate and Prosecute the Top 3 Homophobic Ugandans for Crimes Against Humanity*. [Online]. Available: <https://www.change.org/p/international-criminal-court-investigate-and-prosecute-the->

- [top-3-homophobic-ugandans-for-crimes-against-humanity?lang=en-GB](#) [2017, September 15].
- Nwaubani, A. T. 2017. *LGBT acceptance slowly grows in Nigeria, despite anti-gay laws*. [Online]. Available: <https://www.reuters.com/article/us-nigeria-lgbt-survey/lgbt-acceptance-slowly-grows-in-nigeria-despite-anti-gay-laws-idUSKCN18C2T8> [2017, September 21].
- Nyanzi, S. and Karamagi, A. 2015. The social-political dynamics of the anti-homosexuality legislation in Uganda, in *Agenda: Empowering Women for Gender Equity. 'Non-Normative' Sexual and Gender Diversities in Africa*. South Africa: Agenda Feminist Media. 24 – 38.
- Okonkwo, O. 2015. “Church’s stance on homosexuality is irrevocable” - *Catholic Archbishop of Abuja says*. [Online]. Available: <http://www.pulse.ng/communities/religion/cardinal-john-onaiyekan-churchs-stance-on-homosexuality-is-irrevocable-catholic-archbishop-of-abuja-says-id4014441.html> [2017, September 15].
- Olson, L. R., Cadge, W., and Harrison, J. T. 2006. Religion and Public Opinion about Same-Sex Marriage. *Social Science Quarterly*, 87(2): 340 – 360.
- Onuf, N. 1998. Constructivism: A User’s Manual, in Kubálková, V., Onuf, N. and Kowert, P. (eds.). *International Relations in a Constructed World*. New York: M.E. Sharpe.
- Pearlstein, D. 2005. *Who’s Afraid of International Law?* [Online]. Available: <http://prospect.org/article/whos-afraid-international-law> [2017, August 26].
- Peel, E. and Harding, R. 2004. Divorcing Romance, Rights and Radicalism: Beyond Pro and Anti in the Lesbian and Gay Marriage Debate. *Feminism & Psychology*, 14(4): 588 – 599.
- Pew Research Center. 2013. *Russia’s anti-gay laws in line with public’s views on homosexuality*. [Online]. Available: <http://www.pewresearch.org/fact-tank/2013/08/05/russias-anti-gay-laws-in-line-with-publics-views-on-homosexuality/> [2017, September 23].

- Pew Research Center. 2013. *The Global Divide on Homosexuality*. [Online]. Available: <http://www.pewglobal.org/2013/06/04/the-global-divide-on-homosexuality/> [2017, September 22].
- Pew Research Center. 2017. *Changing Attitudes on Gay Marriage*. [Online]. Available: <http://www.pewforum.org/fact-sheet/changing-attitudes-on-gay-marriage/> [2017, August 26].
- Pew Research Center. 2017. *Religious Belief and National Belonging in Central and Eastern Europe*. [Online]. Available: <http://www.pewforum.org/2017/05/10/social-views-and-morality/> [2017, September 23].
- Picq, M. L. and Thiel, M. 2015. Introduction, in Picq, M. L. and Thiel, M. (eds.). *Sexualities in World Politics*. Oxon: Routledge. 1 – 22.
- Piontek, T. 2006. *Queering Gay and Lesbian Studies*. Urbana: University of Illinois Press.
- Poindexter, C. C. 1997. Sociopolitical Antecedents to Stonewall: Analysis of the Origins of the Gay Rights Movement in the United States. *Social Work*, 42(6): 607 – 615.
- Poon, M. K. 2011. Writing the Racialised Queer Bodies: Race and Sexuality in Social Work. *Canadian Social Work Review*, 28(1): 145 – 150.
- Price, R. and Reus-Smit, C. 1998. Dangerous Liaisons? Critical International Theory and Constructivism. *European Journal of International Relations*, 4(3): 259 – 294.
- Puar, J. 2007. *Terrorist Assemblages: Homonationalism in Queer Times*. North Carolina: Duke University Press.
- Pulley, A. 2015. Nine Stupid Myths about Bisexuals that Will Make You Laugh, in Kimmel, M. and The Stony Brook Sexualities Research Group. (eds.). *Sexualities: Identities, Behaviours, and Society*. New York: Oxford University Press. 330 – 332.
- Raphael, T. J. 2015. 'You are as good as anybody else.' Same-sex couple who married in 1970 on Supreme Court move. [Online]. Available: <https://www.pri.org/stories/2015-06-25/meet-two-men-who-managed-get-first-known-same-sex-marriage-license-back-1970> [2017, July 28].
- Reddy, C. 2011. *Freedom with Violence: Race, Sexuality, and the US State*. Durham: Duke University Press.

- Reddy, V. 2001. Homophobia, Human Rights and Gay and Lesbian Equality in Africa. *Agenda: Empowering Women for Gender Equity*, 50: 83 – 87.
- Republic of South Africa. 2006. *Civil Union Act, 2006*. [Online]. Available: http://www.gov.za/sites/www.gov.za/files/a17-06_1.pdf [2017, August 18].
- Republic of Uganda. 1950. *The Penal Code 1950*. [Online]. Available: <http://www.ulii.org/ug/legislation/consolidated-act/120> [2017, September 17].
- Republic of Uganda. 1995. *Constitution of the Republic of Uganda, 1995*. [Online]. Available: http://www.statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf [2017, September 05].
- Republic of Uganda. 2005. *The Constitution (Amendment) Act, 2005*. [Online]. Available: https://www.justice.gov/sites/default/files/eoir/legacy/2014/09/10/constitution_amendment2005.pdf [2017, September 05].
- Reuters. 2017. *Merkel voted against gay marriage*. [Online]. Available: <https://www.iol.co.za/news/world/merkel-voted-against-gay-marriage-10067293> [2017, August 25].
- Riddiough, C. 1981. Socialism, Feminism, and Gay/Lesbian Liberation, in Sargent, L. (ed.). *Women and Revolution*. United States of America: South End Press. 71 – 89.
- Rodriguez, S. 2015. LGBT: What’s in a Name... Or an Acronym, in Kimmel, M. and The Stony Brook Sexualities Research Group. (eds.). *Sexualities: Identities, Behaviors, and Society*. New York: Oxford University Press. 326 – 329.
- Rubin, G. 1975. The Traffic in Women: Notes on the “Political Economy” of Sex, in Reiter, R. R. (ed.). *Toward an Anthropology of Women*. New York: Monthly Review Press. 157 – 210.
- Ruggie, J. G. 1998. What Makes the World Hang Together? Neo-utilitarianism and the Social Constructivist Challenge. *International Organization*, 52(4): 855 – 885.
- Rydström, J. 2011. *Odd Couples: A History of Gay Marriage in Scandinavia*. Amsterdam: Aksant Academic Publishers.

- Sacks, M., Siddiqui, S. and Reilly, R. J. 2013. *Supreme Court Rules On Prop 8, Lets Gay Marriage Resume in California*. [Online]. Available: http://www.huffingtonpost.co.za/entry/supreme-court-prop-8_n_3434854 [2017, April 11].
- Savage, D. G. 2013. *Gay marriage ruling: Supreme Court finds DOMA unconstitutional*. [Online]. Available: <http://articles.latimes.com/2013/jun/26/news/la-pn-doma-supreme-court-ruling-20130626> [2016, August 15].
- Schlatter, E. 2016. *Belize Supreme Court Strikes Down Colonial-era Anti-LGBT Law*. [Online]. Available: <https://www.splcenter.org/hatewatch/2016/08/11/belize-supreme-court-strikes-down-colonial-era-anti-lgbt-law> [2017, September 16].
- Scott, J. 2013. The Distance Between Death and Marriage. *International Feminist Journal of Politics*, 16(4): 534 – 551.
- Sedgwick, E. K. 1993. *Tendencies*. Durham: Duke University Press.
- Seel, P. 1995. *Liberation was for Others*. New York: DA Capo Press.
- Semugoma, P., Nemande, S. and Baral, S. D. 2012. The irony of homophobia in Africa. *The Lancet*, 380: 312 – 314.
- Settington, K. 2013. *Branded by the Pink Triangle*. Canada: Second Story Press.
- Sheckels, T. F. 2004. The Rhetoric of Thabo Mbeki on HIV/AIDS: Strategic Scapegoating? *Howard Journal of Communications*, 15(2): 69 – 82.
- Sherkat, D. E., De Vries, K. M. and Creek, S. 2010. Race, Religion, and Opposition to Same-Sex Marriage. *Social Science Quarterly*, 91(1): 80 – 98.
- Shibusawa, N. 2012. The Lavender Scare and Empire: Rethinking Cold War Antigay Politics. *Diplomatic History*, 36(4): 723 – 752.
- Sjoberg, L. 2015. Conclusion: LGBTQ politics/global politics/international relations, in in Picq, M. L. and Thiel, M. (eds.). *Sexualities in World Politics*. Oxon: Routledge. 155 – 171.
- Smith, A. 2010. Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism. *GLQ: A Journal of Lesbian and Gay Studies*, 16(1-2): 41 – 68.

- Smith, D. 2015. *Mozambique LGBT activists move on to next battle after anti-gay law scrapped*. [Online]. Available: <https://www.theguardian.com/world/2015/jun/30/mozambique-lgbt-activists-anti-gay-law-scrapped> [2017, September 16].
- Smith, G. S. 1992. National Security and Personal Isolation: Sex, Gender, and Disease in the Cold-War United States. *The International History Review*, 14(2): 307 – 337.
- Smith, J. 2017. *Fact check: Is Australia the only advanced English-speaking country without same-sex marriage?* [Online]. Available: <http://www.abc.net.au/news/factcheck/2017-08-25/fact-check-english-speaking-countries-same-sex-marriage/8827842> [2017, September 01].
- Smith, M. 2008. *Political Institutions and Lesbian and Gay Rights in the United States and Canada*. New York: Routledge.
- Smith, S. 2000. The Discipline of International Relations: Still an American Social Science? *British Journal of Politics and International Relations*, 2(3): 374 – 402.
- Spade, D. and Willse, C. 2014. I Still Think Marriage is the Wrong Goal, in Conrad, R. (ed.). *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press. 31 – 32.
- Spurlin, W. 2006. *Imperialism within the Margins: Queer Representations and the Politics of Culture in Southern Africa*. New York: Palgrave Macmillan.
- Ssebagala, R. 2011. Straight Talk on the Gay Question in Uganda. *Transition*, 106: 44 – 57.
- Stein, A. and Plummer, K. 1994. “I Can’t Even Think Straight” “Queer” Theory and the Missing Revolution in Sociology. *Sociological Theory*, 12(2): 18 – 187.
- Stryker, S. 2008. *Transgender History*. California: Seal Press.
- Swiebel, J. 2009. Lesbian, gay, bisexual and transgender human rights: the search for an international strategy. *Contemporary Politics*, 15(1): 19 – 35.
- Symons, J. and Altman, D. 2015. International norm polarization: sexuality as a subject of human rights protection. *International Theory*, 7(1): 61 – 95.
- Tamale, S. 2013. Confronting the Politics of Nonconforming Sexualities in Africa. *African Studies Review*, 56(2): 31 – 45.

- The Other Foundation. 2016. *Progressive Prudes: A survey of attitudes towards homosexuality & gender non-conformity in South Africa*. [Online]. Available: https://theotherfoundation.org/wp-content/uploads/2016/09/ProgPrudes_Report_d5.pdf [2017, August 27].
- Tongues United*. 1989. Film. Directed by Marlon Riggs. USA: Frameline.
- TV-Novosti. 2013. *Putin signs 'gay propaganda' ban and law criminalizing insult of religious feelings*. [Online]. Available: <http://rt.com/politics/putin-law-gay-religious-457/> [2016, November 22].
- Umberson, D. 1987. Family Status and Health Behaviours: Social Control as a Dimension of Social Integration. *Journal of Health and Social Behaviour*, 28(3): 306 – 319.
- UN News Centre. 2013. *UN unveils 'Free & Equal' campaign to promote lesbian, gay, bisexual, transgender rights*. [Online]. Available: <http://www.un.org/apps/news/story.asp?NewsID=45503#.WollgoiGPIU> [2017, April 08].
- UN News Centre. 2014. *UN widens its same-sex marriage policy to include all legally-married staff*. [Online]. Available: <http://www.un.org/apps/news/story.asp?NewsID=48222#.WoljLiGPIU> [2017, April 08].
- UN Women. 2016. *Facts and figures: Ending violence against women*. [Online]. Available: <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures> [2017, August 27].
- Union Gazette Extraordinary. 1961. *ACT*. [Online]. Available: <http://www.gov.za/sites/www.gov.za/files/Act%2025%20of%201961.pdf> [2017, August 18].
- United Nations. 1953. *Convention on the Political Rights of Women*. [Online]. Available: http://www.un.org.ua/images/Convention_on_the_Political_Rights_of_Women_eng1.pdf [2017, January 12].
- United Nations. 2015. *Universal Declaration of Human Rights*. [Online]. Available: http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf [2017, July 22].

- United States of America. 1996. *An Act*. [Online]. Available: <http://www.gpo.gov/fdsys/pkg/BILLS-104hr3396enr/pdf/BILLS-104hr3396enr.pdf> [2016, August 15].
- Uranie, S., Athanase, P. and Vannier, R. 2016. *Seychelles parliament passes bill to decriminalize sodomy*. [Online]. Available: <http://www.seychellesnewsagency.com/articles/5198/Seychelles+parliament+passes+bill+to+decriminalize+sodomy> [2017, September 16].
- Valocchi, S. 2005. Not Yet Queer Enough: The Lessons of Queer Theory for the Sociology of Gender and Sexuality. *Gender and Society*, 19(6): 750 – 770.
- Waldijk, K. 2001. Small Change: How the Road to Same-Sex Marriage Got Paved in the Netherlands, in Wintemute, R. and Andenæs, M. T. (eds.). *Legal Recognition of Same-Sex Partnership. A Study of National, European and International Law*. United States of America: Hart Publishing. 437 – 464.
- Waldijk, K. and Clapham, A. (eds.). 1993. Homosexuality: A European Community Issue - Essays on Lesbian and Gay Rights in European Law and Policy, in *International Studies in Human Rights, Volume 26*. Boston: Martinus Nijhoff Publishers.
- Waldrop, M. M. 1992. *Complexity: The Emerging Science at the Edge of Order and Chaos*. New York: Simon and Schuster.
- Warner, M. 2000. *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life*. United States of America: Harvard University Press.
- Weber, C. 1999. *Faking It*. Minnesota: University of Minnesota Press.
- Weber, C. 2014. From Queer to Queer. *International Studies Review*, 16: 596 – 622.
- Weber, C. 2015. Why is There No Queer International Theory? *European Journal of International Relations*, 21(1): 27 – 51.
- Weber, C. 2016. *Queer International Relations*. Oxford: Oxford University Press.
- Wendt, A. 1992. Anarchy is What States Make of it: The Social Construction of Power Politics. *International Organization*, 46(2): 391 – 425.
- Wight, M. 1960. Why is There No International Theory? *International Relations*, 2: 35 – 48.

Wilkinson, C. 2014. Putting “Traditional Values” Into Practice: The Rise and Contestation of Anti-Homopropaganda Laws in Russia. *Journal of Human Rights*, 13: 363 – 379.

Williams, J. 2017. *Russian Religious Leader Wants Men to ‘Protect Themselves from Homosexuality’ by Not Shaving Their Beard*. [Online]. Available: <http://www.newsweek.com/russian-religious-leader-protect-homosexuality-shaving-beards-627328> [2017, September 18].

Williamson, M. 2011. *Axel Axgil: Gay activist who pioneered civil partnerships*. [Online]. Available: <http://www.independent.co.uk/news/obituaries/axel-axgil-gay-activist-who-pioneered-civil-partnerships-6256339.html> [2017, July 26].

Zychowicz, J. 2012. The Global Controversy over Pussy Riot: An Anti-Putin Women’s Protest Group in Moscow. *International Institute Journal*, 2(1): 13 – 15.

Interviews

Bouchard, Danielle. Interview conducted on 13 July 2017.

Clayton, Matthew. Interview conducted on 11 July 2017.

Fransch, Chet. Interview conducted on 09 June 2017.

Judge, Melanie. Interview conducted on 11 July 2017.

Ratele, Kopano. Interview conducted on 05 July 2017.