LGBT RIGHTS IN CONTEMPORARY GLOBAL POLITICS: NORMS, IDENTITY, AND THE POLITICS OF RIGHTS

by

Brett Remkus Britt

A dissertation submitted to the Faculty of the University of Delaware in partial fulfillment of the requirements for the degree of Doctor of Philosophy in Political Science and International Relations

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Brett Remkus Britt

Approved:

Gretchen Bauer, Ph.D.
Chair of the Department of Political Science and International Relations

Approved:

George H. Watson, Ph.D.
Dean of the College of Arts and Sciences

Approved:

James G. Richards, Ph.D.
Vice Provost for Graduate and Professional Education
I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Claire Rasmussen, Ph.D.
Professor in charge of dissertation

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Kara Ellerby, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Matthew Weinert, Ph.D.
Member of dissertation committee

I certify that I have read this dissertation and that in my opinion it meets the academic and professional standard required by the University as a dissertation for the degree of Doctor of Philosophy.

Signed:

Ann Towns, Ph.D.
Member of dissertation committee
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Lesbian, Gay, Bisexual, and Transgender (LGBT) rights have emerged as a consequential issue in contemporary global politics. This is a worldwide phenomenon; same-sex marriage, for example, has been legalized in locales within North and South America, Europe, and Africa, while laws regulating same-sex intimacy have eroded within locales on every continent. This dissertation argues that this marks the emergence of a norm, embodied in a discourse asserting that states should legally enshrine LGBT rights. My intervention is to argue that norms, such as a norm regarding LGBT rights, do not contain any “fixed” content. Analysis of norms must focus on how they come to articulate historically contingent political alliances. This contingency foregrounds the importance of intersectionality, a feminist tool which focuses on how intersecting identity categories intensify the effects of power, to any comprehensive understanding of norms in IR.

I apply this framework to understanding an emergent LGBT rights norm in three contexts, all of which foreground particular political alliances formed in relation to an emergent discourse regarding LGBT rights. Chapter two explores the emergence of LGBT rights as an issue within the Israeli-Palestinian conflict, used to assert the moral superiority of Israeli society, while framing Palestinians as unable to rule themselves. The next chapter examines the emergence of an anti-homosexuality bill in Uganda. I consider how the rhetoric of the US Christian
Right interfaced with existing cleavages within Ugandan society, creating a violent reaction against the perceived “threat” of LGBT rights. Chapter four explores legalization of same-sex marriage in the United Kingdom. I argue that the UK’s adoption of same-sex marriage must be contextualized alongside simultaneous enactment of exclusionary austerity and immigration policies.

I conclude that LGBT rights as a discourse can be employed to diverse ends in ways that reinforce power relationships of contemporary neoliberalism, particularly insofar as it appears to isolate LGBT rights from other forms of political struggle with which it intersects. However, the flexibility and contingency of rights claims also allow activists to creatively rearticulate the idea of LGBT rights in ways that can challenge neoliberalism’s exclusionary and normalizing patterns of political alliance and identity.
Chapter 1

INTRODUCTION

In recent years, an increasing number of international and transnational actors have argued that lesbian, gay, bisexual, and transgender (LGBT) rights are human rights (Morgan 2001). Major world leaders have begun to speak extensively on this issue, challenging the policies of a large number of states which impose severe criminal penalties (including the death penalty) for individuals who engage in non-heterosexual behaviors. Landmark court cases reference principles of universal human rights and international law when making judgments against statutes which target LGBT individuals. The expansion of these rights is a truly global phenomenon; same-sex marriage has, for example, been legalized in locales within North and South America, Europe, and Africa,

1Some notes on terminology: I use the phrase “LGBT rights” throughout the dissertation, even when rights are only being claimed for only portions of those individuals who would classify themselves within this identity. I acknowledge that often the policies I am describing are not inclusive to all these identities (most often the “T”). I also recognize that any terminology I might choose would be exclusionary in its own way. There are a large number of political identities that are not included in the “LGBT” acronym. I use the term LGBT rights in that because it is dominant in political discourse; in addition, my use of the term “LGBT rights” allows for consistency and ease of reading.

2Three prominent examples are Lawrence v. Texas (2003), Naz Foundation v. Government of India (2009), and the California Supreme Court case In re Marriage Cases (2008).
while legal restrictions against non-heterosexual sexual behavior have been rolled back within locales on every continent. The emergence of visible political contestation around this issue raises a number of intriguing questions. Foremost among these is how sexualities that were articulated by the United States Supreme Court as an affront to Western values as recently as 1986 (Bowers v. Hardwick), have come to be articulated in terms of fundamental and universal rights. The Supreme Court of South Africa thus argued that same-sex couples experience “love that was once forced to be clandestine, [but] may now dare openly to speak its name” within a world that “has evolved from repudiating expressions of their desire to accepting the reality of their presence, and the integrity, in its own terms, of their intimate life” (Minister of Home Affairs v. Fourie 2006: 78). In this narrative, the current unfolding of LGBT rights is a welcome part of an inexorable march towards human freedom. Individuals see themselves, in the words of the Kentucky Supreme Court opinion Kentucky v. Wasson (1992), as a “current in the stream” of progress towards acceptance of sexual rights. If we are to follow the lead of constructivist writings on human rights, we might say that these moves are the beginning of a norm cascade which will ultimately result in the taken-for-granted enshrinement of sexual identities as protected categories within human rights norms (cf. Finnemore and Sikkink 1998; Sikkink 2011).

While it is tempting to embrace such narratives embedded within discourses of sexuality and rights at the global level, I argue that more skepticism is in order. There has been vigorous dissent and debate about attaching the concept of “rights” to non-heterosexual behaviors and identities, with some countries imposing additional sanctions for homosexual activity and others justifying anti-sodomy laws that often originated during colonial rule. These incidents give pause in announcing the diffusion of a norm regarding sexuality and rights, as
they mobilize vastly differing accounts of rights and identity and, most importantly, sexuality itself. In the extreme case, those opposed to acceptance of homosexual behavior often themselves use the language of rights to justify their position, meaning that sexuality and rights, when linked, may not always be linked in ways which promote acceptance of LGBT rights. It is thus important to provide close empirical scrutiny to contemporary mobilizations of rights language with regard to sexuality at the global level. This elucidates a more complex picture of debates regarding sexual rights in global politics as contested along multiple axes in political struggles. In these struggles, the language of rights has been deployed by actors on different sides, and the very terms by which sexuality and rights should be framed is contested. Rather than the increased visibility of sexual rights representing a diffusion of a particular understanding of “LGBT rights,” these debates highlight the contested nature of what rights are, how rights are related to sexuality, and perhaps most importantly, the role that sexuality does and should play in international politics.

Despite its emergence as a key issue in global politics, contestation over sexual rights has received little systematic attention in the IR literature. In contrast, comparativists have pursued analyses of the emergence of LGBT rights within particular states and social changes leading to sexual autonomy (Waaldijk 2004; Inglehart 1997). Political theorists and scholars in other disciplines have attempted to show the ways in which emerging LGBT rights discourses reflect significant social change within both the US and in global politics (e.g. Stychin and Herman 2001; Duggan 2002; Alexander 2005; Puar 2002; Frank and McEneaney 1999; Hart 2009; Frank, Camp and Boutcher 2010). IR’s inattention is problematic, especially insofar as numerous scholars have articulated key connections both sexuality (Weber 1999; Stoler 2002) and human rights (Risse
have to political processes at all levels of politics. I will thus show that competing political articulations of global sexualities have important implications for IR.

Further, a discussion of this phenomenon clearly fits alongside existing IR studies of human rights undertaken by constructivists, who have sought to clarify how new norms come to be framed in terms of the universal rights possessed by individuals (e.g. Risse, Ropp and Sikkink 1999; Sikkink 2011). If, as Morgan (2001: 209) says, “the idea of human rights and the language of human rights now permeates the arguments made by activists and lawyers when discussing sexuality issues” it is important to map out the ways that sexuality and human rights become linked together in empirical terms, how this has shaped contestation over rights, and what this can tell us about normative change in global politics more broadly.

A key point which must be addressed by this introduction is why sexuality should be foregrounded as an issue of importance to international politics, as I argue that because these contestations about human rights deal with sexuality, they offer an especially important window into contemporary global politics. By sexuality, I mean a historically, socially, and politically contingent body of knowledge centered around the nature of sexual acts involving humans. Sexuality thus is produced as a specific object of study, and through this process sexuality is connected to other (similarly contingent) discourses such as race, criminal deviance, public health, and economics along with a particularly important linkage with gender. Sexuality is therefore not a static concept, but a body of knowledge reflecting a certain configuration of power relations at specific historical moments. Sexuality also serves as an important locus of political power. It is linked to social processes that organize the very basis of society; additionally, its centrality as a
site of power is often hidden because of an assumption that sexuality does not matter to politics (cf. Weber 1999). Finally, contemporary rights discourses mobilize sexuality to define politically salient identity categories — such as heterosexuality or LGBT identity — which are naturalized through the deployment of this rights discourse.

Based on seminal works within IR, one could assume that sexuality should not be considered as an issue that is of major influence within international politics. After all it does not seem to play a central role in the high politics of IR, which are often considered to be dominated by states (conceived as unitary actors) and the relations between them (Waltz 1979: 93). Indeed, in the empirical chapters that follow, I do heavily focus on domestic political processes. Within contemporary IR, many scholars have certainly challenged or moved beyond this strict definition of international politics. Transnational social movements, international organizations, and domestic political processes have all come under increased scrutiny by scholars, most often with arguments that these are central sites of governance in IR. However, even these authors tend not to move away from state centric conceptions of power; most often these accounts of international politics revolve around attempts by other actors to influence states or entice them to engage in some sort of action (e.g. Sikkink and Keck 1998). When other international actors, such as international organizations, are treated *sui generis*, the political processes of concern are often those same political processes which state based examinations of politics have traditionally been oriented towards. As such, scholars have privileged such things as state behavior, the content of international law, or specific policies as the objects of contestation within IR. Even critical interventions regarding global politics have evidenced a preoccupation with the actions of states through attention to sovereignty, war, state diplomacy, and formal
organizations and how these all serve as loci of power in IR (Selby 2007; cf. *contra* Weber 1995; Campbell 1998; Neumann 2002). When sexuality has been examined as part of IR, the focus has often remained on how sexuality can be used instrumentally to understand the actions and behavior of states within a traditional conception of IR (e.g. Weber 1999; Agathangelou 2004; Turcotte 2011), rather than as “an especially dense transfer point for relations of power” (Foucault 1990: 103). Arguments that sexuality should be foregrounded as an arena of political contestation in international politics, and one that does not exist secondarily to another object of study, are thus likely to be met with skepticism by IR scholars and political scientists more broadly.

Of course, ideas about the family and sexuality have long played a central role in politics – especially insofar as they have served as organizational principles within larger political systems, meaning that any analysis of political change must pay careful attention to sexuality (cf. Accad 1991). Sexuality has played a key role in the articulation of national identities, and linkages between sexuality and societal prosperity have historically allowed sexualities perceived as deviant to be cast as a threat to domestic societies and liberal orders (Foucault 2003b). Sexuality also came to be used as a proxy for defining racial difference, and thus became linked to both colonialism and racism (Alexander 1991; McClintock 1995). Examination of individuals’ intimate lives was a key part of defining which subjects were fit to rule themselves (Stoler 2002) and thus fit within larger liberal projects which restricted liberal rights to white Europeans (Mehta 1999).

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3Distinctions between heterosexuality and homosexuality have been especially important to these projects. Indeed, Foucault (2003a) argued that the emergence of the figure of the deviant homosexual was as essential aspect of nineteenth-century sexual normativity (cf. Huffer 2009a). Even as understandings of sexuality have changed, same-sex sexual behavior has retained an important place in establishing norms around sexuality (Duggan 2002; Rosenfeld 2009). It also means
Aside from these general reasons why sexuality is important to IR, there is additional evidence for LGBT rights to stand as a topic that IR has a need to address. This phenomenon has emerged quite rapidly — before 1999, for example, no countries in the world allowed same-sex marriage. Now, there are at least 22 countries where same-sex marriage is recognized, and the issue is being debated in additional countries. LGBT rights have come to be entrenched as a norm within international law to the extent that many courts consider them to be binding principles (Clavier 2012; Norris v. Ireland 1988; Lawrence v. Texas 2003). Such evidence means that an emergent LGBT rights norm is important enough that it should be explicable within existing IR frameworks as an important case or event.

From the outset I also take the view that IR broadly, and the idea of norms specifically, is conversely important to our understanding of contemporary sexualities, particularly when they are articulated in terms of global rights. As much of the literature on norms emphasizes, the emergence of human rights that essentialized normative identities have been established around this behavior, which has often served to establish certain individuals as deserving of certain rights within modern liberal democracies. Thus, as Stychin (1998: 194) argues,

It has become apparent that same-sex acts and identities have frequently been deployed in the construction of national cultures. The homosexual is a particularly malleable subject position that has often been brought into the service of nations, especially in times of perceived crisis [and] associated with Communism, fascism, bourgeois capitalism, colonialism, the West and north, the east and south, environmentalism. [. . .] The homosexual is a ready discursive tool.

It should be no surprise, then, that homosexuality is a site of contestation in contemporary debates about linkages between sexuality and rights. However, these debates also perhaps highlight the changing role that homosexuality is coming to have in debates over sexual normativity, which can especially be elucidated in its connections to human rights.
discourses over the last century has affected a radical transformation of the way that domestic political institutions are understood in relation to international politics (see *inter alia* Cronin 2003; Cole 2005; Elliot 2007; Koo 2009). The idea of norms, after all, implies the existence of a political space exogenous to states which should have some influence within states. In terms of human rights, this meant that individuals could assert claims to rights against local political and social institutions without the presumption that these institutions could “determine [their] own domestic social, legal, and political arrangements free from outside interference” (Simmons 2009: Location 251). Insofar as human rights discourses can thus trump state sovereignty and domestic constitutional arrangements they serve as powerful vehicles that shape the domestic legal rights which have been explored extensively in work on law and sexuality (e.g. Huffer 2009b; Goodman 2001; Mezey 2007). Literature on norms has emphasized the importance of far-flung actors who interact with one another across state boundaries to effect political change across complex social networks (Sikkink and Keck 1998; True and Mintrom 2001), highlighting the importance of thinking about LGBT rights in terms that transcend domestic politics. This, of course, leads into a question that many IR scholars have grappled with: why are certain issues able to emerge as international human rights issues? Existing research has emphasized how the success of a rights claim depends both on recognition of a “grievance” that “had previously been ignored” and the ability of aggrieved actors to persuade international actors “of the claim’s import and its validity as a distinct right” (Bob 2009: 3). However, as I will discuss below, such research has largely elided the political nature of norms and their relationship to contemporary historical conditions.

One key respect in which my analysis differs from existing analyses within the
norms literature is thus the way in which I operationalize the concept of interest, which in this case is “LGBT Rights.” Analyses within the norms literature have conventionally operationalized a norm of interest in terms of a common policy outcome. Analysis is then undertaken to explain why states with varied domestic institutional contexts come (or fail) to adhere to a norm thus operationalized. Such research has provided valuable insight regarding change at the international level that has been valuable both in terms of empirical and normative insight (See, e.g., Borzel and Risse 2013; Cardenas 2004; Cortell and Davis Jr. 1996; Fernandez and Lutter 2013; Finnemore 1993). My aim in this project is not to reject the value of such approaches _tout court_. Rather, this work will point to the weaknesses of these approaches in assuming the content of a norm _a priori_. I argue that that a norm regarding LGBT rights will be articulated in diverse ways which depend on contextual political conditions. Thus, existing work needs to be supplemented with work that takes the content of a norm as an empirical question to be assessed rather than an assumed social reality.

How then should we begin an examination of LGBT rights at the global level? In this project, I argue that understanding the visibility of a norm regarding LGBT rights requires us to look at how norms function as boundary markers which delimit political opponents from allies. As boundary defining devices, they are only meaningful when _articulated_ in the context of a broader _political project_. This act of articulation forges a relationship between a contingent set of political identities and interests and orients them towards a common goal. In the context of LGBT political identities, I argue that these dynamics are intensified due to the fact that political claims are articulated in terms of rights, a moralizing claim that inherently delegitimizes opponents of a given political goal. By the conclusion of this project, I will show that the process of articulation is highly dependent on historical
context, and that the feminist tool of intersectionality should heavily inform research on contemporary norms.

In the remainder of this chapter, I will begin by outlining the existing literature on norms. I will then outline the elements of my approach, which have their origins within the politics of rights and democratic theory, which will be followed by a discussion of intersectionality and its relationship to an analysis of norms. This will allow me to formulate three research questions regarding the emergence of LGBT rights. I will close by discussing my cases, method, and chapter outline.

1.1 Norms: Existing Approaches

Because of the extensive work on human rights undertaken by constructivist scholars, I turn to their work as a potential framework for understanding debates about sexuality and human rights in contemporary global politics. At first glance, such a turn makes sense because of the compelling theoretical and empirical accounts produced using this framework. While constructivist work is quite diverse, it has tended to converge on two key themes (among others): the importance of extant norms in explaining the behavior of actors and a focus on processes by which norms change. In their examinations of normative change, constructivists have brought political processes to the fore (Finnemore 1996), which is especially important because of my emphasis on the politics of sexual rights. Constructivism has also been centrally concerned with explaining the expansion of human rights norms at the global level (e.g. *inter alia* Risse, Ropp and Sikkink 1999; Donnelly 1998; Cardenas 2004; Sikkink 2011).

Constructivist perspectives often frame political change in terms of the diffusion of particular norms which regulate the behavior of social actors and
diffuse throughout the international system over time. The central assumption of this approach is that political actors adhere to rules (norms) that constitute their identities and link them to particular ways of acting, by allowing actors to make sense of the situations in which they might find themselves (March and Olsen 1998: 951). Constructivists thus frame norms as “a standard of behavior” or “collective expectations for the proper behavior” of “actors with a given identity” (Finnemore and Sikkink 1998; Katzenstein 1996). There are two fundamental components to this definition.

Firstly, norms are seen as having a particular prescriptive content, as they impose exogenous social standards with somewhat fixed content for the behavior of actors. By treating norms as objects of analysis, much of this work either attempts to come to a positive understanding of the substantive or social content of particular norms or has taken the content of a norm for granted.\(^4\) The prescriptive nature of norms works through social processes such as argumentation or shaming which causes actors to behave in line with norms or due to internalization of a particular norm, whereby a particular norm becomes taken for granted by actors and functions even in the absence of social sanction.

Secondly, norms are based in a somewhat fixed conception of identity, meaning that the regulative aspect of norms is tied to actors’ identification with a particular social community. Insofar as an actor’s identity – and norms with which

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\(^4\)This tendency likely is largely due to the heavy Durkheimian influence in Constructivist accounts (Wendt 1999) – which even many constructivists seem to be unaware of. The Durkheimian treatment of “social facts” as positively identifiable and intelligible “things” is extremely similar to the constructivist treatment of norms (cf. Durkheim 1982b). As social theorists such as Lukes (1982) have long pointed out, this account minimizes conflict and power relations within society while also providing social facts a unrealistic degree of both internal coherence and social consensus.
it is associated – can be framed as out of step with actions that they have taken, actors can be coerced into behaving differently. Scholars have also argued that international actors care about how they are perceived by others; this means that agents may follow particular norms because of how this will make others perceive them in terms of identity (Tomz 2007). As such norms both constitute and are produced by the identities of agents (cf. Risse 2007). This can serve to create a somewhat dialectical understanding of the relationship between identity and norms, with identity becoming increasingly reified in analytical terms based on the extent to which norms are perceived as stable entities. In the extreme case, successful diffusion and “norm internalization” or “rule consistent behavior” implies an end point of final incorporation of a particular norm into the identities of actors across a political system, such that norms no longer are contested in any substantive way. As such, the constructivist view of politics is not one of an always endless problem of working through pluralism, but one that can often be understood in terms of homogenization and isomorphism (cf. Towns 2010).^5

^5Constructivist narratives about liberal human rights norms have been particularly influenced by sociological neo-institutionalism. This literature argues that crystallized cultural institutions establish certain social facts which become taken for granted by social actors, causing them to make meaning of the world in a particular way and leading to isomorphism within a culture. At the global level, contemporary politics is argued to be dominated by a somewhat coherent world culture based in an embrace of individual freedom and universal values (Lechner and Boli 2005). This world culture is seen as having an increasing level of importance in the identities of actors in global politics, meaning that norms (particularly liberal human rights norms) are widely accepted because of a common cultural identity (Elliot 2007). While IR scholars have drawn on this literature to explain the dominance of liberal rights, they have been rightfully skeptical of these accounts, particularly as they relate to a field that is ostensibly concerned with politics. While pointing to the important insights that constructivism could glean from world culture approaches, Finnemore (1996) has argued that the amorphous conception of “culture” within this literature, along with its all-encompassing nature and explanatory power, eviscerated the ability of scholars to empirically study the spread of specific
The concern with norm diffusion became reflected in work which moved away from the early agent-structure and meta-theoretical concerns and towards attention to how norms actually spread, with particular attention to strategy choices among political actors, persuasion by norm entrepreneurs, and the ways in which political contestation leads to normative change. This work thus devoted attention to how norms were spread by political movements and actors (Sikkink and Keck 1998; Finnemore and Sikkink 1998). Later efforts were more nuanced, providing attention to how norms spread over time, while also directing attention to the ways in which norms themselves could change (Risse, Ropp and Sikkink 1999; Acharya 2004). Here, the field saw the birth of a number of spacial metaphors designed to describe the political process whereby norms spread; norms were said to emerge (Finnemore and Sikkink 1998), cascade (Sikkink 2011), boomerang (Sikkink and Keck 1998), spiral (Risse, Ropp and Sikkink 1999), and diffuse (Archaya 2004). Other scholars have used biological models to argue that norms “evolve” over time, leaving only the strongest – liberal human rights norms (Florini 1996).

What these approaches have shared is a largely linear model of normative change in international politics. They have heavily relied on process tracing methodologies which attempt to describe, in a step-by-step causal manner, the reasons a particular norm spreads within the international system while providing positive descriptive accounts of the changes in content of a particular norm over time. Political contestation around norms is framed in dialectical terms, with changes in the content of norms being described in positive terms and as changing in a linear fashion. Examples of these models – a simpler model by norms.

\(^6\)One branch of research has attempted to redress this one-sidedness through
Figure 1.1: The “Norm Life Cycle” (Finnemore and Sikkink 1998) and the “Boomerang” (Sikkink and Keck 1998).

Finnemore and Sikkink (1998) and a more complex one by Sikkink and Keck (1998) – are displayed in figure 1.1. Because they provide such models, constructivist analyses might seem a good means of explaining debates over sexual rights in global politics and how these have resulted in substantive political change.

However, attempts to operationalize norms by fixing their meaning at particular

a utilization of the Habermasian concept of communicative action. These scholars have argued that human rights norms are often shaped within an international context that in some ways approximates an ideal speech situation, and that liberal norms have become dominant because of their argumentative or moral superiority (e.g. Risse 2000). Such a situation presupposes that power relations are sufficiently neutralized to allow free deliberation and that individuals are truly willing to be convinced of the better outcome. This allows for the claims about truth, morality, and the truthfulness of a speaker to be properly framed, with arguments that are superior able to prevail. Risse (1999: 554) argues that, in such arenas, human rights norms will prevail because they fare better within the “logics of arguing.” However, the assumptions expressed here are difficult to account for empirically and argumentative rationality seems a poor way of conceptualizing the debates over sexuality in global politics - in fact, these indicate the unsuitability of such an approach for human rights issues.
points in time becomes problematic in two ways frequently elided by conventional accounts. Firstly, they assume, at any given moment, that there can be substantial consensus over what the content of a particular norm is and that the spread of this fixed content can be traced in a linear fashion, illustrated (in more and less complexity) by the graphs above. As True (2011: 76) argues, norms “are not fixed rules, but are plural and dynamic in their content.” As such, the internal meaning of a norm is always being contested, and norms must be conceptualized as fluid and dynamic. Constructivist accounts, to be sure, have highlighted issues related to political contestation, but these are often limited to contestation between competing norms. A more politicized understanding of norm contestation is precluded by the assumptions about norms and identity within the literature. Accordingly, because of attempts to concretely operationalize norms with stable content, many constructivist accounts ultimately eviscerate politics, both in analytical and normative terms, from accounts of human rights norms.

Secondly, when it comes to liberal human rights norms, scholars often define the fixed content of a norm by unreflexively accepting its own claims about its content. Most notably, scholars tend to accept the claims of human rights norms – that they inherently promote individual freedom and oppose social forms of domination (cf. Brassett and Higgott 2003) – as if this is not claimed by other norms or as if liberal norms do not ever cause the reverse. Indeed, True (2011: 73) has recently pointed out that the constructivist literature on norms has implicitly produced liberal norms as “good things” which “bring states together to cooperate with one another” and “spread cooperative, liberal values throughout the international system.” Norms are often said to have intrinsic properties which explain their effectiveness – such as universalist frames that have cross-cultural appeal (e.g. Sikkink 2011), a basis in shared material experiences of “common
vulnerabilities to mental and physical suffering” (Linklater 2007: 136) or arguments that appeal to “human dignity” (Sikkink and Keck 1998). Certainly, such things can rightly be an object of scholarship, but should be properly framed as a particular (and contested) political conception of a norm, not as a foundational account of a norm’s content (Price 1995). With such claims accepted uncritically, human rights norms emerge as an unquestionable good in much constructivist literature, with an inattention to the heterogeneous effects that the invocation of the language of rights has – and the fact that human rights norms are implicitly political.

There are three distinct reasons for taking a more critical posture towards the claims of norms. Firstly, as social scientists have long pointed out, it is problematic to use the subjective accounts of individuals to explain social change in international politics, as these can often not be trusted or because individuals may not have an accurate understanding of the social forces at work in their decisions or the politics of norms (e.g. Durkheim 1982a). Secondly, it is problematic as a matter of course to assume that strategy or intentionality reside at the level of the individual. This is especially true of sexuality, as discussed by Foucault (1990); sexuality as a field of knowledge became organized by strategies that were reproduced by actions of agents, but were not necessarily directly produced or intended by individuals. Starting at the level of an agent’s meanings thus forecloses a larger realm of political contestation that is essential to understanding sexual rights. Finally, the relationship between normative prescription and actor identity is too mechanical in existing accounts; if normative change is indeed driven by heterogeneous contestation rather than linear diffusion, it means norms are always in flux and always reconstituting identities. As such, this problematizes attempts to analytically fix the content of norms or identity; as scholars such as Towns (2010) have argued, identities and the norms
they are tied to are both plural and contested.

Some scholars, recognizing the problems of treating norms as singular objects with fixed meanings have emphasized the dynamic nature of normative change in IR, exploring the political contestation glossed over by agent-driven norm diffusion models. For example, Krook and True (2010) have argued norms should be understood and studied as “processes” rather than objective social facts or “things.” This process involves both “internal” dynamism, or the meanings or strategies involved in promoting particular norms, and “external” dynamism, meaning interactions between competing norms, along with strategic alliances with other norms. However, such a consideration of norms as processes is confusing. Firstly, norms as processes are argued to cause other norms to emerge within this process; in this way the “norm-as-process” becomes a catch all to capture the entire political debate over normative change. Secondly, it fails to specify what exactly is distinctive about a norm as opposed to any other political process. The process of a “norm” as Krook and True describe it could largely be conflated with politics writ large. Indeed, an enduring problem with the norms literature is its continuing inability to say what distinguishes norms from other processes of political change.

1.2 Rights, Norms, and Political Articulation

It is important to note that I begin with a slightly different definition of norms than that which is conventionally used in the IR literature. The definition that is used there is largely functional in nature, telling us that they serve as “standards of behavior for actors with a given identity.” While this may be true, it does not necessarily tell us what a norm is, but rather what a norm does. I start from the
position that norms are a particular type of political claim with two essential elements. First, they attempt to constitute a form of social objectivity, by naturalizing a particular understanding of social reality and political alliance. This means they draw boundaries around different political identities, relying on the basic categories of “self” and “other.” Second, their claims are framed in moral terms — meaning that they come to be understood in terms of right and wrong rather than mere “interests” or “policy preferences.” In the case of LGBT issues, this is primarily manifested through the deployment of rights language.

Thinking of a norm as only a standard of behavior forestalls this sort of analysis, by focusing on norms as social rules rather than political concepts. Most importantly, it elides the liberal character of most norms that IR scholars have studied. Although liberal norms may differ along a number of dimensions,
they are unified in deploying the concept of rights as a moral means of justifying their prescriptive aspect. As such, I begin by examining what issues are raised by foregrounding the justificatory aspects of liberal norms and how this could help us to understand the spread of liberal norms. My ultimate argument is that the political aspects of liberal norms are often hidden by the language of rights. As I discuss below, refocusing on these political dynamics both transforms and complicates our attempts to understand the spread of liberal norms.

Consider the images in figure 1.2. Taken from the prominent American LGBT publication *The Advocate*, they present claims to LGBT rights which are inattention to the liberal aspect of IR norms is thus problematic.
representative of a broader set of political debates. The images take the idea of LGBT rights and link it to a host of other issues: free-market capitalism, bull markets, economic growth, and individual self interest. A simplistic analysis of these images would see an instrumental logic at work, one which says: “LGBT rights are good for business.” In this analysis, the business argument is seen as a framing strategy. As Chong and Druckman (2007: 104) note, “framing refers to the process by which people develop a particular conceptualization of an issue or reorient their thinking about an issue.” Thus, LGBT rights advocates might try to change opinion on issues of concern by, say, reorienting them from frames which utilize traditional morality to ones that emphasize business sense. According to the imagery presented above, claims to LGBT rights are broadly compatible with a drive for profits and economic growth, an assumption which LGBT advocates could knowingly harness to achieve their goals.¹¹

It is important to note that my argument takes a much broader view than such a framing analysis. While cognizant of the fact that actors strategically frame their policy goals in order to achieve them, I am more interested in how the issue of LGBT rights becomes oriented towards a broader political project of which it is a component. This means that an LGBT rights norms cannot be considered sui generis, but rather as inextricably intertwined with the conflicts of contemporary capitalism. Indeed, aside from this more obvious theme there is another subtext in the image above, one which morally validates LGBT rights precisely because it leads to greater economic efficiency and articulated a political alliance between Wall Street interests and LGBT individuals.

¹¹Such arguments have also been made in similar terms with regard to women's rights and economic development. See Ellis, Manuel and Blackden (2006); Goetz (2007); True (2011); Towns (2010).
Another important aspect of the images above articulates a norm regarding LGBT rights in geographic terms. They refer to the United States as the source of LGBT rights both explicitly in a map and implicitly in an image showing an LGBT tinge to American economic growth. Such imagery suggests an ahistorical ideal regarding the diffusion of LGBT rights. Key moments of achievement for LGBT rights emerged in heterogeneous forms across the globe, with the US rarely being the first mover (cf. *Lawrence v. Texas* 2003; *United States v. Windsor* 2013 contra *Dudgeon v. United Kingdom* 1981; *Minister of Home Affairs v. Fourie* 2006). Additionally, it fails to acknowledge the extent to which the US has exported anti-LGBT activism, as I will discuss in chapter three. These are points that could be elided in a conventional framing analysis. This analytical posture thus problematizes the constructivist view of norms as isolated “standards of behavior,” instead showing that norms are neither clear standards nor isolated, but must be seen within a wider frame of contestation which can not be discretely “broken down” into its subsidiary “projects” (cf. Canguilhem 2000: 372).

What then does it mean to say that a norm is political? In short, I understand this to mean that it embodies a particular claim of interest and relies on practices of boundary drawing. As formulated by Mouffe (1993: 50), “political discourse attempts to create specific forms of unity among different interests by relating them to a common project and by establishing a frontier to define the forces to be opposed, the enemy.” This process of linking claims to identities is what Laclau and Mouffe (1985) call “articulation,” understood as “the transformative combination of two or more discursive elements” (Smith 1988: 87). Norms, thus understood, are nothing more than a loosely defined set of claims until they become politically articulated, a process that links together a disparate set of identities within a common project.
A focus on political articulation begins with the assumption that political demands can be articulated by an infinite number of groups, and that no institutional context can satisfy this multiplicity of competing distinct demands (cf. Laclau 2007). The success of any goal requires the “simplification” of this political space in a way that links disparate aims into a single project and clearly defines opponents with incommensurable demands. The ambiguities which exist in political claims allow for linkages between claims to be formed, through attempts to argue that there is a sort of “equivalence” between various political claims (cf. Laclau and Mouffe 2001; Laclau 1996). I refer to these linkages as alliances. Perhaps the biggest point of departure between my approach and other approaches is to reject the assumption that norms reflect interests that are inherent to either humans as individuals or as they are organized into political groups (e.g. contra Wendt 1999). Rather, interests can only be constituted in the context of political acts that situate individuals and groups in relation to each other at particular historical moments. While constructivist accounts of norms

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12 As Krook and True (2010) argue, this requires attention to the external and internal dynamics which define political contestation over norms. In other words, both internal contestation about the meaning and content of particular norms about sexual rights and content contestation between and external to these are always a part of the existence of norms. Another external dynamic that requires attention is how particular articulations of norms about sexuality are placed into alliance with particular articulations of other (contested) norms. Krook and True (2010: 8) have argued that there is a “broader universe of norms-in-process, which offers a range of opportunities for [. . .] alignment and conflict,” meaning that conflict over norms within global politics involves multiple competing norms which intersect in various ways simultaneously.

13 This opens a space to acknowledge the role of what constructivists frequently call “agency” in these political processes (e.g. Wendt 1987; Onuf 2003; Shannon 2005). However, my use of the terms “act” and “action” represent a rejection of the understanding of agency most commonly used in this scholarship, and reflects the influence of Arendt (1998). While I do not intend a full-throated endorsement of Arendt’s conception of action, I think it captures aspects of human potentiality in IR
frame them as standards applicable to actors with a “given identity,” I argue that to speak of identity as “given” in our analysis of normative contestation is problematic (cf. Towns 2010). Contestation over norms instead implies that identity is always constantly being negotiated, both in terms of the subjects to whom a particular norm applies and how particular normative conceptions of sexuality reframe subject positions. As such, the nature of a norms makes them “indissociable from the very struggle about the definition [and] constitution of” a particular identity, which “can never be fully constituted and it can exist only through multiple and competing forms of identification” (Mouffe 2009: 56).

Political alliances both occur within and are reliant on a discursive context, which provides possibilities and limitations upon the practice of political articulation. I understand discourse as a reticular system of relations between a given object or action and other objects and actions (cf. Barros 2013; Laclau and Mouffe 2001; Foucault 1994). It is important to emphasize that I see norms as part of this broader context. Policies, laws, caselaw, and local practices are not reflection of norms qua norms, but rather are what I have described above as particular political articulations of a given norm.

The relationship between articulation and identity is essential as “any practice establishing a relation among elements” entails “that their identity is modified as a result of the articulatory practice” (Laclau and Mouffe 2001: 105). My argument is that the overarching problem in our common understanding of norms is the erasure of this political dimension; Norms are examined as “standards of behavior” without regard to how they are simultaneously political claims of interest. Against the tendencies of the norms literature, we must renounce “the fixation of [. . .] identities in a closed system” (Barros 2013: Location 556). As much better than the construct of agency has (cf. Allen 2002).
such, this project will utilize an understanding of politics offered by Brown (1995: 38) as resulting from “a condition of plurality and difference” within social life; politics is a collective process which allows for the production of “a world of meanings, practices, and institutions.”

Politics as a process is characterized by conflict and struggle because of “the constant implication of power among us – its generation, distribution, circulation, and effects.” Here, power is understood as an acknowledgment of a “relational modality,” or that various forms of power are “produced by complex relations across society,” which define the axes along which political contestation take place and also provide strategic advantages to particular sides within political struggles (Kelly 2009: 34, 40). In this view, norms are not simply “standards of behavior,” but are incorporated into the the political struggles of the age. Norms are thus part of a broader movement to enact what Mouffe (2009: 99) calls “social objectivity,” or hegemony, a political relationship

\[\text{14}\] Despite their sharp divergence on other points, there is a similar understanding of politics across many authors within the political theory and feminist theory literature that variously trace their influences back to authors such as Foucault, Marx, and Arendt. Though I cite these authors to buttress my arguments, this should not be seen as an attempt to diminish or ignore the disagreement these authors have across a variety of issues. For examples, see inter alia Brown (2001b); Mouffe (1993); Honig (1993); Norval (1996); Connolly (2002); Grewal and Kaplan (1994b).

\[\text{15}\] This contrasts with definitions of politics which have tended to follow one similar to that offered by (Weber 1946: 78), as “striving to share power or striving to influence the distribution of power either among states or among groups within a state.” For reasons noted elsewhere, the focus on the state is problematic; however political scientists of many persuasions have placed a great emphasis upon the centrality of power to defining politics - for example, Morgenthau’s (1985) argument that “power may comprise anything that establishes and maintains the control of man over man” and that “power covers all social relationships which serve that end” (cf. Almond 1966; Chapman and Scaff 1976; Dahl 1970; Eckstein 1973) Despite these broad definitions, the discipline has tended to focus on formal governmental institutions as the basis of studying politics. By doing so, especially in the context of sexuality, the study of politics risks simply mirroring existing political practice rather than critically examining and understanding them.
constituted through acts of power.”

1.3 The Politics of Rights

What does it mean to say that “gay rights are human rights and human rights are gay rights?” What justifies the claim made by those such as Hillary Clinton (2011) that states must respect LGBT rights, simply by virtue of the fact that LGBT people are human? And why are these arguments made through the language of rights, rather than in the countless other ways in which political issues can be debated? In short, these assertions use the term “rights” to indicate moral judgment regarding those things to which individuals should be entitled simply by virtue of their birth. As an entitlement, it is implied that rights should not be up for debate; rather, the political system should automatically provide whatever entitlement is demanded in the name of a particular “right.” This provides the moral underpinning of an emergent norm regarding LGBT rights framing opponents of LGBT political claims not only as political adversaries but immoral antagonists.

The key to understanding the spread of liberal norms such as LGBT rights is to not accept such claims at face value. Rather than accepting that debate over rights as motivated by altruism, I instead frame it as reflecting a political strategy which is deployed to vindicate a particular claim of interest. In making this argument, I draw from the literature on the politics of rights, a literature which has been developed most fully in US-based law and society scholarship.\(^\text{16}\) This literature has been centrally concerned with how the language of rights creates

\(^{16}\)This is a quite broad literature that overlaps to some extent with other literatures such as feminist jurisprudence or critical race theory. For broad examples, see Scheingold (2004); Silverstein (2009); Shklar (1986); Dudas (2008); Brigham (1991); Glendon (1993); McCann (1994). For a more extensive overview of this literature, see Paris (2006).
what Scheingold (2004) calls the “law-politics” distinction, or a sense that rights are somehow separate from and above politics. Such a concept might be more helpfully understood within human rights debates as a *rights-politics distinction*, meaning that the claim of “human rights” serves to legitimate a particular normative perspective and insulate it from political contestation. Indeed, it may be that the language of human rights as it is deployed in global politics reinforces this distinction between rights and politics even more than this US-centric literature emphasizes. Rights claims in the US have typically been validated by the extent to which they are essential to the “ordered liberty” of a democratic society (e.g. *Palko v. Connecticut* 1937). In contrast, human rights claims are purported to be fundamentally aimed at alleviating human suffering, acknowledging that while in some locales “liberal freedom may be some way off” human rights provide a way “to stop unmerited suffering and gross physical cruelty” with the “elemental priority of all human rights activism” being “to stop torture, beatings, killings, rape, and assault and to improve, as best we can, the security of ordinary people” (Ignatieff 2001: 173). Human rights language thus, claims Brown (2004: 452), “presents itself as something of an antipolitics—a pure defense of the innocent and the powerless against power” and rejects its labeling as political by appearing as a “moral discourse centered on pain and suffering rather than political discourse of comprehensive justice.” However, the language of rights – even human rights – can be and is deployed precisely because of its power in this regard; by focusing on alleviating suffering and promoting freedom, for example, rights language is “highly salient” while also having ambiguous meaning such that many “interests can be convincingly depicted as a function of one’s rights” (Dudas 2008: 6).

This context explains why many political claims are today made in terms of *rights*. As scholars have noted, the historical emergence of rights claims is
significant as the notion of “right” can potentially serve a transformative purpose, insofar as it allows the framing of one’s social location as resulting not from one’s merit or virtue, but rather the result of oppressive power relations that can be critiqued and transformed (Dudas 2008). As such rights are unique among the tools available for advancing normative positions within politics. Following the assertion of Lefort (1986: 259-260), I accordingly argue that “awareness of rights,” in terms of awareness of their social existence and transformative potential, is a key component of contemporary politics, with contestation centering on the content of specific rights along with what subjects may avail themselves of the “right to have rights,” to borrow the terminology of Arendt (1973).

In contrast to the assumptions of Risse, Ropp and Sikkink (1999), authors such as Stychin (1998: 17) argue that “there is nothing inevitably progressive about rights” and “the outcomes of rights discourse are a result of political, legal, and historical context,” which means that the “power of human rights” can be utilized within different sorts of strategies and result in a wide variety of effects.17 As Brown (2004: 452) argues, even if we accept the “avowed” aims of human rights, their deployment “negates other possible ways” of achieving those ends. For example, by articulating claims in terms of particularistic, rather than plural, identity, human rights language actively negates or deteriorates other possibilities for political identity, and ensures that groups are defined “empirically, positivistically, as if their existence were intrinsic and factual rather than effects of [. . .] power,” which means that the language of rights ultimately ensures that the

17It is important to emphasize that I do not want to dismiss the idea of rights tout court, but rather repoliticize the way in which they are discussed by IR scholars generally and within political science more broadly. I would agree with Waldron (1999: 311) that politicization of human rights “is a sign - the best possible sign in modern circumstances - that people take rights seriously;” in other words, that my work is intended to build a fuller conception of rights and human freedom.
groups described and produced by them “will now become regulated through them” (Brown 1993: 399).\textsuperscript{18} This is not to say that these steps should be conceived as wholly negative, as these common identities often serve as a means of contesting political issues with a higher chance of success; however what this does mean is that human rights have effects far beyond their own stated primary aims.

One frequent misunderstanding regarding the politics of rights is that its depoliticizations only offer cover to those who use rights to make a given claim. However, a recurring theme of the politics of rights literature is that rights often serve to reinforce existing power relations within society. At its simplest, rights are often seen as a concession that serve to satiate political demands for equality without resulting in a major transformation of a given political or social system (Rosenberg 2008). More broadly, however, rights often reflect the logics

\textsuperscript{18}It is thus important to establish that awareness of rights can also serve to naturalize the identities that are mobilized by rights, as well as the concept around which these rights are articulated. As such, human rights claims about sexuality have served not only to naturalize historically contingent categories, such as heterosexuality and homosexuality, and identities, such as those embodied in the LGBT acronym, but also sexuality itself, which is turned into a locus of freedom, emancipation, and identity through the language of rights. This obscures how sexuality is itself not a natural category, but rather constituted by a contingent body of knowledge. This means that rights discourse perhaps has implicit ties to other historical projects deployed sexuality through reliance on naturalized knowledge claims, which resorted to problematic articulations of race, biology, war, colonialism, and liberalism itself which can be investigated within contemporary phenomena. Indeed, this is a linkage many scholars have articulated empirically, finding that there are certainly instances where these historical legacies of sexuality reappear in contemporary discussions of sexual rights (McCIntock 1995; Stoler 1995; Duggan 2002; Grewal 2005; Puar 2007). It also means that contemporary contestation over sexual rights cannot assume that the sexuality to which these rights is attached is indeed a fixed or natural entity. Ultimately, if sexuality is debated in terms of issue of rights, then, it seems that understanding the politics of these rights within global politics more broadly is key to making sense of these debates coherently.
embedded in the overarching relations of rule in which they are embedded (Williams 1992). Feminist scholarship has been particularly adept at uncovering similar uses of rights, showing how rights discourse often collaborates with, rather than critiques, the gendered categories of neoliberalism or colonialism from which sexism emerges (e.g. Fraser 2013; Alexander and Mohanty 1997; Grewal and Kaplan 1994b). Similarly, gay rights groups have often reproduced neoliberal relations of domination through political alliances forged to promote their political agenda (Duggan 2002; Puar 2007). Ultimately, invocation of rights language often fails at “transforming the activity through which suffering is produced,” due to the alliances forged in pursuit of rights (Brown 1995: 7).

1.4 Intersectionality and Normative Change

The exact contours of the political projects to which LGBT rights have become oriented will be the empirical focus of this dissertation. At the beginning, it is important to understand the discursive context in which a norm regarding global LGBT rights becomes articulated. Following Nancy Fraser (2009a: 98), I argue that one of the more important means of doing such an analysis is to foreground the relationship between a norm regarding LGBT rights and “the recent history of capitalism.” In the context LGBT rights, this move is especially important, as Fraser (2013: Location 284) argues, because “struggles against heterosexist misrecognition do not automatically threaten capitalism.” The question I therefore wish to pose is this – what relationship is there between the spread of a norm regarding LGBT rights and contemporary liberalism and capitalism? This argument goes beyond the simplistic idea that same-sex marriage and contemporary patterns of neoliberalism have prospered due to the same
environment or that late-modern capitalism has some indirect relationship with implementation of LGBT rights. Scholars such as Thayer (2009) and Gibson-Graham (1996) have pointed out the diffuse nature of political relations of rule within contemporary neo-liberalism. These power relations touch “not only what kinds of lives [individuals] live, but also how they govern and produce themselves as subjects” (Stern, Hellberg and Hansson 2015: 1). They must not be understood within a top-down model but rather as “scattered hegemonies” which are made possible by the mobility and adaptability of capital alongside subjectivities which, while manifested in a multiplicity of local instantiations, exist within the context of transnational flows and linkages (Grewal and Kaplan 1994a).

Adopting this stance makes intersectionality an indispensable tool for my analysis. This idea is quite simple — that people experience social power relationships based not on the isolated identity categories, but on how these categories intersect and intensify the effects of power in various subject positions. Developed first in women of color feminisms (e.g. Davis 1983; hooks 2000; Collins 2005), it is a concept that allows us to both consider intersecting identity categories and historicize them within the broader political struggles to which they are connected. A key failure of existing IR literature on norms is its lack of consideration of these dynamics. How often have we, for example, even asked how a given norm intersect with histories related to race, class, or gender? Or how a given norm intersects with the relations of domination of contemporary capitalism? In short, intersectionality allows us to come to terms with the diverse implications of power.

It is useful to think of intersectionality as providing two distinct ways of thinking through the empirical material I present. Firstly, intersectionality can be understood as a way of understanding how a norm regarding LGBT rights affects
differently situated individuals in terms of multiple identity categories, which are understood in interactive, rather than simply additive, terms (Bowleg 2008). In contrast to approaches which focus on singular identity categories (such as the category of LGBT people), it focuses on “intragroup differences” (Crenshaw 1991: 1242), a move which would highlight the differential ways in which a norm regarding LGBT rights affects LGBT individuals based on their social location. At the same time, it allows analysis of how this norm intersects with a variety of other identity categories in such a way that it affects the situation of other individuals (including non-LGBT individuals) who exist within the same set of power relations.

It is important to note that my employment of intersectionality as a tool is not aimed at understanding every possible intersection involving LGBT identity. Though it has been used to study all forms of identity, intersectionality’s most important and visible contribution is the theorization of the position of marginalized subjects (cf. Nash 2008a). On the one hand, this means that I have specifically focused on articulations of LGBT rights which intersect with gender, race, and class in this project, identity categories which have been significant to certain forms of oppression (such as colonialism) that are central to this project. On the other hand, this means that my analysis focuses specifically on the marginalizations that have accompanied the emergence of a norm regarding LGBT rights. For certain subjects, an emergent norm regarding LGBT rights has provided previously unimagined political inclusion and social acceptance. An intersectional analysis highlights, however, that these gains made in the name of rights do not occur in isolation. Making a claim regarding rights by necessity privileges a particular category of identity, with redress to be given to all individuals who fall within that identity category. Claims regarding LGBT rights, then, have the potential to isolate the issue of LGBT rights from other political
struggles in the areas of gender, race, and class. Such dynamics are why Merry (2014: 287) has noted, for example, that have been far more “amenable [in] promoting better governance than reducing inequality.” Making rights claims forecloses other ways of making political claims, which will have differential effects in local contexts.

Secondly, intersectionality can be used as a way of challenging the a-historicism of the identity politics which can become enmeshed within an emergent LGBT rights norm. An intersectional analysis begins from the premise that identity categories themselves, and the relationship and interaction between different identity categories, is an “open empirical question” (Hancock 2007). Properly historicizing the idea of “LGBT rights” requires that we see it in relation to other struggles (cf. Mohanty 1991), keeping mind that as a norm it is articulated in relation to a wide array of identities which become oriented towards a common project. Rather than taking for granted the unity of the category “LGBT” within LGBT rights discourses, an intersectional approach provides scrutiny to how this identity is politically articulated in relation to other identity categories in locally and historically contingent ways. In other words, it problematizes the idea that there is a pre-defined group of people who identify as “LGBT,” sharing a common identity and interest. Within particular contexts, the intersection of political claims regarding LGBT rights and subject position might even act as an exclusionary or normalizing force against the very category of individuals these claims are said to protect. As I will demonstrate in my empirical chapters, the articulation of a norm regarding LGBT rights thus entails trade-offs regarding the nature of LGBT political solidarity, particularly in the context of gender, race, and class.

In spite of these problems, historicizing the relationship between differently situated subjects also provides unique opportunities for political rearticulation of
“LGBT rights” that are missed when we focus solely on a global, universalizing framework. As was noted above, it is their universality that gives claims regarding rights much of their force in contemporary politics. Yet, there is a disconnect between the vision of a “unified modernity” expressed by the idea of “global LGBT rights” and “local actors, for whom particular histories and contexts are important” (Merry 2006: 3). In other words, focusing on LGBT rights discourse as a means of improving the lives of LGBT individuals through its homogenizing effects alone is suspect. Instead, it is by taking these universalizing claims and rearticulating or translating them into the local context that activists can achieve progress towards their goals.19 Here, intersectionality can be seen as a way to form “effective political alliances that cross identity categories” (Carastathis 2013). Thus, in the conclusion to this project, I will explore how particular political articulations of LGBT rights can represent a form of radical democratic practice that challenges the inclusivity of, and inequality within, both local social institutions and the broader discourse of LGBT rights.

These conclusions regarding the diffuse nature of contemporary relations of rule and the importance of intersectionality highlight the importance of seeking out sites that reveal the “material conditions” which structure both the lives of LGBT individuals and the forms of political solidarity that can be expressed by the idea of “LGBT rights” in “diverse locations” (cf. Grewal and Kaplan 1994a: 17).20

19Thus, as Crenshaw (1991) argues, the marginalized identities at the center of intersectional analysis “can instead be a source of social empowerment and reconstruction.”

20This point is made especially clear in the context of LGBT rights by Desai, Bouchard and Detournay (2010: Location 1025, emphasis added), who argue that “what may be needed as part of out LGBT and sexuality studies is [. . .] broader and multiple engagements with questions about how identities, theories, and epistemologies are produced, exchanged, marketed, and given values within multiple global, imperial, and colonial circuits.
The empirical work within this project thus specifically seeks out ruptures within the context of “global LGBT rights” in which the dynamics I describe above are particularly visible. As I will discuss in my chapter outline, will require examining texts from a wide array of cultural and political sources.

1.5 Research Questions, Data, and Method

Based on this framing of contestation over sexuality and human rights norms, it is now possible to formulate two empirical questions and one theoretical questions to be pursued by this project:

- How does the discourse of LGBT rights articulate political boundaries that demarcate political allies from opponents, and what are the effects of this articulation?

- To what political projects do the claims of LGBT rights discourses become attached in order to achieve success, and what are the effects of foreclosing the possibility of other forms of political alliance?

- How can examination of an emergent norm regarding LGBT rights which uses the framework of intersectionality help to reconceptualize how norms are understood?

1.5.1 Chapter Outline and Data

My analytical chapters are unified by an attention to the nature and consequences of the boundary drawing practices of LGBT rights. These practices are not only considered in the immediate context, but situated within a much broader historical account which emphasizes how a particular articulation of LGBT rights emerged.
out of a particular constellation of political forces. All three chapters highlight the contingent nature of our understanding of sexuality as a political identity category, which can interface with diverse political agendas at different points in time. As I will discuss in the conclusion, all three can be connected to the politics of gender, race, and class in contemporary neoliberalism.

Chapter two will focus on the articulation of LGBT rights in the context of the Israeli-Palestinian conflict. In doing so, it attempts to clearly explicate the dynamics involved in the boundary drawing of norms that is important to subsequent chapters by focusing on the pornographic film *Men of Israel*. This film was chosen because it makes the dynamics of interest to this project (intersectionality and political articulation) particularly visible, thus providing a useful backdrop for elaborating my framework. Here, I will probe how the issue of LGBT rights becomes attached to the boundary drawing practices of colonialism. This is done, firstly, by framing Israel as a modern society, while framing Palestine as a space which is primitive and dangerous for LGBT individuals. Secondly, racialized understandings of sexuality are deployed to market Israel to gay men in particular as full of attractive “Western” men and sexy soldiers, establishing relations of consumption between gay men and Israel. Finally, a narrative is constructed which frames solidarity between Jewish and LGBT subjects as historically oppressed peoples, with Palestinians posing a threat to the rights of both groups. As such, this framing links sexual rights to issues of sovereignty, much as articulated by Smith (2005). This chapter will be particularly mindful of Foucault’s (2003b) concept of politics as “war pursued by other means,” attempting to underline the precarious nature of the boundary between political struggle and violent conflict. Once we frame rights discourse as *political* it becomes apparent that as human rights norms spread they encounter other
political struggles into which they are likely to be appropriated. Within the Palestinian context they legitimate moral assessments which lead to violent intervention due to their *universal* and *moral* claims.

Chapter three will consider the emergence of what was officially called the “Anti-homosexuality Bill” in Uganda. This chapter is the most transnational in scope, highlighting how American members of the Christian Right (CR) allied themselves with Ugandan politicians and evangelical Christians to pursue anti-LGBT activism, after their progress was stymied in the US due to adverse judicial rulings. In this chapter I do not focus on the diffusion of a norm regarding LGBT rights to Uganda *per se*, but rather on transposition of the politicized identities that characterize US debates regarding LGBT rights into the context of Uganda. I situate this action within a broader historical context involving colonialism, linkage between opposition to homosexuality and national identity, a history of totalitarian rule, and development politics. While anti-LGBT political discourse in Uganda is often framed as anti-imperial or anti-colonial, I will close by arguing that it also reinforces relations of power endemic to contemporary capitalism, by reinforcing the legacy of colonial rule and shifting blame for the country’s problems onto an unpopular minority. Paired with the previous chapter, it highlights the contradictory ways in which global LGBT rights discourses intersect with colonial legacies. This particular case was chosen specifically for its strength in highlighting the differential effects that a LGBT rights with global reach can

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21The Western media often referred to this as the “Kill the Gays Bill.”
22It is important to note that I purposefully avoid the term “political homophobia,” which has become more prominent in IR literature describing such phenomena (e.g. Holzhacker 2012; Weiss and Bosia 2013). I take this stand for two reasons - firstly, the idea of a phobia implies a political pattern that is more individualistic than I wish to imply. Second, it implies that “fear” or “phobia” is a root cause of anti-LGBT activism, while the empirical reality is far more complex.
have within different locales

Chapter four will investigate the legalization of same-sex marriage in the United Kingdom, with a focus on the role played by the Conservative Party. I argue that the adoption of same-sex marriage cannot be understood without attention to the larger role played by marriage in late modern capitalism, and the specific discourses surrounding marriage in the aftermath of the austerity resulting from the 2008 global financial crisis. Marriage has been promoted by many proponents of austerity as a cure-all for many of the deleterious effects of austerity. Under this narrative, marriage can ensure that society remains strong when the government takes on a smaller role. Indeed, marriage is articulated as a superior form of self-regulation for social problems which is both more efficient and effective than direct government intervention. As such, many of those same forces which have supported government austerity have argued for the necessity of extending marriage to include same-sex couples. Simultaneously, support for same-sex marriage is argued to improve the public image of those who support austerity measures. In locales where same-sex marriage is a popular political cause, it can thus allow those who might be criticized for supporting cuts to government spending as supportive of values such as equality, inclusivity, and fairness. In doing so, it lays the foundation for a reinscription of social hierarchies based on race and class that are endemic to the contemporary policies of the UK Conservative Party. This particular case was selected for inclusion in this project because it highlights the ways in which political claims regarding LGBT rights can be appropriated by neoliberal political strategies and disconnected from political struggles related to class and race. It this serves as a useful entree in explaining the importance of intersectionality to our understanding of the enactment of LGBT rights.
The last chapter in the dissertation will summarize my theoretical and empirical findings, along with an agenda for future research. Firstly, I will discuss the overall empirical findings of the study. This will include an attempt to map continuities and discontinuities between the various cases to assess the current situation that characterizes debates over sexuality and rights at the international level. Secondly, I develop a theoretical contribution which will argue for the necessity of placing intersectionality at the center of our attempts to understand norms.

My analytical focal points, described in the chapter outline above, were selected because of the geographic, institutional, and topical variation. Reframing the spread of norms as a heterogeneous political process that, nonetheless, occurs at the global level requires looking at diverse ways in which norms can intersect with various historical legacies, cultures, institutional structures, and political conflicts. I have attempted to pick cases which highlight normative change at the global level, issues that are (seemingly) linked only to domestic normative processes, and cases that on their face involve transnational contestation over linkages between sexuality and rights. Making a compelling argument using the framework I have outlined requires attention to cases that display these differences. I have also selected particular texts of debates over LGBT rights because of their importance. Many of the cases involve debates over important legal principles, intervention by prominent actors within

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23 It is important to note that I use this terminology as a means of distinguishing this project from as a traditional case study. My “cases” are not entirely discrete and are not like units. I use it more as an indication that I am bracketing off different contexts for the examination of an emergent LGBT rights norm. In other words, I am exploring what Selby (2007: 332) refers to as “local sites, strategies and technologies of power pertaining to the international.”

24 As I discussed above, the discourse of “human rights” itself is part of what adds this global element to rights claims at the domestic level.
international politics, intersection with other materially important political processes, or extensive media attention; each text in these cases “must therefore be taken seriously as a political document worthy of analysis” (Shepherd 2008: 384).

I sought varying types of texts within these cases. In doing so, I contend that discourses over sexual rights must be properly situated within a wider context of power relations which can be made visible through empirical scrutiny of, among other things, “discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, [and] philosophical, moral, and philanthropic propositions” (Foucault 1980: 195). In these cases, discourses around sexuality are deployed in different types of sites, utilize different types of language, seek to influence different targets, and influence different fields of knowledge. While the texts share the commonality of linking sexuality and rights, they deal with fields as diverse as law, foreign aid policy, and issues of internal security. Further, they also differ by type, being made up of political speeches, court opinions, media representations, and cultural artifacts. To make an argument about sexual rights across such diverse sites, it is important to look beyond how it is manifested in discrete fields of knowledge and types of media; rather, I will be attempting to show how various texts interface with one another in order to show how they articulate LGBT rights within a specific discursive context.25 As Puar (2007: xv)

25I distinguish my project from some other works that have applied a different approach to textual analysis in IR, which has, at times, reduced discourse or discursive practice to texts. Or as put by Foucault (1998: 416, quoted in Selby 2007) “this ‘textualization’ of discursive practices . . . is a historically determined little pedagogy. A pedagogy that teaches the pupil there is nothing outside the text, but that in it, in its gaps, its blanks and its silences, there reigns the reserve of the origin; that it is therefore unnecessary to search elsewhere, but that here, not in the words, certainly, but in the words under erasure, in their grid, the ‘sense of being’ is said. A pedagogy that gives conversely to the master’s voice the lim-
argues, “assembling these varied and often disjunctive primary sources is crucial to countering the [...] the journalistic rhetoric that plagues those public discourses most readily available for consumption.” In other words, it is by juxtaposing these various types of sources that political contestation – and the discourses it harbors – are made visible; solitary texts, or solitary genres work to obscure the wider social relations implicated in particular texts (Weldes 2003).

While I believe they are the best means of assessing the questions of this research project, it is important to note the weaknesses and limitations of the approach and texts I have chosen. Because of the specificity of the phenomena these texts examine, they cannot reveal comprehensive patterns regarding the form that LGBT rights has taken at the global level. Additionally, within each chapter I look at the effects of a particular articulation of LGBT rights. It is important to note that none of the chapters attempts to create a comprehensive picture of the various ways in which LGBT rights comes to be framed in Israel, Uganda, and the UK respectively. Finally, their diversity is limited as I was confined to English texts that were readily accessible either in physical form or via the internet. This means my accounts are partial by necessity, though the texts that I have used in each chapter do provide sufficient support for the claims made therein.

Prime examples of this problematic understanding of texts as “discourse” are Shepherd (2008); Weber (1995); Campbell (1992).

26Some existing work does engage the question of LGBT rights in this way, but has done so by looking at delimited policy areas. See Kollman (2007, 2009); Friedman (2012).
1.5.2 Method

My method begins with the assumption that contestation over normative change cannot be reduced to a single moment or a single locale, a point made especially visible by issues related to sexuality. This means that one must be attentive to examining particular locales and their connections to transnational and global political processes, a point already clearly underscored by existing norms literature (e.g. Acharya 2004). To truly understand the totality of contestation over sexual rights in global politics, it is important to emphasize how particular alliances or strategies might be dependent on such spacial context. This allows particular norms or normative contestations to spread in peculiar and unexpected ways – for example, the ways in which “domestic” US religious debates and sexual politics have become contested in spaces such as Uganda because of rights claims, requiring that we re-examine what we think of as a “global” phenomenon (cf. Thayer 2009). Debates change over time, so it is important to map out the changing terrain over which this contestation takes place. In other words changes in debates over sexuality – such as the new emphasis on same-sex marriage – are concretely tied to changes in the universe of internal and external norm contestation, possible alliances, and particular strategies (McClintock 1995; Smith 2005; Morgensen 2010).

In light of the complexity of these processes, it was difficult to establish an *a priori* body of texts for analysis. Much of my analysis thus relied on what I will call a “textual snowball” approach, particularly in chapter two.27 Reflecting the

27Conventionally, snowball sampling is a non-probabilistic form of sampling in ethnographic work wherein “the researcher accesses informants through contact information that is provided by other informants” (Noy 2008: 330). This conceptually informed my approach to my texts, whereby I found them through references in other texts.
dynamic nature of my analysis, I often found the texts I used for my analysis through their specific mention in other texts or through references to broad ideas that led me to other texts.\(^ {28}\)

In addition, I obtained a large number of texts from keyword searches of Lexis-Nexis newspaper databases, which produced 2,691 results. From this broad sampling of news coverage, I winnowed down to the primary sources that are utilized and cited in each chapter. For chapter three, I utilized the “Major World Publications” database from 2004 until March 2013 and a narrower selection of African newspapers, which most notably included Kampala’s Monitor and New Vision from 1990 to March 2013. In chapter four, I utilized a search over major British newspapers\(^ {29}\) from 1980 to 1988 and 2000 to March 2013. I also examined microfiche copies of The Telegraph and print copies of the Spectator from 1987 to 1988 and the entire parliamentary record (Hansard) regarding the legal provisions I discuss in that chapter.

To analyze the texts from my cases, I utilize an inter-textual analysis to determine the ways in which the texts can be seen as fitting within a larger context of political contestation. An inter-textual analysis is marked by its assumption about the nature of texts; texts are not seen as “things in themselves,” but are only meaningful within their discursive context. The boundaries that make texts discrete (such as authorship, the oeuvre, and its physical bounds) are analyzed as effects power (Foucault 1972: 48). From this framework, texts are not seen as discrete entities, but instead as possessing intimate linkages to other texts, which

\(^{28}\)Though not as systematic as other approaches, my approach arguably provides access to a particular kind of knowledge not accessible through more conventional analysis. All of my primary sources are documented and cited.

\(^{29}\)These were the Belfast Telegraph, Daily Telegraph, Guardian, Independent, and Scotsman.
ultimately makes them intelligible in any social context, including IR (Weldes et al. 1999). Texts that seem to be a-political actually may have important political ramifications because of their relationship to other texts (Neumann and Nexon 2006). Situating texts within the context of a larger textual, institutional, and material context thus provides a means of situating them within a particular and historicized struggle over sexuality as a site of political power. This uncovers “the body of rules that enable [formation of] objects of discourse;” that is, how a particular set of texts provides the foundation for the “historical appearance” of the political contestation I will be dissecting (Foucault 1972: 48, emphasis added). Thus, my aim is to parse my texts in such a way as to create a larger picture that can frame contemporary struggles over sexuality and rights. To the extent that these texts facilitate a process of “reading-up” to examine global political processes, the overall method could be said to be one of discourse analysis.30

I begin with an explicitly empirical posture, understanding that analysis of texts

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30I think it is important to emphasize that my study will focus on “bracketing” operations and effects of power from analysis of how power is “controlled and administered by specific and identifiable agents.” This is not to say that the latter is not possible, but that I do not think it will frame an appropriate way to consider the concerns here (cf. Best and Kellner 1991: 70). I have considered alternative methodologies, and they would not be appropriate for this project. Interviews or ethnographic methods are inappropriate for two reasons. Firstly, because of time constraints, I have sought a methodology which will allow me to complete my project in a timely manner. Focusing on widely available texts will allow me to do this more successfully than an ethnographic study, which would require much more time commitment. Secondly, many scholars have highlighted the problem that in assessing how systems of meaning influence practice, interview based methods can cause actors to give post-hoc explanations for their actions; although I would like to look at these questions through ethnographic methods at a later date. Additionally, my emphasis on non-subjective aspects of governance leads to a suspicion of these methodologies for the project I am undertaking; my analysis is not necessarily interested in the meanings that individual actors attach to their statements, but the assumptions and strategies that are embedded in them.
can potentially reveal “comprehensive systems” with “decipherable aims” (Foucault 1990: 94-95).31 By studying texts, I will attempt to show how these are linked to particular “enabling structures, paradigms, and assumptions” which are produced by and productive of normative contestation in contemporary global politics (Desai, Bouchard and Detournay 2010: 47). However, this analysis is not designed to parse the understandings of sexuality or rights expressed by individuals within texts per se, but rather within texts as they relate to each other. This is important insofar as I conceive the power relationships embedded in these texts to be intelligible as both “intentional and non-subjective.” My analysis will begin not with the intentions of authors within various texts but with an attention to the assumptions linked to particular political aims and objectives that are expressed across texts, regardless of whether they are “subjective” or “non-subjective”, or whether they are intended or not. This analysis will be concerned with the objects at which texts are directed and the assumptions within texts about how to achieve particular ends.

Within this framework, I will begin by undertaking a systematic examination of different texts I have selected and asking questions about these texts both individually and in relation to other texts - for example:

- What assumptions does the text make, in particular about the relationship between sexuality and rights, and how does it frame opposing views, if at all?

31Indeed, much analysis in IR seems to gloss over or grossly misrepresent this research posture in Foucauldian analysis. It is essential to recognize, for example, the reaction against hermeneutics expressed in Foucault’s work. This work seems to neglect the fact that Foucault described himself as content to be a “happy positivist” if his work was characterized as “positivist” from the point of view of structuralist and phenomenological critiques (Foucault 1972).
• What sorts of political strategies organize practices embodied in specific texts, especially as they relate to rights?

• How might assumptions or strategies within this text be tied to its particular context?

• What similarities does this text have to others?

My approach is in apparent contrast to other textual work within IR undertaken through a critical lens. Many scholars have argued that “post-structural analysis emphasizes deconstruction of linguistic oppositions” (Fierke 2002: 334). Such a focus on language has led scholars to discuss a “logic of interpretation” that attempts to assess the “consequences of adopting one mode of representation over another,” which most indeed argue to be the mode of analysis offered by Foucauldian analysis (Campbell 1998: location 11, 125). Similarly, other scholars have argued that a Foucauldian analysis rests on analyzing a logic of representation between signifier and signified (Weber 1995), attempting to ascertain the historical conditions which made the production of particular representations possible (e.g. Dunn 2006; Peterson 2003; Shepherd 2008). As has been pointed out by several scholars, most notably Selby (2007), this has meant that critical IR focuses on a form of linguistic analysis that has little to do with the theoretical sources that it claims (cf. Kelly 2009). Because I use many Foucauldian concepts, I think it best to hew more closely to the type of analysis I present above rather than the linguistic analysis on offer in much of the IR literature.
1.6 Conclusion

This dissertation will present a novel way of looking at sexuality as an indispensable component of IR, highlighting its contested and politicized nature. It will also attempt to develop a coherent critique and re-conceptualization of norms in IR scholarship by bringing together several literatures that have received little attention in the field, along with an intersectional sectional framework influenced by feminist scholarship. Thus far, I have not discussed the consequences of the boundary drawing undertaken through human rights norms. The next chapter will underscore the very real and violent effects that a norm regarding LGBT rights can entail, which highlight the stakes involved when scholars tackle emergent norms in their work.
Chapter 2

PINKWASHED

“It is in the nature of every significant political project to ripple beyond the project’s avowed target and action, for the simple reason that all such projects are situated in political, historical, social, and economic contexts with which they dynamically engage.” - Wendy Brown (2004)

Imagine a video sequence that begins with an image of Jerusalem’s Western Wall on a clear, breezy day. In the foreground, an Israeli flag flaps in the wind. The video cuts to a long shot of four men walking across an urban street; two of them hold hands as several cars pass. The camera zooms in, focusing on the men from the waist up, while following from left to right as they continue to walk. The men wear untucked and partially unbuttoned shirts, showing their lean and toned bodies. After a few seconds, one man takes another’s hand and playfully bites it. The video cuts again to several men and one woman standing together facing the viewer. They smile and laugh as they shout, "Welcome to Israel!" Finally, the video cuts to two men kissing passionately while sitting outdoors. The camera zooms in on their bodies and faces, emphasizing the men’s unbuttoned shirts and muscular arms, and then continues to zoom while panning down to their clasped hands.

This forms the closing sequence of Men of Israel, a gay pornographic film released in 2009 that claims to be the first film of its kind to be made in Israel.
Men of Israel is directed by Michael Lucas, a dual citizen of the United States and Israel who is originally from Russia. His studio, which has won several industry awards, is one of the best known within gay pornography (Kirchik 2008). Upon visiting the Lucas Entertainment website, one can see Men of Israel listed among the "bestselling" DVDs. The film, comprising two discs, showcases an "all Israeli cast," accentuated by "authentic" screen names such as Avi Dar and Matan Shalev. The first disc contains the main film, consisting of five completely separate sex scenes that are not linked by a plot. Instead, transitions show the cast enjoying what is portrayed as "everyday" gay life in Israel. The second disc includes three solo scenes and a documentary in which the director explains his motivations for making the film. It also presents interviews with the cast, who discuss their lives as gay Israeli men. Men of Israel has received attention from journalists in venues as diverse as the Los Angeles Times, Haaretz and The Atlantic.¹ This attention has focused on the stated aim of the film, which is to show the "beautiful" side of Israel to gay Western men while building a political alliance between supporters of gay rights and the Israeli state. This prompts an intriguing question: how does this film's melding of public same-sex desire, erotic imagery, landscape and symbols of the State of Israel build these alliances?

To answer this question, I bring the film into conversation with other aspects of Lucas Entertainment’s attempts to market Israel to gay men, along with broader discourses regarding the occupation of Palestine. I start from the premise that Israel’s occupation of Palestine² is a form of colonization (Gregory 2004). In this

¹Kaminer (2009); Goldstein and Ramey (2009); Goldberg (2009).
²It is important to note that "Palestine" is a contested term. When referring to the occupation of Palestine, I am usually referring more specifically to Israeli occupation and settlement of the West Bank and Gaza Strip, though I also note the contested nature of boundaries throughout Israel and Palestine.
context, I understand colonization as a set of practices by which one group (colonizers) administers the political relations and/or territorial claims of another group (colonized). This requires, firstly, that the claims of colonizers be naturalized and depoliticized, so they do not appear open to contestation (Smith 2005; Morgensen 2011). It also entails articulation of a distinct boundary and hierarchy between colonizers and a native population, such that the colonized are seen as unfit to rule themselves (Mehta 1999). This hierarchical distinction, which is most often based on race, legitimizes what otherwise might be seen as colonizers’ "illegitimate access to property and power" (Stoler 2002: 24).

Colonization thus establishes "a relation of structural domination" based on the supposed homogeneity of the colonized as a unified group (Mohanty 2003: 18).³

Men of Israel defends the colonization of Palestine by appealing to the modernity of an Israeli state supportive of gay rights and the threat of "primitive" Palestinians presumed to oppose these rights. These claims about rights are an example of "pinkwashing," a term used by activists and scholars to describe political practices that frame colonial states supportive of gay rights as "humane" or "civilized"⁴ while simultaneously condoning the imposition of colonial rule against peoples who supposedly persecute LGBT persons (Puar 2011a).

Deployment of pinkwashing as a political tactic is made possible by the ascendency of "rights" as a means of articulating claims of sexual minorities at the global level. In a recent speech, for example, Hillary Clinton proclaimed that "gay rights are human rights," while asserting that the global community is becoming

³This does not mean that formal sovereignty marks the end of colonization. Struggles over political and territorial autonomy are a key component of the so called "postcolonial" context.

⁴I wish to acknowledge the significant activist work that has taken place on this issue, much of which cannot be included here. Examples include Puar (2011b); Meronek (2012); Samuel (2013); Schulman (2011).
more inclusive as states recognize these rights (Clinton 2011). Such invocations of rights are powerful, as claiming that something is a human right means it is not a legitimate issue for political debate. Rights present themselves as an "antipolitics, a pure defense of the innocent and the powerless against power" Brown (2004: 452). They are thus articulated as unquestionably "progressive," with opposition to rights seen as a form of moral backwardness, or borrowing Clinton’s formulation, a position on the "wrong side of history." Sexual rights in particular have come to function as discursive markers of modernity and social progress (Frank and McEneaney 1999; McEneaney and Ramirez 1997). These factors provide rights language with a high degree of saliency in contemporary political debates. However, the ambiguous nature of a claim to "rights" allows such claims to be used for diverse ends (Dudas 2008; Scheingold 2004). Ultimately, "gay rights" does not have any sort of "natural" or pre-given meaning. Rather, it comes to have meaning through linkages between gay rights and other political movements with different goals, and through arguments placing it in antagonistic opposition to other movements. Pinkwashing represents such an appropriation of gay rights language in support of colonization, one which forecloses the possibility of articulating a politics of gay rights that includes Palestinians.

Men of Israel thus exemplifies recent claims within feminist, queer and

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5 This assumption is prominent within scholarship dealing with rights in international relations, particularly in the literatures on norms and human rights. This scholarship often assumes that liberal human rights norms are inherently inclusive or takes the emancipatory content of "rights" at face value. (e.g. Sikkink and Keck 1998; Risse, Ropp and Sikkink 1999; Brysk 2013).

6 To be sure, this is not necessarily a "negative" aspect of rights, as it allows disempowered groups to successfully achieve their political goals (Lefort 1986).

7 Laclau and Mouffe (2001: 130) call this a "chain of equivalence," which they describe as a "logic of the simplification of political space." This allows the formulation of political alliances between groups whose goals seemingly have nothing to do with each other.
postcolonial scholarship that political alliances involving gay rights have come to play an integral role in colonial projects (e.g. Alexander 2005; Agathangelou and Turcotte 2008; Haritaworn, Tauqir and Erdem 2008). Men of Israel, however, does not simply instrumentalize gay rights. The justificatory aspects of pinkwashing, as articulated by the film, are ultimately extensions of colonialism’s depoliticizing and exclusionary logics. Thus, my central contention is that the film illustrates how pinkwashing uses gay sexuality more broadly to legitimate, reproduce and appropriate colonialism’s narratives and racial categories.

To explore these dynamics, I analyze the visual relationships within the film and their linkages to broader discourses about gay rights and the occupation of Palestine. I first examine how the film uses gay bodies to legitimize and depoliticize Israeli territorial claims. I then scrutinize the film’s use of gender and sexuality in creating a hierarchy between Israelis and Palestinians, which relies on racial foundations. Finally, I look at how pinkwashing appropriates this hierarchy to demobilize queer pro-Palestinian activism and naturalize a link between gay rights and the occupation of Palestine. Having established the exclusionary logics of pinkwashing, I will close by discussing the implications for scholars and activists deeply invested in contemporary global debates over gay rights.

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8These literatures, as well as my own work, are heavily indebted to postcolonial and women of color feminisms. See, inter alia, Collins (2005); hooks (2000); Mohanty, Russo and Torres (1991).

9This does not mean that gay rights as a discourse can only be used in support of colonialism. Many contemporary articulations of gay rights have also situated it within an anticolonial critique (e.g. Naz Foundation v. Govt. of NCT of Delhi 2009; Minister of Home Affairs v. Fourie 2006)
2.1 Depoliticizing Colonial Geography

Men of Israel opens with an extreme long shot, showing picturesque grassy hills and a distant shoreline. While exotic-sounding guitars and drums begin playing, the camera pans toward a hilltop overlooking this vista where two men kiss under a tent, a sequence that begins the first sex scene of the film. This depiction of gay male sexuality presages the rest of the film, which documents sexual encounters against several distinct backdrops, including desolate hillsides, an abandoned stone building and a peaceful city skyline. With few exceptions these landscapes are visible throughout the film, even during extreme close-ups capturing particular sexual acts. This might seem inconsequential, reflecting a simple aesthetic decision by the director. Yet, the film’s documentary explicates a motive for portraying Israel in this way, namely to counter the belief that Israel possesses a landscape dominated by violence and its visual effects. The film achieves this political goal by creating a representation of the "real" Israel by maintaining "the illusion of an actuality," and selling this product to Western gay men (Baudrillard 1995: 38).

Men of Israel relies on a dual logic to legitimate Israel’s territorial claims, which both emphasizes the modernity of Israeli society and the idea that Israel has a natural and uncontested claim to land. These dynamics are separately illustrated by the use of landscape within two particular scenes. The first begins with the skyline of Tel Aviv; the viewer sees tall, modern buildings, a crane, evidencing construction work, and a deep blue sea in the background. As the camera pans right, we see a slender man wearing only white underwear standing on a balcony. He faces away from the camera to gaze over the city. After a few seconds, a more muscular man comes from behind, wraps his arms around the first man and
begins kissing his neck. As the men turn to face one another, the camera pans left, filling the entire right side of the screen with two men kissing and the left with the city skyline. After a few moments, the first man begins performing fellatio on the second man, with this urban skyline still prominent. This panorama places gay men in the center of a modern space, characterized by a vibrant economy and urban sophistication. The second scene similarly begins with a scenic view, this time consisting of deserted landscapes surrounding the Dead Sea. As the camera pans right from high above the sea, we see two men crouching and kissing beneath a canopy, with their shirts unbuttoned. The camera captures the scenic setting and sexual activity simultaneously, often panning or zooming to keep both in view, and in this case presents beautiful scenery as opposed to urban modernity. The scene thus renders Israel as an idyllic uncontested landscape, a depoliticization that does not evidence the conflicting territorial claims or human suffering that are also part of this landscape.

Legitimation of Israel's claim to modernity manifests itself elsewhere throughout the film, extending beyond its ability to transform an otherwise "empty" landscape. One hint of this subtext is found in a newspaper article discussing the director's aspirations to "[market] the beautiful side of Israel to the world" (*IDF Soldiers New Attraction for Gay Tourists* 2010). In addition to releasing films, Lucas Entertainment organizes tours of Israel, which are explicitly aimed at gay men. The tours demonstrate that Israel is "not so different than Prague or Sydney or Palm Springs . . . all places to take a perfectly innocent gay-cation" (Hoffman 2009).¹⁰ Israel is not figured as a contested geographic space, but as a

¹⁰Of course, the latter two cities were founded within settler colonial projects, with the visibility of gay capital in these places made possible by the displacement of indigenous inhabitants, as it is in Palestine.
commodity to be consumed by gay men. The film’s documentary claims that gay men are welcome within Israeli society, and are afforded rights that surpass those in many developed states. Israeli modernity is not only marked by these rights, but also by the visible presence (with implied acceptance) of gay bodies throughout the film. For the Western gay man, Israel is figured as an idyllic space where he possesses rights and can relax, have sex and spend money. As a "gay-cation" destination, Israel becomes a space of social, commercial, technological and sexual modernity, claims that are visually materialized in Men of Israel. Israeli rule over occupied territories is legitimated by the quality of the society portrayed in these images. The presence of gay bodies, within an economically developed space open to outsiders (all signifying acceptance of liberal values), attests that Israel is morally and socially competent to administer the land it claims.

The film’s attempt to depoliticize Israel’s territorial claims is perhaps even more important. Men of Israel reflects an important turn within contemporary colonial practices, where gay male bodies serve as markers of colonial boundaries.11 However, the colonial power relations implicated by the film are well disguised because, in common with other pornographic films, it elides the social and political aspects of the subjects it depicts, presenting them as "images of people without social context or relations" (Bhattacryya 2009: 136). Men of Israel presents a series of disconnected scenes depicting encounters between gay men within a geography framed as "Israeli," which extends beyond the film’s title and the screen names of the actors. The landscapes are notable precisely because they are not distinctive, taking on the air of a generic destination rather than a

11In historical colonial projects, this role was often served by white heterosexual women (see Stoler 2002; McClintock 1995). Hence, the possibility for gay men to assume this role marks a remarkable historical transformation of the relationship between sexuality and colonialism (Morgensen 2011).
"disputed territory." The cityscapes could be from any coastal city, while other scenes could take place in any country with rolling hills and a Mediterranean climate. Presentation of national symbols alongside the sexual activity within the film's landscape encodes Israeli political claims; Israeli flags and the Star of David appear in transition scenes and during the closing sequences. Men of Israel not only unproblematically juxtaposes these national symbols with varied settings, but it also portrays gay Israeli bodies as if they simply belong in spaces that would be otherwise uninhabited.

Such a portrayal requires exclusion of images that might provoke questions regarding the cost of sustaining this geography. We are not shown impoverished Palestinian towns or the remnants of bombed out Palestinian homes in the wake of Israeli air raids. The film does not show bulldozed buildings and Israeli settlements built in their place or the poverty within the occupied territories, upon which the vibrant urban landscape of the film is constructed. Indeed, the evasion of a Palestinian presence is a key component of the film's agenda. Many scholars have discussed how the occupation of Palestine takes the form of settler colonialism, which involves the elimination or displacement of indigenous peoples so that colonizers can settle their land (Stasiulis and Yuval-Davis 1995). Contemporary Israeli settler colonialism is embodied by Israel's militarized occupation of, and construction of settlements within, Palestinian territories. While the violence of settler colonialism is an ongoing process, its ultimate aim is to "appear inevitable and final," such that settlement ceases to be something that can be politically contested (Morgensen 2010: 117). In Israel, construction of

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12This contrasts with forms of colonialism that rely on a minimal presence from colonizers and the continuing presence of indigenous peoples (e.g., Stoler 2002 contra Stasiulis and Yuval-Davis 1995).
"barrier walls" and "natural growth" of settlements are examples of this strategy. The appearance of finality is also produced by obscuring the visibility of native populations and the violence they experience. As settlers displace indigenous peoples, the settlers’ territorial claims are in turn naturalized by the "absence" of native peoples (Bergland 2000). Native subjects become figures of a bygone era, separate from the modern colonizers.

A solo scene in Men of Israel exemplifies such a strategy. The setting is an abandoned Jordanian military outpost within Israeli territory. The film’s documentary describes this outpost as now belonging to Israel after being "deserted" by Jordanians. This choice of words is telling, as "deserted" connotes a willful abandonment long ago, while the passive phrasing implies this desertion was not instigated at the hands of an aggressor. It decidedly does not indicate a forced exit from land whose ownership is still contested. The scene starts with a long shot from a window inside the outpost, showing an approaching man in a green IDF uniform and brown boots. The man stares at a desolate landscape of dry soil and stunted brush as he walks, and the camera follows, from left to right. As the camera pans from window to window, it captures the inside of the ruined outpost, showing walls with extensive cracks and stains. The man enters the building, and we see more clearly now that the building is empty and that the man is alone. After surveying the building, he begins to disrobe and we see he is wearing dog tags, indicating military affiliation. This portrayal is ultimately effective insofar as a complex political geography is (seemingly) reduced to a space for sexual pleasure. Utilization of a specifically gay body visually announces the inclusive modernity attributed to the Israeli uniform. The images on screen intimate that this building and the land where it sits have been empty a long time, and thus do not raise questions about the presence of an Israeli military body.
Any native peoples who might claim this space it would seem to have abandoned it long ago.

The obfuscation of history within Men of Israel reaches its most extreme point in the film’s second scene. Here, the camera is tightly focused on two men who are having sex in a stone building with iron bars over its windows. Though we see little of the building, it appears to be quite old and has structural defects. In a press release, the director describes this setting as "an abandoned village just north of Jerusalem" and an "ancient township that had been deserted centuries ago" (Lucas 2009a). One journalist, however, has pointed out that this statement is inaccurate, as the setting is actually a "Palestinian village that was ethnically cleansed by Zionist militias in 1948" (Blumenthal 2013). The film here not only creates a fiction that legitimates an Israeli presence on this land. The violence that led to an Israeli presence (and makes filming the scene possible) is ignored in favor of sex in a storied "ancient ruin."

The film’s documentary does disrupt the idyll of the film by discussing the risks that suicide bombers pose to Israelis and tourists. The director says that Western tourists in Israel fear these attacks might endanger them. Viewers are assured that a barrier wall being constructed around Palestine has been instrumental in keeping these threats "outside" of Israel. The film uses this dynamic to create a curious framing of life in Israel. Gay men luxuriate in a "modern" and "tolerant" Israeli society, protected from the "terror" lurking beyond the wall. Yet, there is no consideration of how exclusionary practices, epitomized by the barrier wall, permit enjoyment of prosperity and "rights" within Israel. This is especially striking because the commentary regarding the barrier wall directly precedes the documentary’s hagiographic description of gay rights in Israel. The film does not mention that the wall keeps gay Palestinians (along with all other Palestinians)
from enjoying these privileges; evidently, they are not the gay men who are
supposed to enjoy a "gay-cation" in Israel. Indeed, when gay Palestinians seek
asylum in Israel, they are often assumed to be terrorists using false claims about
their sexuality (Kuntsman 2009). This reinforces a stark dichotomy between "gay"
and "Palestinian" in discourses surrounding Israel's "gay cosmopolitanism," which
depends on eliding the rights claims of gay Palestinians (Stein 2010). Maintaining
the legitimacy of Israel's territorial claims requires that these contradictions go
unnoticed.

2.2 Gendering Racial Categories

Having established the means by which Men of Israel naturalizes Israeli claims to
Palestinian land, I now turn to how the film establishes boundaries between Israel
and Palestine by relying on the narrative it has already begun constructing about
Israeli modernity. The film's central strategy can be seen in the documentary,
where the director asserts that viewers will see "that Israeli men are hot, beautiful
— they are Western." It is easy to infer what the word "hot" means in the context of
the film, which visibly emphasizes a particular masculinity. Many of the men in the
film fit a hypermasculine stereotype quite well with large muscles, large penises
and traditionally masculine mannerisms. In both sex scenes and transitional
sequences, this imagery is juxtaposed with visible symbols of militarism, such as
dog tags and military uniforms. Such linkages to the military are mirrored in Lucas
Entertainment's tours, which take gay men to meet Israeli soldiers at an IDF base.
As part of the visit, those on the tour get a "memento picture with a sexy soldier
taken by a professional photographer" who "works with a lot of hot soldiers." The
"hotness" of these soldiers is defined in a media account, which says promotional
images for the trip depict "muscular men" (IDF Soldiers New Attraction for Gay Tourists 2010). One photo shows the director “hugging a man as both of them are wearing IDF uniforms.” Such images of masculine relationships, particularly in the military context, have long served as a basis of national identity in Israel (Kaplan 2006; Mayer 2000). However, it is particularly telling that film ties this "hotness" to what it presents as Israeli geography. Thus, the masculine identity of the Israeli is fused to the task of sustaining Israeli claims to land.

This portrayal of Israeli men as "hot" becomes even more notable considering its proximity to the word "Western." This suggests that it is precisely because Israeli men are "hot" that they are "Western," and vice versa. In this account Westernness is sexually normative (hot), while the non-Western is implicitly framed as sexually undesirable and perhaps deviant. The embodiment of this verbal linkage on screen in Men of Israel makes this more than simply a conceptual argument; it ultimately implicates a deployment of race, through bodies coded as "Western." Such a move is not, in itself, conspicuous. Pornography frequently exploits "sexualized representations" to perpetuate "white supremacy and racial inequality" (Nash 2008b: 61). Within the Israeli context, its significance runs deeper. Because of longstanding racism within Europe, which portrays Jewish men as feminine and non-Western, Israeli nationalism has long emphasized whiteness and masculinity as crucial elements of national identity. European anti-Semitism often caricatured Jewish men as deviant or threatening because of perceived femininity or degenerate masculinity (Gilman 1991). Thus, in creating a Jewish homeland, Zionism has been concerned with creating a "strong, healthy, proud, and heterosexual Jewish masculinity" to combat these stereotypes (Yosef 2004: 18). Westernness and/or "whiteness" were also a part of this ideal, manifest in government policies such as those expressing preference
for "light-skinned" immigrants (Kuntsman 2009; Yosef 2004). Men of Israel combines these narratives with homosexuality, allowing gay masculine/Western bodies to define the racial contours of Israeli society.

It is particularly telling that the feminine is elided here. In some ways, this is not surprising. The male soldier has long been framed as the ideal image of Israeli citizenship. Even among women, adapting to a masculinized culture is essential to achieving this societal standard (Enloe 2007: 75). Yet, while we are told about "gay rights" in the film’s documentary, the only examples we see are of gay men. Even the tours, which are not explicitly sexual, are only marketed to gay men, rather than lesbians. The absence of the feminine is thus conspicuous. We are never told what the "Western" Israeli gay man is created in contrast to. This absence of the feminine allows an implied contrast to the absent "non-Western" Palestinian man and a subtle maneuver equating "non-Westernness" with the feminine. Such moves are central to contemporary constructions of Muslims "as pathologically sexually deviant" (Puar 2007: 99). Men of Israel thus appropriates the feminized and disordered lens through which Jewish bodies have been viewed and implicitly transfers it onto Palestinians or other "non-Western" bodies.

The film provides some evidence of this feminization, despite the absence of Palestinian bodies. For example, the scene from the captured Jordanian military outpost involves an Israeli man ejaculating onto the floor of the outpost. In pornography, ejaculation onto a woman’s body reinscribes embodied gendered hierarchies, by visualizing the man’s dominance and virility alongside the woman’s visible humiliation in becoming a receptacle for his semen (Maddison 2011). This motif similarly frames the gay Israeli’s dominance over the outpost’s previous occupants. The film’s director commented on a similar display in the "abandoned" village, saying that its emptiness "did not stop our guys from mounting each other
and trying to repopulate it. Biology may not be the lesson of the day but these men shot their seeds all over the village" (Lucas 2009a). Through this joke about the gay Israeli's ability to repopulate an "empty" space, the virility of the gay Israeli comes to symbolize his superiority over the town's deceased inhabitants.

The film's exclusive focus on the gay Israeli man thus does more than simply overlook the existence and claims of the Palestinian. The deletion of the Palestinian also feminizes him by rendering him abject. This rearticulates a longstanding political narrative about Palestine, once curtly expressed by Golda Meir: "there is no such thing as a Palestinian people" (Jamal 2000: 36). Israeli settler colonialism has long been built on rhetoric that eradicates Palestinian national identity (Abdo and Yuval-Davis 1995). The landscape of Men of Israel has been cleansed not only of Palestinians, but also any hint of their claim to "abandoned" towns. This denial of agency facilitates Men of Israel's racial boundaries, by reinforcing the collective otherness and inferiority of Palestinians.13

2.3 Pinkwashing, Rights, and Political Alliance

Thus far, I have argued that Men of Israel frames the occupation of Palestine by producing a number of dichotomies between Israel and Palestine, such as modern/primitive, masculine/feminine, and Western/non-Western. I now return to the linkage Men of Israel creates between these narratives and the language of rights. This leads to an ultimate dichotomy of support for the occupation of Palestine due to Israel's support for "gay rights" versus opposition to guaranteeing

13This ties the film to the longer history of liberal thought in which masculinity was a tool used to determine who possessed political agency and who was a rights bearing subject. Conversely, femininity was a primary means of assessing who did not possess these attributes (Pateman 1988; MacKinnon 1989).
Palestinians (including gay Palestinians) the rights afforded Israelis. The increasing deployment of gay rights language by the state of Israel frames Israel as a progressive society that stands on the side of sexual minorities, in contrast to homophobic Palestinian Muslims who seek their death. Prime Minister Netanyahu recently argued this point before the US Congress, saying that "in a region where women are stoned, gays are persecuted—Israel stands out" (Netanyahu 2011). In this narrative, gays are perpetual victims of Palestinians, while Palestinians are teleologically read as primitive and violent, evidenced by ostensible opposition to gay rights. "Rights" are simultaneously understood as something Palestinians deny to gay men and as a form of political agency from which Palestinians must be excluded. Those who support Palestinian autonomy become opponents of "gay rights." Yet, pinkwashing arguably perpetuates the very system of domination (Israeli colonialism) that produces Palestinian "primitivity" (cf. Smith 2005). As put succinctly by Elia (2012, 58), by "denying Palestinians their basic inalienable human rights, [the State of Israel] remains above all the greatest purveyor of institutionalized violence and oppression for all Palestinians, regardless of their sexuality." A linkage between gay rights and the necessity of Palestinian colonization has neither a firm foundation nor incontrovertible logic. Even so, the moralizing language of pinkwashing circumvents such difficulties.

It is thus unsurprising that Men of Israel possesses indirect links to debates over pinkwashing. The film’s director is a frequent contributor to the Advocate, a leading source of gay news in the US, with most of his articles written in support

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14It is important to note that the language of "women’s rights" is used here with the same aim as "gay rights." Mohanty (2003) and Shohat (2006), among many others, argue that women’s rights have a longstanding role in justifying colonial rule. Pinkwashing is thus situated within a much longer history of linkages between gender/sexuality and colonization.
of the Israeli state. In one article, Lucas (2009b) attacks the activist slogan "queers for Palestine," and excoriates queer pro-Palestinian movements. He argues that in contrast to reactions against celebrities who use homophobic language, we do not see similar outrage against what he calls the "homophobia" of Palestine and "the Muslim world in general," and those he considers to be their apologists. Thus, the article complains that "we don’t get upset about organizations like San Francisco-based QUIT — Queers Undermining Israeli Terrorism — chanting their oxymoronic mantra, ‘Queers for Palestine’." Lucas says we should understand that "Queers for Palestine = laughable. Palestine for queers = horrendous torture and death." Throughout this article, Lucas derides the idea that "gay activists" could offer support for Palestinian autonomy, deciding that the only possible explanation is "overwhelming anti-Semitism." He concludes:

> It is common knowledge that Palestinians are violent murderers of gay people, so it isn’t misinformation. The new form of anti-Semitism is to be anti-Israeli, thus the support for Palestine and in correlation support for the deaths of gay people.

By this logic, if queer social movements oppose the Israeli colonization of Palestine, they could only do so because they hate the Jewish people and implicitly support the deaths of gay people in Palestine.\(^{15}\) This logic relies on mythoi embedded in Men of Israel that frame Israel as gay friendly and tolerant, while implying a space of alterity where homophobia is rampant. That Palestine lacks juridically articulated forms of gay rights encodes Palestine as inherently violent, which requires subjecting all Palestinians to colonial governance. Yet, this logic is ultimately contradictory, as it means gay Palestinians also must suffer

\(^{15}\)Such arguments are increasingly common, and include interventions by prominent scholars of queer theory and LGBT politics. See, for example, (Faderman and Rothstein 2011).
colonization, and thus deprivation of the "tolerant" space within Israeli society. It is precisely this dispossession affecting all Palestinian people (including gay Palestinians) that allows Israeli men to enjoy rights.

Rejection of a linkage between queer politics and Palestinian autonomy is a more explicit articulation of the abjection within the film. Dismissing the idea of "queers for Palestine" collapses Palestinian queers into a racialized category inseparable from Islamic fundamentalism. The actions of these Palestinians are seen as reflecting this stereotype, "rather than the Palestinian struggle for self-determination and statehood, an interest in progressive queer politics, or even a liberal humanist exegesis of desire" (Puar 2007: 17; cf. Kuntsman 2009). Simply arguing that Palestinians murder gay people both fails to acknowledge diverse Palestinian sentiments regarding sexuality and glosses over the reality that queer Palestinians have long engaged in simultaneous struggles against the Israeli occupation of Palestine and for freedom to express their sexual identity (Puar 2011a; Elia 2012). These arguments rob queer Palestinians of their agency through their deletion, a deletion produced in Men of Israel itself. The film thus does more than undermine and neutralize pro-Palestinian queer activism through ostensibly "universal" rights claims. It articulates the necessity of an alliance between supporters of gay rights and the Israeli state against a feminized racial category called "Palestinians." This category includes gay Palestinians who are always seen first as Palestinians and therefore homophobic terrorists, foreclosing the possibility of any politics of gay rights that includes Palestinians. This exclusion undermines any insistence that the "rights" articulated through pinkwashing are either "inclusive" or "universal." Posing this claim in terms of rights, however, delegitimates any opposition. Paradoxically, opponents of Palestinian colonization can be labeled as morally misguided at best, or antigay
and anti-Semitic at worst.

The dichotomies mobilized by Men of Israel and pinkwashing campaigns related to Palestine thus have far-reaching consequences. Fanon (1963) argues that colonialism requires fabrication of colonized subjects, who are framed as inevitably antagonistic toward colonizers. This colonized subject is a threat to the colonizer, as he represents "not only the absence of values but the negation of values" (6). Colonization is ultimately "characterized by [this] dichotomy it inflicts upon the world" (10). The dichotomy between an Israeli state with "modern" values and the "murderous" and "homophobic" Palestinian is so neatly drawn in Men of Israel that it frames all Palestinians, no matter their sexual identity, as irretrievably immoral. That pinkwashing requires such a blanket categorization of a people means that its logics are inescapably racialized. Lucas has claimed that by commodifying and marketing his "beautiful" vision of Israel he is doing "what the State has not been smart enough to do" (IDF Soldiers New Attraction for Gay Tourists 2010). Yet, Men of Israel is only nominally concerned with selling a product, or the State of Israel as a destination. Its greatest conceit is transformation of racialized categories into a commodity designed to be highly desirable and erotically appealing.

2.4 Conclusion

Men of Israel encapsulates the complex logics of "pinkwashing" in Israel's continuing occupation of Palestine. Pinkwashing is grounded in claims about "rights" that appear inclusive and apolitical, but which conceal political alliances dependent on racial categorization. This depoliticization is easily read within a contemporary depoliticization of gay rights as "universal," even though these
rights can be used to achieve political exclusion. In marketing an alliance between "gay rights" and Palestinian colonization, the film enlists gay men in articulating the racial and sexual agendas of settler colonialism (Puar 2007; Abdo and Yuval-Davis 1995). This film thus confirms Morgensen’s (2010: 121) prediction that "we will see that if non-Native queers become sexual subjects of life, they will do so by joining a colonial biopolitics of modern sexuality that functions to produce modern queers as settler subjects in relations to native peoples," in this case by providing legitimacy to Israel’s occupation of Palestine. Men of Israel accomplishes this through deleting the Palestinian from an Israeli landscape, and displaying Israeli men as sexual and political agents against this abject and feminized Palestinian.

Men of Israel highlights how in Palestine there is "nothing 'post' about colonialism at all" (McClintock 1995: 12), with the language of "gay rights" playing an integral role in sustaining colonization. This film should make us pause to consider how the political alliances mobilized by pinkwashing require racialized understandings of citizenship and geography. Pinkwashing’s imperative that one group of people must be subject to colonial governance imposed by another demands racial dichotomies between the "moral" colonizer and "homophobic" colonized. This demonstrates why examining the contradictions inherent in

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16Many scholars argue that such exclusions are not simply problems in the deployment of rights. Pateman (1988) and Mills (1997) argue that racism and sexism are part of the original conceptual schema which informs debate about rights today.

17Palestine is, of course, not the only context where "gay rights" encounter colonial practices (e.g. Cheney 2012; Alexander 2005).

18Deployment of rights outside the colonial context can create similar difficulties. Scholars such as Towns (2010) have argued that norms in international relations have power precisely because of the hierarchical relations they establish. Rights language can certainly also exploit these hierarchies. As such, similar critiques could apply to other situations where rights are deployed.
using "universal" rights to justify colonial rule is indispensable in the current moment. Scholars and activists must be attentive to the logic a particular articulation of "gay rights" invokes, rather than assuming its emancipatory character. As Brown (2004) argues, all political movements dynamically engage with their historical, material and discursive context. The character of such engagements must be an empirical question, rather than an assumption informed by the liberal zeitgeist. Men of Israel foregrounds how "rights" depend on historically contingent articulations of exclusion and belonging. This realization does more than allow for a more accurate portrayal of what we call "gay rights." Sites such as Men of Israel reveal the tensions within contemporary colonial processes at the intersection of race, sexuality, gender and rights, allowing us to question "more fully what joins racisms, biopolitics, and modern states" and write histories "that nourish reversals, recuperations and insurrections" within these tensions (Stoler 2002: 161). In the age of "gay rights as human rights," this begins by reflecting on what alliances and exclusions our deployments of rights presume and create.
Chapter 3

“NOW ABLE TO RETURN THAT BLESSING TO THE WEST....”

Pain—has an Element of Blank— / It cannot recollect / When it 
begun—or if there were / A time when it was not—
It has no Future—but itself— / Its Infinite contain / Its 
Past—enlightened to perceive / New Periods—of Pain.
-Emily Dickinson

On October 13, 2009, a bill was introduced in the Ugandan Parliament which supporters argued would strengthen legal prohibitions on homosexuality in that country. Officially titled the “Anti-homosexuality Bill,” it soon came to be known in the Western media as the “kill the gays bill,” because of its provisions allowing the death penalty for the crime of “aggravated homosexuality.” Though Uganda has a long history of using the law to target sexual minorities for physical violence and social exclusion, it was this bill that started a wave of panic within the Western press about what was characterized as impending threat to the LGBT community in Uganda. An incident which occurred in 1999 is emblematic of the previous form that these abuses took; in that case, five people were arrested by police, blindfolded, and tortured, with some of the prisoners raped. They were held for two weeks under the charge of attempting to founded a gay human rights organization (Getz 2001).

The introduction of the Anti-homosexuality Bill was preceded by activism
within Uganda by prominent Christian pastors from the U.S. who have been associated with the Christian Right (CR), most notably by a man named Scott Lively. For this chapter, I borrow a definition of the CR used by Herman (1997: Location 105), as a “broad coalition of profamily organizations and individuals who have banded together to struggle for a Conservative Christian vision in the political realm.” After Lively visited Uganda, a Ugandan MP was inspired to introduce the bill, citing the dangers of homosexuality discussed by Lively. As the bill came up for debate, it began receiving notoriety within the Western press, and many outlets framed the CR as the ultimate source of the anti-homosexuality bill. According to this narrative, after their aims were frustrated by US judicial rulings which made it nearly impossible for CR activists to enact their agenda, they turned to the third world to enact it, using local politicians as pawns.

In this chapter I argue that these narratives, while not untrue, elide broader political dynamics which were important to the success of the bill in the Ugandan context. A recurring theme of this project has been that LGBT rights rely on discursive boundaries which facilitate articulation of political alliances. The emergence of the Anti-homosexuality Bill should not be seen as simply a reaction to the success of the gay rights movement, but a continuation of the political contestation that has marked debate over gay rights in other locales. The force of this debate in Uganda highlights the transformational effect that the discourse of liberal rights can introduce to a new arena with a complex political history. As I discussed in chapter 1, articulation of these new alliances has as its prerequisite articulation of a common enemy to be opposed. Ultimately, I argue that the emergence of the anti-homosexuality bill was possible because these alliances were created through concerns over pluralism and human rights that are of great importance in contemporary Uganda, where homosexuals became easily framed
as the enemy.

This case thus raises some important questions regarding the effect of human rights norms. The norms literature has most often been concerned with the prescriptive content and regulatory effect of human rights norms—that is, the extent to which these norms cause actors with a particular identity to practice respect for human rights (e.g. Risse and Sikkink 1999; Simmons 2013). Yet, to achieve this, a norm has to rely on a boundary that separates those “good” actors who follow this norm from those who oppose it. Most often, those actors are simply framed as opposing a new norm, or forming part of a backlash (True 2011). Simply framing opponents as reactive elides the extent to which they are engaging debates on the same terms as supporters, and how their actions reshape the political alliances in play. In the context of Uganda, anti-LGBT activism does not emanate as an unbound critique from a point external to debates over LGBT rights, but mobilizes the very rights claiming practices that proponents of LGBT rights adopt. Ultimately, I will argue that opposition to LGBT rights in Uganda has relied on the politicized identities that are endemic to rights claiming practices of late-modern capitalism. In other words, the identities mobilized in a particular articulation of a norm constitute the terms of debate. Implicit acceptance of these terms entails complicity in reproducing extant power relations, at least to an extent. If human rights norms are seen in these terms, it problematizes the nature of norms as a truly transformational force.

Here I am inspired by Wendy Brown (1993) and her examination of politicized identity in the context of liberalism’s universal claims. She argues that the “I” of particularized identities is defined by its difference from the “we” which is the “universal” political community. In contemporary American politics, the “I” of particularistic identities “challenges liberalism’s ‘we’ as a strategic fiction of
historically hegemonic groups.” Yet doing so stabilizes liberal discourse, as it “reiterates the terms of liberal discourse,” since this challenge is one which seeks inclusion in the universal and liberal political community which is being critiqued (Brown 1995: 64-65). Further, these identities reify existing systems of domination insofar as they seek equality in terms of a universalized bourgeois ideal, thus linking rights claims to a “certain relegitimation of capitalism” (Brown 1995: 59). The implications of this reasoning are clear: though aimed at political emancipation, rights claims have a tendency to reproduce extant power relationships in the realm of identity politics and capitalism itself. They also, claims Brown, are founded on a sense of injury (what she calls wounded attachments), and can provoke a politics based on resentment.

As Brown (1993: 394) notes, her specific observations regarding late-modern modalities of power are, in part, “hewn more specifically to recent developments in political culture” in Europe and North America. The case of Uganda similarly highlights the importance of politicized identity in relationship to a universal community. However, what I would like to suggest here is that Uganda is, in many ways, the reverse of the situation that Brown describes. In Uganda, the particularistic “I” has been at the root of most political conflict. The idea of a universal political community (the “we”) is extremely frail, or non-existent. In this context, as I will discuss below, claims regarding “rights” or “human rights” have not emphasized protection of certain classes of people, based on their particularistic and politicized identity. Instead, the language of rights becomes a catalyst for the construction of a national “we” or universal “people” in a state with severe political and social cleavages. Rights claims made in terms of a particularistic “I” might be seen as both aberrant and as posing a threat to the political project of building a cohesive political community. Uganda presents a
case where the forging of a “people” has come at the cost of much violence and bloodshed which was caused in part by particularistic identities; this has, in some sense, created an environment which is particularly hostile to rights claims based on such identities.

It is in this context that CR activists import a language of rights that they have developed in the US context. In response to the success of LGBT activists in achieving their policy goals through the practice of rights claiming, CR activists develop a claim that their rights are being violated by the enactment of pro-LGBT policies. LGBT people become a fascist enemy who have taken control of American law and society in order to deny rights to Americans as a whole. I argue that it is transplantation of this particular narrative to the wholly different context of Uganda that accounts for at least a part of the violent response to LGBT people in Uganda.

This chapter will thus proceed with an initial examination of the forces that shaped the American CR activists who became influential in Ugandan debates over homosexuality and how their activism became transplanted to Uganda. I will then consider the context into which these claims regarding homosexuality were introduced, including why their introduction would provoke further hostility towards LGBT people. The next, crucial, section will undertake a detailed textual analysis of the anti-homosexuality bill that was borne from these alliances. It is my contention that this bill represents a political articulation of an alliance opposed to LGBT rights, one which by necessity was transnational in scope and lethal in effect. I close by considering connections between both the language of rights and politicized identities from the debates in Uganda and their relationship to existing global relations of rule.
3.1 The Christian Right and Anti-gay Politics

One of the most striking aspects of Uganda’s Anti-homosexuality Bill is its strange pedigree. Its internal logic is, in part, a reincarnation of a ballot measure from the 1992 general election in the state of Oregon. In this section, I outline the processes which brought US opponents of gay rights into alliance with lawmakers in Uganda, for the purposes of placing legal restrictions on homosexuality.\(^1\)

Transplanting culture war discourses used by the CR produces a unique impact within the context of Uganda, perhaps even one that was not wholly anticipated by the Americans involved.

The most visible CR figure within media accounts of the bill is an American pastor named Scott Lively (e.g. Gettleman 2010; Goldberg 2011; Kapya 2009). He describes himself as a pastor and human rights lawyer (Lively 2012a), but is most infamous for his activism in several political groups, most notably Defend the Family International and the Oregon Citizens Alliance. Lively’s involvement in gay rights debates reflects a particular view of the dangers associated with homosexuality, which bear a great deal of similarity to the views of other organizations within the CR. This activism is, at its core, motivated by a view that homosexuality is a sin condemned by God. It is said to be different from other sins because those who embrace it “have created a social and political movement to normalize and legitimize it” (Lively 2009). The gay rights movement is framed as systematic and conspiratorial, with the goal of recruiting children, seizing control of American culture, and persecuting potential opponents.

\(^1\)It is important to note that though I am arguing that the language of rights occasioned a turn to Uganda, I am not arguing that these rights were a bad thing. Rather, I am attempting to problematize them, to show the variety of effects they create.
Prior to 1996, LGBT rights advocates had been largely unsuccessful in enacting their agenda through either court cases or legislation. Even in those few cases where LGBT rights victories did occur, they were often repudiated by voters through referenda (e.g. *Baehr v. Lewin* 1993). Activists within the CR, including those who were key to the later events in Uganda, had been crucial participants in these battles. While motivated by religious belief, arguments against LGBT rights measures were mostly articulated through reliance on social science, historiography, and risks to public health. Lively has argued that what he calls the “pro-family perspective” is ultimately also able to be grounded in “empirical observation and logical deduction” (Lively 2012c: 86). Lively and others also argued that LGBT activists’ goals represented a threat to religious liberty, free speech, and other constitutional rights. By articulating the agenda of LGBT rights in this way, the CR would be framing LGBT rights activists as dangerous opponents who must be stopped with all the force of law. Such arguments within the CR are often based on a pragmatic attitude towards their religious imperatives. This stems from a recognition that building alliances which are politically successful requires reaching out to those beyond the CR, so that policy goals can be enacted. Indeed, Herman (1997) argues that one of the greatest changes over time in the anti-gay rights movement is the adoption of less “exclusionary” tactics in arguing against LGBT rights.

Lively has developed a systematic set of propositions to both explain why homosexuality exists and is dangerous to society. His primary explanation for the existence of homosexuality is society’s abandonment of men and women’s complementarity. While men and women are equal, they serve distinct functions. Lively claims that men have slightly more masculine traits and that women are slightly more feminine; nevertheless, he argues that men and women who are
“gender normal” should have both masculine and feminine characteristics. He argues that homosexuality and transgender identity are disorders resulting from individuals who adopt positions on either extreme of the gender scale, shown in figure 3.1.\(^2\) This evinces what is called the *complementarian* ideal in CR circles, the idea that men and women naturally have a different set of gendered behavior, a healthy balance of which is necessary for individual, family, and societal health. Within the CR, heterosexual marriage presents an exemplar of the complementarian ideal, with its balance of male and female, masculine and feminine. Homosexuality, of course, presents a direct challenge to this ideal, with a sexual relationship that is perceived as both unnatural and non-complementarian.

Lively’s historical research is another touchstone of his anti-gay politics. One of the primary concerns of this research has been to argue that the modern gay rights movement has its origins in Wiemar Germany, where Lively says homosexuality was rampant. In a book called *The Pink Swastika* (Lively and Abrams 2002), Lively argues that this ultimately manifested itself in the Nazi Party.

\(^2\)In the graphic, TS=Transexual, TV=Transvestite, MFH=Masculine Female Homosexual, EMH=Effeminate Male Homosexual
through two processes. Firstly, he argues that because Hitler was a “sexually twisted” leader, sexual “perversion” was an inherent part of Nazi ideology. Secondly, he argues that the moral confusion created by what he calls “acceptance” of homosexuality and gay rights had a deleterious effect on German society as a whole through the destruction of the family. Hitler was able to prey on this social decay to become leader of Germany. This work on the Nazis puts a particular emphasis on gendered concerns. According to this work, hypermasculinity was a particularly important aspect of Nazi homosexuality, which led to the violence and genocide practiced by the Nazi regime.

Lively has also emphasized his belief that homosexuality is a threat to public health. His book *Reedeming the Rainbow*, which frames itself as a “Christian response to the gay agenda,” claims that, at the individual level “homosexuality is associated with numerous mental and physical health problems” (Lively 2012c: 5). Among these are disposition towards bipolar disorder, obsessive compulsive disorder, panic disorder, intimate partner violence, and suicide. Lively also argued that homosexuals were more likely to have a number of diseases, most notably HIV/AIDS. This fits in with broader CR images from the 1990s, which Herman (1997: Location 739) says focused on “disease-ridden gay men,” whose danger to the public resulted from deviant sexual practices which left them “generally ravaged, physically and spiritually.” This justifies not only discouragement of homosexuality, but also legal restrictions on homosexual behavior, because of a supposed public cost and the direct risk to the individuals concerned.

*Lawlessness* is what Lively sees as the ultimate consequence of acceptance of homosexuality, with rebellion against legitimate authority a decisive factor in why people adopt homosexual behavior in the first place (Lively 2009). According to his views on gender, homosexuals inherently violate a natural order which
guarantees stability in society. In addition, during the early 1990's, Lively (correctly) argued that, by the very fact that they engaged in sexual practices that were illegal in many jurisdictions, homosexuals were flouting the law (cf. Carpenter 2012). Homosexuality thus is something which sets out a form of lawlessness that is a threat to the social order, particularly as homosexuals bring others on board their cause. For example, in 2004, when the city of New Paltz began providing marriage licenses to same-sex couples in contravention of New York law, Lively said it was an “example of anarchy for the entire nation” (Williams 2004).

While Lively’s “empirical” arguments are important to understand, in many ways his discussion of the goals of LGBT activism and their possible consequences is even more important. Much has been written about the interaction between rights and claims of interest in the context of conservative politics (e.g. Herman 1997; Dudas 2008; Brown 1993). A recurring theme is that members of the CR argue that gay rights are not “rights” in the conventional sense, but represent a form of illegitimate “special” rights. Under this narrative, homosexuals want to have special legal protections that no other group receives (See The Rochester Sentinel 1992). Further, these rights ultimately are understood to impinge upon the rights of those in the CR, as they might somehow cause individuals to be forced to act against their religious beliefs. “Forced” recognition of same sex marriage, or requiring Christians to comply with anti-discrimination statutes are examples where rights would supposedly be violated. CR activists also argue that the LGBT agenda includes the imposition of “anti-hate” speech laws which would ban Christians from saying that homosexuality is immoral. Thus, Lively argues that homosexuals will cause the Church to lose “its freedom of speech regarding homosexuality,” with the ultimate
goal of “smash[ing] the church and its influence to smithereens” (Family Research Institute 2008: 6).

As part of his political argument, Lively says that homosexuals seek to recruit more individuals to become homosexuals. This belief is rooted in the idea that since homosexuals do not reproduce and live shortened lives due to health problems, they must find other ways to populate their ranks and ensure acceptance of their agenda. Recruitment is claimed to occur through two mechanisms. Firstly, acceptance of homosexuality, including the idea of inborn sexual orientation, is promoted through the broader culture and by homosexual activists in local contexts. Secondly, Lively argues that sex itself becomes a recruiting tool. Lively argues that homosexuals encourage children to experiment with homosexuality and also personally groom children through sexual relationships. (Lively 1998). Both of these actions, argues Lively, will cause children to see homosexuality as natural and commonplace, falsely accepting that they were born as homosexuals.

It is important to emphasize here that homosexuals are not simply framed as a disparate group of individuals who happen to be fighting for the same goal. Rather, Lively and others in the CR frame them as a systematic movement intent on covertly infiltrating the power structures of society. In an activist handbook used by Lively in his international travels, he argues that “homosexuals have created their own alternate community which serves as a sort of network” and which “mimics society in every way” (Lively 2007: 7). This community infiltrates “regular” society through a number of channels. Gay pride encourages business to come on side, with its promise of tourism funds. Homosexuals seek employment in schools to push the homosexual lifestyle on both children and the educational establishment. In government, they seek to become assistants to
decision makers to influence their thinking. Finally, they seek to infiltrate churches to gain voting majorities that would overturn traditional church teachings. This CR framing of homosexuals thus sees them as a sort of fifth-column who will enact an agenda with deleterious consequences for society as a whole.

Lively sees the “gay agenda” as the ultimate goal of those engaged in “recruitment” and infiltration of societal positions of power. This agenda is concerned, in his view and that of other CR activists, with not only acceptance but the celebration of homosexuality. He thus argues that claims for “special rights” are designed to delegitimize voices which stand in opposition to homosexuality. As was discussed in Chapter 1, the goal of rights language is often one of delegitimation of political opposition, a goal of which Lively seems acutely aware. Lively’s work argues that while gay activists claim to desire “tolerance,” their actual goal is “supremacy,” a goal he refers to as “homo-fascism” (Lively 2009: 64).

Fascism is understood here to be “a political system whereby all opposition to and dissent from the government is disallowed and crushed.” Because this articulation of rights requires the involvement of the juridical state both in terms of articulating rights and enforcing them upon opponents of homosexuality, Lively’s work is directly concerned with the role of the state in the articulation of LGBT rights.

In order to combat most of these threats, Lively advocates an agenda that seeks to both criminalize homosexuality itself and prevent any legal recognition of homosexuality or homosexual relationships. Due to the threats homosexuality is said to engender, Lively argues that discrimination should be a tool available to his allies. Thus, he says that “if discrimination means choosing between competing rights based on a legitimate priority (the health of our children), we should discriminate” (Lively 1998). In doing so, this agenda moves from discussion of homosexuality as an abstract sort of threat to combating
homosexuals and their allies as antagonists in the political arena. Importantly, however, Lively argues that opposition to homosexuality cannot depend on vilification of homosexuals as people, saying that there needs to be “moderation in teaching disapproval of homosexuality” meaning that “our hostility should be directed at the ‘gay’ movement and its destructive agenda’ (Lively 1998: 8).

The primary means that Lively and other CR activists used to combat the “homosexual agenda” in these political struggles were proposed legal measures which would prohibit any protection based on sexual orientation or the “promotion” of homosexuality anywhere in a given state. This was a strategic choice by the CR; LGBT protections had been successful within urban areas, and there would likely be little chance to overturn them. However, by proposing ballot measures to an entire state, there was a much higher chance for victory, with voters from rural areas able to counter those from urban areas.

Measure 9 was a ballot measure organized by the Oregon Citizens Alliance (OCA), which in 1992 was led by Scott Lively. Measure 9 was placed on the ballot during the 1992 election using Oregon’s initiative process. The key elements of the measure were the following:

(1) This state shall not recognize any categorical provision such as "sexual orientation," "sexual preference," and similar phrases that include homosexuality, pedophilia, sadism or masochism. Quotas, minority status, affirmative action, or any similar concepts, shall not apply to these forms of conduct, nor shall government promote these behaviors.

(2) State, regional and local governments and their properties and monies shall not be used to promote, encourage, or facilitate homosexuality, pedophilia, sadism or masochism.

(3) State, regional and local governments and their departments, agencies and other entities, including specifically the State Department of Higher Education and the public schools, shall assist in setting a standard for Oregon’s youth that recognizes
homosexuality, pedophilia, sadism and masochism as abnormal, wrong, unnatural, and perverse and that these behaviors are to be discouraged and avoided. (Keisling 1992)

The text of the measure represents a large scale articulation of the arguments made in the CR's literature on sexuality. On the one hand, it argues that the state should not give recognition to non-heterosexual sexualities, by affording them “special rights.” The wording of the measure underscores this goal, with the use of explosive terminology such as “quotas,” which have conventionally been understood in American political discourse to represent an unfair form of recompense to minority groups. On the other hand, it sets out the supposed harmful effects of homosexuality, with the force of law used to “discourage” this behavior. Lively himself in a media interview said the measure was designed to prevent the government from teaching children that homosexuality was “a good choice.” (The Rochester Sentinel 1992).

The most notable aspect of the law is its subtle linkage between pedophilia and homosexuality. Many on the CR have shied away from making such claims outright because of their incendiary nature (cf. Herman 1997). Yet this law presents one of the clear and ongoing attempts by the CR to somehow link homosexuality with inappropriate sexual relationships between children and adults. The implication is that giving special rights to those who engage in “homosexuality” would open the door to the same being done for pedophiles. The media campaigns for the measure more explicitly made this linkage, attempting to create a clear frontier between decent Oregonians and threatening homosexuals who allegedly allied themselves with pedophiles. One emblematic TV advertisement in support of Measure 9 began by asking “just how inclusive is the gay agenda?” The video then displays a page from a local LGBT newspaper,
which contained a classified ad purchased by a group called the North American Man Boy Love Association (NAMBLA), a group which sought to counter societal disapproval of “consensual” relationships between adult men and minors. The ad argues that NAMBLA is “part of the gay rights struggle.” The ad concludes by saying “the gay rights agenda does include pedophilia” and that voting for the measure would “stop the gay rights agenda in Oregon.\(^3\)

Ultimately this measure was defeated in the 1992 election by 56% to 43%. However, Lively and the OCA continued to pursue other measures that would enact this program at the local level, a move that was eventually halted by state judges (See Beggs 1995). More significant was the fact that the OCA’s moves was part of a larger movement in the US to enact similar laws nationwide. Though not directly involved with its passage, for example, Lively was affiliated with a Colorado measure called Amendment 2. This affiliation included filing a brief defending the measure when it was challenged before the Supreme Court, thus utilizing Lively’s training as a lawyer. Organized through Colorado’s initiative process, Amendment 2 was spearheaded by anti-gay groups and put before voters in the 1992 election. Titled the “No Protected Status for Homosexuality Amendment,” it posed the following question to voters:

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\text{Shall there be an amendment to Article II of the Colorado Constitution to prohibit the state of Colorado and any of its political subdivisions from adopting or enforcing any law or policy which provides that homosexual, lesbian, or bisexual orientation, conduct, or relationships constitutes or entitles a person to claim any minority or protected status, quota preferences, or discrimination?}
\]

(Colorado Legislative Council 2012)

The effect of the measure was to nullify the non-discrimination or relationship

\(^3\)A copy of this video can be downloaded at https://dl.dropboxusercontent.com/u/93034962/oregon.wmv
recognition rights that several Colorado municipalities had provided to their residents, while also banning any such measures in the future. Similar to the case of Oregon, advocates pursued a strategy of targeting homosexuals as social deviants by arguing that that homosexuals want to “legalize pedophilia, promote homosexuality in public schools, legalize public sexual behavior, [. . . and] abolish the traditional family” (Nagel 1998). This was ultimately aimed at limiting the ability of homosexuals to use the political system to enact their own political agenda. As the Supreme Court said in striking down the law, it “withdraws from homosexuals, but no others, specific legal protection from the injuries caused by discrimination, and it forbids reinstatement of these laws and policies” (*Romer v. Evans* 1996: 627). The Amendment passed by 53% to 47%, though it never went into effect since its enforcement was later barred by the Supreme Court in *Romer v. Evans*.

The OCA filed an *amicus curiae* brief in *Romer* case, saying they had an interest insofar as they hoped to pass similar laws in their state. The OCA’s brief (Oregon Citizens Alliance 1996) in support of the measure is illuminating in both understanding the implications of the *Romer* defeat for the CR generally, and Lively in particular. It focuses on three general logics which the OCA believed supported the constitutionality of the law. Firstly, the OCA argued that Amendment 2 was enacted for legitimate reasons, namely to “protect and preserve traditional family values.” Amendment 2, in the OCA’s view, “accomplishes this in a very humane and progressive, and yet firm, but noncriminal, manner.” Gay rights groups were portrayed as having considerable power, which had enabled them to enact legal protections in Colorado’s municipalities. It was right, claims the brief, that the citizens of the state could respond to the dangers posed by such a group by enacting legal restrictions.

Indeed, for all the dangers cited by OCA, the implication of its statement regarding
non-criminal sanctions is that if anything this law is too lenient. A second reason
given was the ability of parents to control the education of their children. Here, the
brief deployed a toned down version of Lively’s “recruitment” arguments, which
stated that “children in the public schools [are subject] to indoctrination into the
viewpoint of gay activists, specifically that homosexual conduct is to be accepted
as a normal and acceptable lifestyle choice.” The OCA argued that its own
attempts to enact measures similar to Amendment 2, in order to prevent
“indoctrination” would be prevented if the Court ruled against Amendment 2.

The third rationale is perhaps the most important and revealing. The OCA
argued that the logic offered by gay rights groups in opposition to Amendment 2
would impede rights and contravene basic democratic principles. On the one
hand, they argued that the pro-LGBT arguments were not about fundamental
rights, but rather the creation of “special rights” that would not be accessible to
other groups. On the other, they argued that nullifying the Amendment would strip
supporters of similar measures of their rights. The OCA said that on the issue of
“homosexual rights, Americans have deeply held beliefs which have been
expressed through the political process.” It argued that there is a danger to
“Oregonians’ constitutional rights to the use of ballot initiatives [and] to free
speech.” Above all, there is a clear message that Courts should not use their
authority to impede the democratic passage of measures such as Amendment 2.
What is really at stake, in other words, was the threat that the lawless homosexual
poses to democratic government. This is a theme that runs throughout Lively’s
agenda, from his association of Nazis with homosexuality to his opposition to
“activist courts.” Of course, that the CR frames homosexuality as a threat to
democratic order is documented by scholars, particularly with reference to the
Cold War (e.g. Herman 1997).
The CR made similar arguments when the constitutionality of anti-sodomy statutes came before the Supreme Court in *Lawrence v. Texas* (2003). In this later case, a group headed by Lively submitted another brief before the Supreme Court, which defended legislatively enacted bans on homosexual sodomy. The brief asserted its own authority by invoking Lively, arguing that he is an “internationally recognized expert on the topic of homosexuality and society” (Pro-Family Law Center 2002: 1). The brief argued that the Court must uphold anti-sodomy statutes in those states that retained them. While several rationales are advanced in support of its position, the brief’s most relevant section argues that “public records identify” same-sex sodomy as “disproportionately costly” to society, as opposed to other forms of sexual practice. Among these risks were a “significantly greater threat to public health [. . .] especially regarding AIDS” and “mental health problems” (Pro-Family Law Center 2002: 7, 9, 11). Finally, the brief disputes arguments that homosexuality is either “genetic” or “involuntary.” Instead, it frames homosexuals as people who “deny their own free will and responsibility for dangerous behavior” (Pro-Family Law Center 2002). As with *Romer*, there is a general rejection of the idea that Courts should be involved in overturning the democratic choices of elected representatives.

If we view the CR’s campaigns against homosexuality as attempts to define a political frontier which would define homosexuals as enemies of both Christians and those who care about liberty or societal good, *Romer* and *Lawrence* largely turned this logic on its head. From the view of the dissenters, it was a case of the Court “adjudging those who oppose it *hostes humani generis*, enemies of the human race” (*United States v. Windsor* 2013: 21). Of course, it is not only in the

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4 These included claims that homosexual men were 727% more likely to suffer from bipolar disorder.

5 See also Justice Scalia’s dissent in *Lawrence v. Texas* (2003); *Romer v. Evans*
legal realm where this frontier has been defined in ways that are less than favorable to opponents of LGBT rights. Same-sex marriage has been legalized through both legislative votes and referenda, and public opinion has shifted towards majority support for same-sex marriage (See Becker 2014). The recent string of court victories for advocates of same-sex marriage would seem to cement the idea that the CR will have difficulty in ever securing its agenda.

Indeed, aside from the progress of LGBT activists in achieving their goals, there is one clear outcome of the success of legal cases to secure LGBT rights: activists within the CR are barred from ever seeking to enact what they see as their most important policies through the democratic process. The result of Romer means that a ban on “promotion” of homosexuality or a ban on enforcement of anti-discrimination statutes that protect sexual orientation can never be enforced in any locality in the US, even if CR activists managed to somehow get them approved by voters. The result in Lawrence also undermined a key argument CR activists had long made - that homosexuals were law-breakers because they engaged in prohibited sexual acts - as anti-sodomy statutes could no longer be enforced. After Lawrence, the law could no longer be used to enunciate moral disapproval of homosexuality by dint of a ban on homosexual behavior. But another move in Lawrence is more significant when considering the CR’s goals. In its opinion, the Court argued that sexual conduct between individuals of the same sex could be “but one element in a personal bond that is more enduring” (Lawrence v. Texas 2003: 567). This enshrined in law an attitude towards homosexuality that emphasized its positive attributes and allowed the Court to proclaim the dignity of these relationships in United States v. Windsor (2013).

(1996). This sort of view is on display throughout the dissents from the Court’s major LGBT rights decisions.
This idea turned on its head the goal of the CR, enshrining the moral acceptability of homosexuality. While Lively and others wrote furiously in reaction to the Supreme Court’s actions, there was nothing they could do. They were without further legal recourse and apparently consigned to live in a country where they could not pursue their agenda permanently.

3.2 Uganda: A New Front

For the CR, a movement that has so relied on a message that defined homosexuals as opponents, these defeats raised existential questions. Recent scholarly work has discussed that similar losses in the realm of abortion and women’s rights have caused the CR to turn to the global stage or foreign spaces which are more favorable to their message (Butler 2006; Buss and Herman 2003). It is no surprise, then, that anti-gay activists would do the same, and their decision to do so highlights the transnational circuits of contestation that characterize norms in IR. As will be discussed below, this underscores how the success of LGBT rights claims, through enactment of legal protections, does not result in an unequivocal victory, but shifts the political landscape in such a way that opponents are able to articulate new alliances within new locales.

3.2.1 Lively Goes to Uganda

As a norm regarding LGBT rights began to take hold in the US, CR activists were faced with a dilemma: how could they pursue an agenda that formed a central part of how they perceived their role in the political process, when that had been blocked by the courts and repudiated by the public? What followed was more than a simple backlash against this norm through the airing of frustrated political
grievances in the US. With this change, the coalition building strategies that had been employed by Lively and others in the CR became untenable. By looking to locales such as Uganda, activists such as Lively were able to reimagine the possible political alliances they could create. Lively directly connected his efforts in Uganda to his failed attempts to organize opposition to an anti-discrimination bill in Springfield, Missouri, a type of bill he refers to as a “gay fascism bill,” which passed with little opposition. In contrast to the US, Lively described Uganda as fertile ground for the causes of the US culture war. He frames the US and Uganda as though they are intricately connected, forming two fronts in a single global struggle. In this struggle, successes in places such as Uganda are seen to perhaps serve as an entree towards reclaiming success in states such as the US.

The activism of Scott Lively in Uganda predated the passage of the Anti-homosexuality Bill by several years. Lively first visited Uganda in 2002 at the request of Ugandan Pastor Stephen Langa (New Vision 2002b), due to his notoriety as a Christian activist. A published account (Lively 2002) details the events of this visit, along with perceptions of Ugandan society. What was surprising to Lively was how favorably his visit was received; he reports that his “arrival was covered very favorably” in a local paper, and that local newspapers around Kampala provided extensive coverage of his visits. In addition, he was sought out by radio and TV stations for interviews, with Lively saying that they were excited and “pleased” that he had come to help Uganda “resist the influx of [. . .] Western anti-family values.”

Lively describes crowds that attended his talks as numbering in the hundreds and as possessing great excitement at the prospect of hearing him speak. His popularity on this trip was such that he also

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6Indeed, I have found evidence of this coverage (New Vision 2002b,a), which indicates that this description was no exaggeration.
met with several local dignitaries, including mayors and community leaders. He noted that this was quite different than his reception in the US, where officials who feared public perceptions of his message kept him at arm’s length (Lively 2012b).

The available literature has documented how CR narratives have generally reflected a view of African societies as untainted by Western evil and receptive to their messages regarding both gender and sexuality (Buss and Herman 2003). Lively’s own account does more than frame Ugandans as sharing a fear of homosexuality’s deleterious effects; he describes Ugandans as being particularly “open to the gospel.” Later, they are described as “unlike any other people we have known. They are truly lovely people who will instantly break into a wide smile and treat you like family.” This is contrasted to a less welcoming American culture, a contrast explained by the “Christian love” in Uganda born out of a “genuine revival.” This language of kinship underscores the feelings of political solidarity felt towards Ugandans. He ultimately turned to discussing with a local city council the way in which law could be used to oppose homosexuality. In a more recent discussion, Lively praised Uganda for having a national holiday to celebrate opposition to homosexuality (his interpretation of the Uganda martyrs holiday) and celebrated how the president of Uganda led his nation in “repentance.”

In pursuing this political agenda, Lively used narratives that represented veritable carbon copies of the messages he used in the US. It is no surprise that Lively’s message would have great resonance in certain Ugandan contexts. Existing religious opinion was a key element in Lively’s success in Uganda. In one case from 2001, the leader of the Pentecostal Assemblies of God, in response to a report that one man in a Ugandan town had participated in a marriage ceremony with another man, said that homosexuals had “invaded” Uganda, and that Ugandan cities “had become like the biblical Sodom and Gomorrah” (The
Monitor 2001). Lively himself was proud to provide a Western “alternative” to liberal American churches (such as the Episcopal Church).

He actively distributed copies of *The Pink Swastika* and claimed that Ugandans (unlike Americans) were very interested in arguments which linked Nazis to homosexuality. He also claims to have received a very positive response to his claim that pornography led to homosexuality, child molestation, bestiality, and murders involving sexual assault (New Vision 2002b). His discussion of the relationship between health, social order, and homosexuality also were important elements of his attempts to build solidarity with Ugandans. On his 2002 trip, he told one newspaper that “when a society embraces God’s design for the family it breeds good health, strong communities, and and social order” (New Vision 2002b).

Lively extensively discussed his fear of what would happen if “the trend in Uganda is not reversed” through an “embrace [of] marriage and family” (New Vision 2002b). In particular, he expressed a fear that allowing homosexuals to gain any sort of foothold in Uganda would allow them to systematically advance their agenda, as he claimed they had in the US. Already he had warned of the dangers that activist judges posed to Ugandan regulation of homosexuality through their moves to protect the rights of LGBT Ugandans (See Center for Constitutional Rights 2012a,b). Preventing this would require that homosexuality be stopped at all costs, so that it could not gain further footholds.\(^7\)

\(^7\)This does, in part, make Lively’s claim that he did not support to death penalty in the Ugandan bill, and subsequent advice to Ugandan parliamentarians that they should remove itLively (2011), seem somewhat disingenuous.
3.2.2 “Returning that Blessing to the West”

It is a mistake to think that work such as that undertaken by Lively is important in isolation. Indeed, it represents a much broader trend of religious interchange between the CR and African Christians. Conservative American Christians have increasingly seen Uganda as a means of escaping the successes of LGBT rights, including successes within the Church itself. What this means is that the moves of Lively have not occurred alone, and there is a broader movement within the CR which sees Uganda as a place of spiritual refuge which must be protected from LGBT rights activists. However, it is again important to emphasize that this is not simply about the use of Uganda’s political and social institutions to the advantage of the CR, but an alliance in which Ugandan politicians and religious leader have their own aims (cf. Herman 1997).

One of the places where the linkage between sexual politics in the US and Uganda has become most visible is in the relationship among the churches of the Anglican Communion, which form a loose association based in their shared roots in the Church of England. The individual churches are organized at the national level, and the Anglican church is firmly rooted in countries that were formerly British colonies and were heavily evangelized by British Anglican missionaries. Each national church is wholly autonomous, and they are linked through their shared religious identity and frequent meetings involving the leader of the national churches. The churches which exist in the U.S. and Uganda are called the Episcopal Church and the Church of Uganda respectively.

The Anglican communion has historically been dominated by national churches from wealthy countries in the global north. The relative wealth of these churches has often meant that they provide financial assistance to the less
wealthy churches of the global south. Divides between churches in the global north and south are generally a result of the more culturally conservative tendencies of churches from Africa and Latin America.⁸ Differences over the ordination of women, abortion, and contraception were among the most divisive social issues, with the Episcopal Church often supporting the liberal side in these causes. As the Anglican Communion has its roots in the north, the churches from Africa have become increasingly important because of their growing membership and the atrophy of churches in the north. While congregations are shrinking in places like the Episcopal Church, they are still growing in Africa. The apparatus of the church in Africa has expanded to cope with these changes as well, which brought them new power. For example, at the 1998 Lambeth conference, bishops of color formed a majority of the bishops present for the first time.

These issues came to a climax in 2003, with the consecration of V. Gene Robinson as the first openly gay bishop in the Episcopal Church, a move approved by the church’s general convention. Robinson’s ordination was met with hostility not simply within the Ugandan church, but also within Ugandan political discourse. Thus, these religious struggles occurred in a larger political context. Praising the moves by the Church of Uganda to condemn Robinson’s ordination, the vice president of Uganda said that the acceptance of homosexuality was part of “the evils of development, the evils of industrialization and this sophisticated civilization” (BBC 2003b). The move was also contested by a minority of Episcopal congregations who did not accept the propriety of ordaining homosexuals, and were also more broadly dismayed about the state of the culture.

⁸The South African church is a very notable exception, where leaders such as Desmond Tutu have been especially vocal about issues surrounding women’s rights and gay rights.
wars in the United States. These congregations began discussing the possibility of their leaving the church, by seeking oversight from a different church in the Anglican Communion.

This resulted in a set of political and religious alliances between these groups, embodied in an alternative to the Anglican Communion called the Global Anglican Futures Conference, consisting of those bishops opposed to the recent moves of the more liberal churches. In breaking from the more liberal churches, the bishops of the global south said they were giving birth to a “post-colonial” church that stood in stark contrast to its English progenitor (Breyer 2008). The Ugandan Church has framed the encroachment of homosexuality, both in the Anglican church and Ugandan society, as a colonial force. More importantly, it is seen as a betrayal by the West with respect to the Christian faith brought to Uganda by missionaries (Kushaba 2013). Homosexuality, in short, comes to be read in the context of historical relations of domination and betrayal stemming from colonialism.

This has also caused what has been characterized by the US church as an “invasion” or “reverse colonization” of the territory of the American church by Africans. It is essential to understand that, within the Anglican tradition, a bishop is understood to have exclusive authority over the churches in one geographical space, and all diocesan bishops are usually only authorized to found and oversee churches in their own diocese. As the Episcopal Church has become more liberal on LGBT issues, however, many conservative churches have rejected the authority of Episcopal church bishops and begun asking bishops from other countries with more conservative Anglican churches to assume pastoral authority for their church. They have often turned to the Church of Uganda, and the Church of Uganda has begun consecrating American bishops to “[represent] the
Episcopal authority of the bishop of Uganda” (Allen 2004). Churches have also attempted to leave the Episcopal Church entirely and affiliate with African churches. This has included taking church property and assets as they break away. By doing so they, in essence, try to claim American property for a Ugandan church.

The tensions over homosexuality affected the large flow of funds that goes from wealthier American churches to poorer African churches in the Anglican communion. Anti-LGBT activism by African churches prompted American congregations to cut off funding to churches that were opposed to the ordination of Bishop Robinson. This threatened loss of funding did not deter the Church of Uganda, with its archbishop saying that “the West introduced us to the faith, but it seems they have run out of ideas on which way to go” (BBC 2003a). These alliances were unusual – as one priest put it, it was interesting to see how “conservative [US] bishops, who normally would not have much dealing with their African brethren, have made common cause with them over this” (Quittner 2003). Of course, in a typical dismissal of post-colonial alliances, these moves have largely been read as simply reflecting the instrumental “use” of Ugandans by US conservatives. Reflecting many of the news reports on this, an article from the Advocate quoted an “anonymous African born” minister who said that “The [bishops] in Africa are mercenaries who have been hired to fight a war, which in the U.S. they have lost” (Eleveld and Steele 2007).

This ignores the claims these moves are reflective of a broader struggle to counter colonialism. One of the breakaway African-approved bishops in the US wrote in the program for his installation as bishops that “there is a delightful irony in that a church that was founded by missionary efforts from the West is now able to return that blessing to the West” (Eleveld and Steele 2007). Another bishop
praised Uganda saying that “Uganda has become a haven for ecclesiastical refugees,” later adding that “we're looking to the Church of Uganda for spiritual protection” (Okeowo 2007). The bishops have further emphasized that they have a duty to provide a place for dissenting Christians who the Episcopal Church has failed to provide (Schjonberg 2007). Both Ugandans and the Americans who have allied with them have expressed an understanding of Ugandans which highlights their generosity, exceptionalism, and commitment to the church.

This highlights how opposition to homosexuality is framed as a form of freedom articulated in opposition to colonial practices. And it is important to note that, though the Church of Uganda often accepts the aims of their conservative American allies, it is not a one way relationship. The Ugandan church has thus contested in their own terms the criticism that has been directed at them from pro-LGBT Anglicans. Rather than being intolerant fundamentalists opposed to human freedom, they articulate their identity in terms of opposition to the decadence of Western capitalism. This contestation has extended to material practice, including a reversal of colonial power relations in both symbolic (church authority) and literal (claims to US property) terms. What this highlights is how we should not see actions of individuals such as Scott Lively as occurring in isolation. Rather, it is part of a broader pattern of activism involving the CR and Ugandan Christians with an emphasis on fighting homosexuality. These pre-existing relationships highlight particularly well the mutualistic character of exchanges between these groups.
3.2.3 HIV/AIDS in Uganda, US Funding, and “Abstinence Until Marriage”

Another piece that allows proper framing of the bill is the context of HIV/AIDS epidemic in Uganda during the past several decades. The most notable aim of recent US funded efforts in Uganda was to focus on sex education that promoted “abstinence until marriage” (AUM) by providing preferential funding to groups that promoted this message. The backing supplied for these initiatives gave Ugandan opponents of homosexuality funding to promote their agenda while also providing networking opportunities, which allowed for connections to be created between the CR and Ugandan religious leaders in particular.

The US government’s support for “abstinence until marriage” by definition excluded sexual minorities from programs related to sexual health, as they could not legally marry in Uganda (Cohen, Schleifer and Tate 2005). As such, it elides the experiences and needs of sexual minorities regarding a topic of great concern to Ugandan politics and society. This has been reflected in statements such as those issued by President Museveni, when he said in 2002 that HIV “goes through unprotected sex. We don’t have homosexuals in Uganda, so it is mostly heterosexual transmission” (The Advocate 2002). This reflects the overriding logics of AUM, which go far beyond privileging a view of sex education is ineffective (Cohen 2004). This renders the “homosexual Ugandan” or “gay Ugandan” abject. While it focuses on “waiting” for sex until marriage, it directly removes those who have same-sex sexual relationships from the national discussion of what can be done to combat HIV/AIDS. There is perhaps a deeper problem here as well, through the unspoken assumption that homosexuals, if they did exist, would be engaging in risky sex that would spread disease.

Perhaps more important is the funding provided by the Bush administration,
and the political capital they provided to those who shared their views on sex education. This funding made the exclusion of sexual minorities even more visible, as programs to combat HIV/AIDS ramped up. The essential function it performed was to simultaneously provide a platform and resources to those actors in Uganda who were virulently opposed to homosexuality. Funding from the US government went to groups who were spending it to promote anti-homosexual sentiment by, for example, publishing tracts decrying homosexuality as part of their efforts to promote abstinence (Kapya 2009).

US funding of HIV prevention programs has been very effective in establishing organizational platforms which have facilitated networks between the Christian Right and Ugandans. This involved, most importantly, a support of those programs which were seen as aligning with the values of the CR. Many prominent examples of this have involved praise for the First Lady of Uganda, Janet Museveni, who has been instrumental in both promoting AUM and discussing the dangers of homosexuality. One prominent example of this occurred in 2002, when Senator Jesse Helms praised Museveni for making her country’s HIV prevention strategy based around “biblical values and sexual purity” (The Monitor 2002). This speech was made before a conference for a evangelical Christian organization called “Samaritan’s Purse” run by the Rev. Franklin Graham, which was attended by Museveni, and allowed her to outline her country’s response to HIV.

These resources and visibility allowed Ugandan activists to travel to the US and establish contacts with the CR, ostensibly to talk about HIV. In 2005, Martin Ssempa (the Pastor who worked with Scott Lively) was asked to testify before Congress on how best to combat HIV in Uganda, because of his leadership of a group promoting abstinence. In the hearing his faith based approach was praised by members of the US Congress, including Representative Henry Hyde, the
chairman of the House Committee on International Relations, and Congressman Chris Smith. Ssempa used the hearing as an opportunity to appeal for continued funding of his group through PEPFAR (House Committee on International Relations 2005). He articulated how his organization believed that “the reasons why other Africans and Ugandans are dying is because of sexual promiscuity” (91). His main task in the hearing, though, was to argue that a US funded organization had focused too much on distributing condoms.

Later that year he traveled to California for a conference at Saddleback Church, hosted by bestselling author and pastor Rick Warren. This conference was attended by a number of evangelical grandees and members of the Bush administration (Blumenthal 2009). He discussed how he had “used educational entertainment as a means to communicate behavioral change” to university students, focused on “abstinence pride” (Baker 2005). He went on to characterize the HIV epidemic as a form of genocide. In an event a year later, he invited a noted evangelical pastor named Tom Mahaira to an abstinence promotion event that drew 30,000 attendees in a stadium (Belz 2006). These interactions received intensive media coverage even before the controversy over the anti-homosexuality bill, including on PBS’s Frontline (Anastasion 2007; Baker 2005). What these interactions highlight are the diverse organizational platforms created by PEPFAR funding which allowed collaboration between the CR and

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9Ssempa’s organization had received approximately $40,000 from PEPFAR.
10Of additional note is that Ssempa was questioned by Congresswoman Betty McCollum, who said she had read news articles about Ssempa, and wanted to know if the report that “you condemn homosexuality, pornography, condoms, Islam, and Catholics, and certain kinds of rock music, women’s rights activists—who you say promote lesbian—abortion, and the worship of female goddesses [sic]” was true” (House Committee on International Relations 2005: 133-134). Ssempa said the article was “full of misrepresentation” but did admit to burning a box of condoms at a university to promote abstinence,
Ugandans, far beyond the individual actions of Scott Lively. While his actions serve as an exemplar, they are part of a much broader social patterns.

While the strategies to combat HIV undertaken by the Bush administration are certainly exclusionary, it is useful to consider what their effect might be when they are coupled with arguments such as those made by Lively and other members of the CR. By implicating promiscuity in the “genocide” created by HIV, this produces non-heterosexual individuals as a particular threat since, by definition, they cannot practice the abstinence required by this framework. Coupled with the teaching of Lively, this frames homosexuality as a paramount threat to public health and potentially one root of Uganda’s HIV epidemic. It thus reinforces the CR idea that homosexuality is an act which puts individual interest and pleasure above the interests of a broader political community.

This is especially important when tied into the broader range of teaching that CR figures such as Lively brought to debates regarding sexuality in Uganda. Above, I discussed how Lively’s US activism had focused on the potential health dangers that homosexuality posed to the broader public. During the 1980s, this was a potent message for the CR, and continues to have some import in anti-gay activism today. However, the situation in Uganda is vastly different; there is an HIV/AIDS epidemic which far exceeds any impact the disease ever had in the US. Thus, the importation of this CR message into Uganda, both overtly and surreptitiously through AUM rhetoric, framed LGBT people as a deadly threat to Ugandan society, the consequences of which underpinned many aspects of the anti-homosexuality bill, including its death penalty provisions.
3.3 Homosexuality and Historical Narratives

Thus far, I have emphasized how the discourse of the US culture wars, particularly language regarding the issue of LGBT rights as a boundary marker, came to be transplanted to the context of Uganda. I turn now to how this transplantation manifested itself in Uganda. The key here is understanding how the boundary marking discourses of the CR mapped onto the existing divisions and conflicts within Uganda. The character of this process highlights the potential for a raft of unintended consequences which extended beyond the expectations or wishes of CR activists in Uganda. In some way, this underscores the idea that Ugandans did not simply act as pawns of Americans or as empty vessels who received a message unquestioningly, but rather possessed a capacity to act in pursuit of their own agendas. At the same time, it demonstrates the repercussions of taking political battles regarding rights and politicized identities into an alien context. As I will show, understanding this process is key to understanding not only why an anti-homosexuality bill emerged in Uganda, but also the particular form it took.

3.3.1 Colonialism

Any understanding of the political cleavages within Uganda must begin with a discussion of colonialism, both because of elements inherent to historical colonialism and colonial narratives that were specific to Uganda. Colonialism was itself a massive exercise in establishing boundaries that justified the imposition of rule and deployment of mechanisms for the administration of colonized peoples, as was discussed in Chapter 2. Much recent scholarship undertaken from the post-colonial framework has looked at the role that sexuality played and continues to play in the context of political and economic relations of domination which are
based in the historical patterns of colonialism. It is now widely accepted that sexuality was an elemental component of the racism that served as the justification for colonialism and that sexuality was an important constitutive element of colonialism in its own right. While these power relationships are not identical to contemporary ones, there are both continuities and discontinuities between historical and contemporary deployments of sexuality in global politics, most importantly how sexuality has been used within the West to define those subjects who are properly able to govern themselves (cf. Foucault 1990).  

It is thus important to consider the role of colonial legacies that shape struggle over a norm regarding LGBT rights. Colonialism was a system of rule which was always local and contingent in its practices (cf. Stoler 2002; McClintock 1995). Yet historical colonialism can be seen as having a somewhat systematic relationship to liberalism. Liberalism was itself a key influence on the domestic politics of many states (including Britain) which actively engaged in colonialism, even though liberalism ostensibly defends the right of peoples to govern themselves.  

11 As Stoler (2002) has extensively documented, sexuality was also constitutive of the racial categories of colonialism, as other methods of determining race, such as skin color, were too often “unclear. Further, there was an understanding that, to participate in the colonial project, colonizers needed to be taught how to be proper sexual subjects (Stoler 2001). Colonial imposition of laws banning sodomy marked attempts to both regulate native populations and maintain clear racial boundaries for the sake of the colonizers. Sexuality was thus used to determine which individual subjects and peoples were made fit to exercise autonomy or govern themselves (Burchell 1996), while also relying on the social or political subjugation of those deemed unfit to govern themselves, because of their dissimilarity to these subjects (Mehta 1999; Pateman 1988; Mills 1997).

12 The debate in Uganda is undoubtedly colored by other factors which cannot be explored here in detail. For example, the reaction to the anti-homosexuality bill has often followed the civilizing discourse of colonialism, through what has been called “pinkwashing” or “gay imperialism” (e.g. Puar 2011a; Ahmed 2011; Agathangelou 2008). Though I will be covering this phenomenon as expressed in Uganda a subsequent chapter, it is useful to outline its role briefly here. The
Ironically, it is this liberal framework that causes modern Ugandans to embrace the legacy of colonial rule through their embrace of colonial era legal restrictions.

The legal framework that British colonialism bequeathed to Uganda upon its independence holds particular importance for setting up the debates on the current bill. The British had made “carnal knowledge against the order of nature” a criminal offense in Uganda; after independence this law was retained alongside a number of other criminal laws (Human Rights Watch 2008). Yet, juridical interventions regarding sexuality were not the first colonial intervention in the area of sexuality; these interventions were made by Christian missionaries of diverse sects. Uganda was considered fertile ground by Christian missionaries in the late 1800s, and missionaries had more than just mass conversions as their goal. Catholics and Protestants competed to convert those in positions of power, in order to strengthen their attempts to evangelize all of Africa. Converts in the court of Ugandan rulers could also be used by colonial powers who sought to garner favor with rulers.

Uganda highlights an interface between national mythologies and the imperatives of colonial regulation and morality. One of the national holidays of most significance in Uganda is the feast day of the Ugandan martyrs, and it can serve as an entry point to thinking about the role that colonization had in affecting the current debates. The feast celebrates twenty-two Ugandans who are essence of pinkwashing lies in justifying colonial practices due to the anti-gay and “primitive” beliefs of the group that is the target of these practices. Ultimately, gay rights discourse is used to frame a people as unable to rule themselves, justifying continuation of colonial relations of power. In debate over the bill in Uganda, such practices are embodied in the fascination with photos of angry and “primitive” mobs who argue that homosexuals should be killed, along with arguments that aid to Uganda should be cut. The former draw on racialized tropes about African primitivity, while the latter highlights a belief that Ugandans are not fit to rule themselves without intervention from outside.
venerated as martyrs in the Catholic and Anglican churches. The martyrs were pages killed by Mwanga II, who was the ruler of the Kingdom of Buganda during the late 19th century. The killings occurred at the height of growing religious tensions in Mwanga’s court, between those who followed traditional beliefs and Catholic, Protestant, and Muslim converts in the court, who were being influenced by European missionaries. Both British authorities and religious figures exploited these divisions in order to advance their particular interests within Buganda, including attempts to gain the conversion of Mwanga.

The exact details of the executions are ambiguous (See Hoad 2007), though narratives that have been dominant in Uganda and conservative Christian circles focus on the role that Mwanga’s sexuality played in this narrative. These rely on accounts such as that offered by Faupel (1962), who argues that:

To gloss over the unpleasant vice to which Mwanga was addicted would be to disregard the decisive factor in the story of the persecution. [. . .] As Mwanga himself was attracted towards Christianity, it seems unlikely that he would ever have given this consent had it not been for the constant thwarting of his unnatural passion by the Christian pages. There can be no doubt that Mwanga turned against the adherents of the faith to which he was naturally attracted mainly because if the firm resistance offered by these young Christian pages who, according to Kinganda tradition, should have no desire but to obey [Mwanga's] slightest wish.”
(Faupel 1962: 82)

Faupel later uses witness testimony saying that Mwanga “practiced the works of Sodom” (83). The account continues by discussing how the various pages either directly refused Mwanga’s sexual advances, or resisted taking assignments that would put them in vulnerable positions. Ultimately, however, the direct cause of the executions seems to have been Mwanga’s demand that the pages renounce Christianity.
This story has been of great importance in contemporary Ugandan national narratives about homosexuality. Their continuing importance was manifested in a decision by the Pope to visit a site memorializing the Uganda martyrs near Kampala, while “hundreds of thousands of people joined him” in celebration of their “refusing to submit to [the] king’s homosexual demands” (Pope Prays at Site of Martyrs 1993). As Oliver (2012) argues, the ultimate message of this account is that Ugandans will accept death before accepting homosexuality.\(^{13}\) This national holiday was one of Lively’s points of praise for Ugandan Christians. It provides a clear point of departure from the West for CR activists, who often decry practices such as “gay days” which celebrate and welcome LGBT people.

If one accepts the dominant contemporary narrative of these events, one is struck by its contradictions, particularly in the simultaneously illiberal and undemocratic nature of the sodomy laws imposed during Uganda’s colonial period. Laws against homosexuality fit in with a larger historical pattern where Britain used its colonies as laboratories for penal law. As one contemporary source put it, colonialism allowed an articulation of a supposed “distinct collective will” since law would not be “hampered by popular discussion” (Stephen 1883). Thus, contemporary narratives embracing sexual mores imposed through colonialism easily line up with “both British colonial and Christian missionary intent” (Hamilton 2002: 3). The system of governance which predated British colonialism, particularly the rule of Mwanga, are framed as tyrannical and uncivilized. Simultaneously, the influence of European Christian missionaries becomes a point of pride, a holy gift for which Ugandans are said to be grateful. The end result is that the imposition of colonial power relations comes to be

\(^{13}\)Of course, as will be discussed below, the acceptance of such a narrative is itself problematic.
Figure 3.2: Pilgrims for Uganda Martyrs Day (Candia and Masaba 2012) and Souvenir Magazine Cover.
celebrated, or at least mystified, insofar as these acts are not understood in relation to a broader background of violence.

It is ironic that the history of colonial rule so strongly undergirds a contemporary discourse which frames homosexuality as itself a form of recolonization. However, I think there are additional ways that this must be read in the context of the identity politics at play in Uganda. First, in the context of discourses introduced by the CR, the mythologies surrounding homosexuality implicate it in the negation of individual rights, particularly as those relate to religion. For each of the martyrs, their choice of religion is inseparable from their rejection of the king’s sexual advances. In other words, their choice of religion is counterposed against an embodied government authority who commands them to violate their own religious faith. Here, this mythology ties into CR discourses, which emphasize that part of the “homosexual agenda” is to use government to either promote homosexuality or ban opposition to it, playing into the CR’s linkage of homosexuality to totalitarian governments, and emphasizes how homosexuality can supposedly lead to deadly political outcomes. That these were young pages also underscores a linkage which Lively emphasized between homosexuality and pedophilia.

Secondly, this particular telling of the narrative surrounding Mwanga links homosexuality to a rejection of tolerance and religious pluralism. In the narratives often advanced regarding Mwanga’s actions regarding those in his court, it is often emphasized that both Christians and Muslims were killed for their refusal to renounce their chosen religion. Mwanga comes to symbolize an embrace of sectarianism which uses violence as a means of imposing one way of life upon others. As will be discussed below, such struggles have been endemic to Uganda in the post-independence era. Here, we might read this as feeding into the CR
narrative regarding the threat to individual religious rights that homosexuality poses.

Thirdly, homosexuality becomes interposed as a force which leads to the fulfillment of personal pleasure at the expense of the common good. One example of how this occurs in the above figure. On a magazine that contains the order of mass for celebrations that day, seen in figure 3.2, it frames the Uganda martyrs as both examples of “Christian witness” and good citizenship. They, unlike Mwanga, were willing to put their own good aside for that of the community.

Ultimately, this goes towards framing homosexuality as, if not the only source, at least a source of the political violence and poverty that have characterized political and economic life in Uganda in the so called “post-colonial” era. It also curiously reframes European colonization as a sideline actor in Uganda’s history. For example, it minimizes the extent to which Mwanga’s actions were a function of moves by colonial powers to exploit religious division during this period to advance their own interests. By eliding the extent to which Mwanga's actions were the result of colonialism, it becomes possible to frame homosexuality as an import which is indicative of contemporary Western decadence.

To borrow Brown’s (1993: 400) language, we might characterize this as an embodiment of ressentiment, which situates Ugandans as victims of homosexuality rather than colonization per se. Unlike Brown’s formulation of this formula in the context of Western liberal democracies, we see this directed at individuals who put their particularistic political desires above that of the broader political community. As will be discussed below, homosexuality thus can receive blame for the emergence of social divisions that would lead to human rights abuses and violence in the post-colonial era.
3.3.2 National Identity and Human Rights

The more recent history of Uganda in the post-colonial era has been one where a universal national identity serves to create a substantive basis for rights claims. Political conflict has resulted from the nonexistent nature of a universal civil society or body politic whose boundaries were coterminous with the Ugandan state. This has led to a weak state apparatus and a lack of coherent national identity. As was almost universally the case in the history of 19th century colonialism, colonizing powers paid little heed to pre-existing political, linguistic, or cultural boundaries when they divided the area which includes Uganda among themselves. Thus, when decolonization began, there was little to justify the boundaries of the Ugandan state other than the arbitrary boundaries of colonialism. The result is similar to that of other post-colonial societies, with a lack of overarching national identity. Allegiances would tend to be sectarian in nature rather than being attached to a broader form of national identity. This ultimately meant that state institutions themselves suffered from a lack of legitimacy.

These conditions were ripe for the emergence of violent conflict and dictatorial rule. Between Ugandan independence in 1962 and the election of Yoweri Museveni in 1986, an overarching dynamic of the political system was a competition between ethnic groups for control of the state. This in turn fed resentment from other groups who felt that they were systematically excluded from the political system, and they would resort to violence as a means of obtaining political power (See Carbone 2008). The rise of Idi Amin to the office of President in 1971 resulted in intensification of these dynamics. The army, which was increasingly composed of members of Amin’s ethnic group, tripled in size during this period, and served as one of Amin’s most effective means of
exercising power (Sathyamurthy 1986). Extra-judicial killings, disappearances, suppression of political opposition, and at the most extreme, genocidal violence exercised against other ethnic groups, became everyday experiences for Ugandans. These conditions raised questions regarding human rights within the international community at large, and the United States in particular. As an example, a resolution within the US Senate expressed an opinion that these violations of human rights meant that Uganda deserved “condemnation by the world community,” while executive branch officials argued that these actions reflected “denial of basic human dignity” (Diggs 1978; Sparkman 1977: 8). The extreme violence of this era has been firmly placed in the Western imaginary in popular culture, most notably by films like *The Last King of Scotland*. Such histories might explain why the CR’s claims regarding homosexuality and fascism might gain such traction.

The accession of Yoweri Museveni to the office of President of Uganda was, at the time, widely seen as a positive development for the cause of human rights in Uganda. The State Department thus argued that “in contrast to the past, Museveni has placed human rights at the center of the political process” (Department of State 1987: 344). The new regime was further said to be “proud of its human rights record,” having “spoken out” about human rights issues in the international arena, and had pledged to end discrimination based on ethnicity or gender (Department of State 1987: 350-351). While this embrace of human rights language was an important aspect of the changes taking place in Uganda in the 1980s, it is important to emphasize that this talk of “human rights” had a different import than might have been assumed by Western observers. The circumstances

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14 Obviously, an expansive discussion of this history is beyond the scope of this project. For a broader explanation see Carbone (2008); Rubongoya (2007).
of Uganda’s past political violence linked violations of human rights to ethnic divisions within Ugandan society. Therefore, it is not surprising that the idea of “human rights” has come to have a particular meaning in the Ugandan context that is tied to national solidarity. Advancement of political rights within this regime has often only occurred when it was in the interest of the national unity. This was notably manifested at a UN funded event in Uganda in 1999, which was supposedly aimed at addressing reproductive health. There President Museveni delivered a well-received address where he claimed that UN conventions on human rights did not involve Africans, and therefore they were not universal to Africa.

The political system that President Museveni constructed within Uganda is perhaps the prime example of this approach to democracy and human rights. Participants in the construction of this regime have long acknowledged its cardinal goal of achieving national political unity (e.g. Odoki 2005). Upon taking power, Museveni started what has come to be called a “no party state.” Museveni had insisted that political parties would disrupt attempts to unify the country. While political parties were technically allowed to exist, they were not allowed to meet or sponsor candidates until 2005. His National Resistance Movement (known simply as “the Movement”) became the only political organization that was allowed within the country. The movement vociferously denied claims that it was a political party, instead claiming that it was a literal movement that included and represented all Ugandans. The stated goal was to provide for a politics of individual merit that would sideline political groupings (Carbone 2008: 3). In sum, while Museveni embraced the political rights involved in democracy, such rights were only accepted insofar as they were seen as not disrupting national unity.

Women’s rights became another important touchstone in Uganda’s embrace of
human rights. Women played an important part in the success of the NRM, taking on the fighting role that had been usually limited to men (Ahikire 1994). The Museveni regime has vocally supported the political inclusion of women within Ugandan society. Much of this has, however, reflected the goals of the regime, which saw women as an additional tool towards achieving regime stability. Indeed, Tripp (2001: 113) argues that women were among the strongest supporters of Museveni regimes and their support was crucial to his electoral victories. The strides made by proponents of women’s equality were often made because women’s rights were articulated in ways that did not challenge the regime or “traditional” practices (Dicklitch and Lwanga 2003).

These issues highlight why LGBT rights issues did not become linked to human rights discourses in Uganda, and perhaps why CR discourses regarding gender complementarity resonated so strongly, such that LGBT rights were framed as a threat to an overall project of human rights. Similarly to CR activists in the US, Ugandan religious and political leaders have often framed homosexuality as a threat to Ugandan social cohesion.

This highlights why the regime reacted with such violence to the founding of the gay rights organization discussed in the introduction. Animus towards homosexuality were likely heightened by the announced intention of LGBT rights groups in 2003 to form a political party. In a letter to government ministers, the Gay and Lesbian Alliance of Uganda demanded that the government decriminalize homosexual acts and same-sex marriages. In what might be cast as an attack on the movement system, they said they would not “support any political organization which does not support our rights,” and that if their request was not honored, “we will be forced to form our political party to represent our interests” (The Monitor 2003). Indeed, homosexuals have often been compared to, or even
accused of being, “multipartists” or those who support the end of the movement system and the formation of a multiparty political system. In one New Vision commentary, it was argued that homosexuals, like multipartists, secretly carried out their goals while their behavior was largely banned. Another similarity was seen in how both groups meddle — homosexual meddling in sex had led to an increased risk of HIV, while multipartist meddling in politics had threatened the vitality of the political system (New Vision 1999). Some went so far as claiming that homosexuals were responsible for terrorist attacks as retribution for failure to grant them rights, as shown in the tabloid cover in figure 3.3.

Opening electoral competition to multiple parties was itself seen as tied to the LGBT rights agenda. Ugandan politicians were said to be receiving the same sort of Western pressure to abolish the Movement system that had accompanied Western interventions regarding LGBT rights. One newspaper reported moves by the opposition in 2010 to use foreign partners to push President Museveni to fully accept multi-party elections. They noted that action by US President Barack Obama and UK Prime Minister Gordon Brown had caused the President to delay action on the anti-homosexuality bill (Butagira 2010). This caused LGBT rights to be further framed as a Western interference in Ugandan society.

Thus, it can be seen that the issue of LGBT rights problematically intersects with the idea of human rights as understood in the context of Uganda. On the one hand, human rights have been articulated as excluding that bring disunity to the social body. On the other, homosexuality is seen as directly causing political disunity. In response to criticism from the Clinton Administration about President Museveni’s threats against homosexuals as far back as 1999, Museveni underscored his view that “homosexuals are the ones provoking us” (Mucunguzi 1999). Striking a similar chord, a government minister argued that homosexuality
was abhorrent to Ugandan society and that debating the issue of LGBT rights conflicted with the goal of “consolidating unity and modernizing the country” (Tumusiime and Kampala 1999). The staying power of this linkage is particularly notable. In 2011, Martin Ssempa, the sponsor of the anti-homosexuality bill spoke about how the distribution of cabinet posts was one way of ensuring unity in a nation riven by tribal divisions. Remarkably, he said that if he was given a cabinet mandate, he would use it to quickly “sort out many of the problems plaguing the country.” The reporting on this promise only named one particular problem - “homosexuality” (New Vision 2011). In the same year, when donating a large sum to a perimeter fence for the Shrine to the Ugandan Martyrs, President Museveni reiterated a linkage between homosexuality and development, discussing the key role that the church played in forging national unity in the promotion of economic development, while opposing influences such as homosexuality (Bwambale and Lule 2011).

At the same time, homosexuality has become entrapped in a purportedly anti-colonial discourse that implicates it in economic development policy, seen as being pushed by the IMF and World Bank, making it a foreign imposition along another dimension. As one columnist writing in the popular Ugandan paper The Monitor put it, homosexuality is an “alien idea” that exists “amongst the most powerful institutions of the developed societies, such as governments, IMF, and the World Bank.” The columnist argues that homosexuality “has not been practiced in our communities,” with no word existing for it; any drive for acceptance is seen as being pushed by a liberal elite which is “blindly replicating white society” (Ikuya 1999). This last connection highlights an important further component in

\[15\] This has important linkages to identity categories which have been crucial to articulation of a distinct agenda of LGBT rights. As scholars such as Puar (2007)
Figure 3.3: Tabloid cover accusing homosexual of provoking political violence.
the linkage between homosexuality and development in Ugandan political discourse: the role of modernization. Indeed, the Archbishop of Kampala had repeatedly linked immorality to development failures, with homosexuality being foremost among these. Further, he claimed that eliminating homosexuality was a requirement towards the elimination of poverty in Uganda (Mafaranga 2011).

This last quote foregrounds another facet of human rights in Uganda, which is its linkage to economic modernization. Human rights policies are pursued not only because they can unify the country, but offer a step forward in terms of economic vitality. Again the issue of women’s rights has been a key example of this. In the 1990s, women’s rights began to be pushed by IOs, and the World Bank in particular, as something which would contribute to economic growth. Broadly speaking, women’s equality has come to be articulated by global institutions in highly rationalized ways. Of course, broadly speaking, women’s rights are seen as a marker of progress or modernity (cf. Towns 2010: 133).

This push for women’s equality has largely relied on essentializations regarding gender, with women possessing traits that would be beneficial in promoting economic growth within Uganda. This has been driven by both broader development discourses and factors internal to Uganda. Women appointed to high ranking positions in government became icons for rooting out corruption. Their appointments were made possible by the perception that women are and Duggan (2002) have argued, homosexuality is often read in terms of race and class, most often in terms of affluent whiteness, with sexual subjectivities such as “gay” or “lesbian” articulated in Eurocentric terms. As one African activist in the US put it, the right words are often not available to describe the sexual identities of non-heterosexuals; “There are terms that are ethnically specific to one group [. . . but] what works and what is describable in one context cannot translate to another context.” On the other hand, the ideas of what it means to be “homosexual” or “gay” are so associated with whiteness and foreign culture that the “gay” or “homosexual” Ugandan becomes an impossible subject (Edozien 2005).
outside of systems of political patronage and therefore are better at “cleaning up” political institutions. (Tripp 2001: 117). These policies frame women as “recently discovered resources” to be tapped in the development process (Ahikire 1994: 80).

Among the most prominent discourses articulated by the World Bank involved claims that “women will be less likely to sacrifice the common good for personal (material) gain.” Other claims are based on gender complementarity more directly. For example, women are said to “exercise an extremely positive influence on the behavior of their male colleagues by restraining, disciplining, and elevating [their] behavior” (Dollar, Fisman and Gatti 1999: 1-2). Much of this literature glosses over broader normative concerns; while it is often acknowledged that women’s equality might be desirable as an end in itself, the terms of debate are often instrumentalized, signaled in arguments that “bringing more women into government may have significant benefits for society in general” (Dollar, Fisman and Gatti 1999: 6; see also Towns 2010). Such rhetoric has become quite important rhetoric to the Museveni regime. First Lady Janet Museveni has repeatedly argued that, in the family, a mother and father both perform a vital role in fostering the development of the country (Masereka and Nzinjah 2010). Homosexuality was, she said, a particular threat to this development.

Achievement for women’s rights has thus comes by focusing on how women and men are different, and by casting these differences as essential to political and economic progress. In this process, however, these arguments undermine any possibility of linking advances in women’s rights to LGBT rights. The language of gendered difference indeed largely mirrors the language adopted by members of the CR who have argued that homosexuality undermines a system where a man and woman are needed in a system of complementarianism.
Gender complementarity has also become a major part of anti-homosexuality discourse in Uganda. In 2003, for example, the Archbishop of the Church of Uganda argued that people should “respect nature” by recognizing that God made men and women biologically different. In doing so, he argued that the two were made to complement each other and asked “why should anyone try to undo that” (Uganda; Archbishop Orombi Firm On Gay Issues 2003). Ultimately, frame homosexuality as an alien force which is not indigenous to Uganda society and pursuit of LGBT rights as a selfish goal. Activists are seen as callous with regard to the broader damage they cause to society.

3.3.3 The Bill: Embodying Alliances in Law

Having considered all of these circumstances, it is now possible to turn to an analysis of the anti-homosexuality bill itself. Indeed, the rather simplistic media description of the Anti-homosexuality Bill as the “kill the gays bill” glosses over the very complex relationships underpinning the legislation. The text of the bill must be understood as the political articulation of an alliance between diverse figures: the US based CR, Ugandan politicians attempting to maintain social and political unity, and Ugandan Christians attempting to assert their clout in global processes. It also embodies concerns about the possibly politically subversive intentions of homosexuals and the idea that homosexuals are a particularly dangerous vector.

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16Of course, it is also the case that foreign aid flows might be reinforcing these problems in other ways. For the most part, “foreign donors continue to implicitly accept regime human rights transgressions as long as the government continues to implement neoliberal economic reforms” (Dicklitch and Lwanga 2003: 484). This that there has been little pressure on the Ugandan state on issues such as sexuality, since aid will continue to flow despite these policies. Indeed, this would seem to fit into the broader pattern within Uganda where issues that might distract from a “modernization” agenda are seen as distractions at best.
for HIV transmission. In sum, we see a practice of line drawing that frames the homosexual as a political enemy that must be neutralized through the law.

The Anti-Homosexuality Bill in its original form from 2009 contains a memorandum which explain the three rationales underlying the bill. Firstly, it is aimed at protecting “traditional” definitions of marriage and the family. The bill opens by saying “the object of this bill is to establish a comprehensive consolidated legislation to protect the traditional family” by both prohibiting sex between people of the same sex and the “promotion or recognition” by individuals or groups within Uganda. This justification is elaborated through a claim that “the bill aims at strengthening the nation’s capacity to deal with emerging internal and external threats to the traditional family” while arguing that “same sex attraction” is neither “innate” or “immutable” (1). The second justification is based on claims that the bill is necessary to preserve the legal, social, and cultural institutions that form the basis of Ugandan society. The bill thus claims that it provides a “comprehensive” framework to “protect the cherished culture of the people of Uganda, [sic] legal, religious and traditional family values of the people of Uganda against the attempts of sexual rights activists to impose their values of sexual promiscuity on the people of Uganda. Thirdly, the bill is justified as being necessary for the protection of children. The memorandum claims that “there is a need to protect the children and youths of Uganda who are made vulnerable to sexual deviation as a result of cultural changes, uncensored information technologies, parentless child developmental settings and increased attempts by homosexuals to raise children in homosexual relationships through adoption, foster care, or otherwise.” Finally, the bill argues that a framework is needed to not only prevent homosexual acts, but also same-sex marriage, promotion of homosexuality, literature discussing homosexuality, and distribution of obscene
material related to homosexuality (2). According to the memorandum, such a necessary comprehensive framework is lacking in existing law, which focuses solely on “unnatural offences.” After outlining these justifications, the memorandum outlines the objectives of the bill:

(a) provide for marriage in Uganda as that contracted between a man and a woman;
(b) prohibit and penalize homosexual behavior and related practices in Uganda as they constitute a threat to the traditional family;
(c) prohibit ratification of any international treaties, conventions, protocols, agreements, and declarations which are contrary or inconsistent with this act;
(d) prohibit the licensing of organizations which promote homosexuality.

After the memorandum, the text of the proposed law begins by outlining guidelines for interpretation. Most notable are a number of provisions which set definitions for the offences in the bill:

“sexual act” includes - (a) physical activity that does not necessarily culminate in intercourse and may include the touching of another’s breast, vagina, penis, or anus; (b) stimulation or penetration of a vagina or mouth or anus or any part of the body of any person, however slight by a sexual organ; (c) the unlawful use of any object or organ by a person on another person’s sexual organ or anus or mouth; [. . .]

“touching” includes touching - (a) with any part of the body; (b) with anything else; (c) through anything; and in particular includes touching amounting to penetration of any sexual organ, anus, or mouth;

“victim” includes a person who is involved in homosexual activities against his or her will.

The remainder of the bill is devoted to outlining a wide variety of specific offences. The second clause defined the “offence of homosexuality,” as involving
penetration or stimulation of a “sexual organ of a person of the same sex.” The bill also said a person was liable under the statute if “he or she touched another person with the intention of committing the act of homosexuality.” This clause set the penalty for this offence as life imprisonment. Clause three – perhaps the most controversial section of the bill – defined the “offence of aggravated homosexuality,” which would receive the death penalty. This offence was outlined as occurring within a variety of situations, most notably when it was committed with someone under the age of 18 or with a parent, when committed with an unwilling “victim” who had a disability, or when sexual activity was enticed through administration of drugs. The offence also occurred when the activity was undertaken by a person who was in a position of authority over another. Clearly embedded here is the CR assertion that homosexuality are pedophiles. The bill also joins together several arguments that were made regarding public health through provisions on HIV. Perhaps most controversially, aggravated homosexuality was said to apply to any homosexual behavior where one person was HIV positive and also in cases where an individual was a “serial offender” of the offence of homosexuality. The bill also required that individuals charged under the law undergo HIV testing. Such language fits neatly alongside the CR narratives that homosexuality posed extreme public health risks.

It is interesting that language regarding the threat that homosexuals pose to the rights of others also made it into the bill. Clauses five and six were devoted to protection of “victims” of homosexuality. They required that victims could not be found criminally liable for acts of homosexuality and that they could seek monetary compensation from an offender who had participated in a homosexual act with them. Clause six outlined protections related to confidentiality for victims of homosexuality. The law says all participants in a case shall respect the “right to
privacy” for victims. It also guaranteed that cases involving children must be conducted away from the presence of the media. Finally, any media outlet that divulged the identity of a victim or other personal information would be subjected to a fine. Clauses nine and ten were similarly designed to protect victims. Clause nine prohibits an individual from enticing another to engage in homosexuality through the use of threats, intimidation, or deception. Clause ten prohibits forcible detention of an individual “with intent to commit homosexuality.” Such language shows the influences of CR rhetoric, particularly in claims that homosexuals would seek to recruit others, potentially by resorting to sexual abuse.

Clauses seven, eight, eleven, twelve, thirteen, and fourteen were also among the most controversial. Clause seven stipulated that an individual “who aids, abets, counsels, or procures another to engage in acts of homosexuality” was guilty of an offence. Clause eight outlined the offence of “conspiracy to engage in homosexuality” which involved, among other things, using “fraudulent means to permit any person” to commit the offence of homosexuality. Both of these offences had seven year prison terms. Clause eleven, which claimed it was related to “brothels” makes it a crime for a person to keep “a house, a room, set of rooms, or place of any kind for purposes of homosexuality,” seemingly implicating a wide range of acts beyond prostitution. Clause thirteen outlined “promotion of homosexuality” as an offence. This offence was defined in broad terms, involving any time an individual participates in the production or distribution of pornography, “funds or sponsors homosexuality or related activities, offers premises and other related fixed or movable assets for the purposes of homosexuality or promoting homosexuality, uses electronic devices which include internet, films, mobile phones for purposes of homosexuality or promoting homosexuality,” or “acts as an accomplice or attempts to promote or in any way abets homosexuality” (9). The
penalties for this are a fine and five to seven year prison sentence, enforceable against individuals and organizations. Clause fourteen made it a crime for anyone to fail to report violations of the anti-homosexuality bill, with an attached fine and prison term of three years. All these reflect the clear rhetoric of the CR that homosexuals would achieve political power by infiltrating the culture of Ugandan society.

Clause 18 of the bill found any “international treaties, protocols, declarations, and conventions” which were inconsistent with the act were considered to be “null and void” in Uganda (10). This part of the bill can be seen as resulting both from rhetoric employed by the CR and an assertion of Ugandan sovereignty. The bill asserted in clause 16 that the law could be applied “to offences committed outside Uganda” through extraterritorial jurisdiction. This meant that Ugandan citizens or permanent residents could be prosecuted for committing any of the crimes listed in the bill even if they occurred in another country. Clause 17 also claimed that Uganda’s existing extradition laws could be applied to these offences, allowing people to be brought to Uganda to face trial on these charges. Perhaps no other element of the proposed bill underscored the importance of the alliance between the CR and Ugandan politicians than this element of the bill. Having been thwarted by US courts in their attempts to impose legal restrictions on homosexuals in the US, opponents of homosexuality could use courts within Uganda for offenses committed within the US.

Such moves illuminate how the boundary drawing practices of this bill are far more than rhetorical maneuvering. Alongside other moves, such as claiming churches within the US, they form a concerted effort to actually effect change in the US by opening a new front in the culture wars, while also representing an attempt at anti-colonial riposte by the Ugandan Parliament. In short, the anti-gay
bill is not *sui generis*, but rather must be understood within a larger debate which centers on the exercise of political authority in Uganda. At a most basic level, passage of the anti-homosexuality bill through a regularly elected parliament allows the bill to be framed as an exercise of democracy by the Ugandan people. The alliance has allowed Ugandans opposed to homosexuality to deploy what Brown (2001a) calls a politics of “conviction” based in teleological discourses of truth, which they share with CR activists. I would argue that there are two key elements in these events. First, alliance with CR activists has allowed them to cultivate a sense of political agency that Western actors favoring sexual rights have denied them through racialist portrayals emphasizing angry mobs and Uganda’s “primitive” culture. It is not surprising in this context that alliance with the CR would be a means of contesting this. Christianity as a social force has, as Gutierrez (1988: 14) argued in a different context, provided the grounds for arguing that “the poor countries are no longer interested in modeling themselves after the rich countries [. . .] because they are increasingly convinced that the status of the latter is the fruit of injustice and coercion.”

Secondly, this alliance allows for the portrayal of a sort of “Ugandan” exceptionalism, through which Ugandan society is produced as superior to Western “imperialist” states. As an alliance based on “conviction” it also allows for a portrayal of sexual values articulated by Ugandans as providing the bulwark of an opposition to oppression (seen as coming from the dangers of homosexuality) in the modern world. It thus attempts to recapture the idea of what a politics based around liberal ideals such as “freedom” would entail.
3.4 A Critique of Colonialism?

It is counterintuitive to think that the advance of a human rights norm in one locale might lead to increased persecution for a group which is supposedly protected by that norm. This is a phenomenon which can be more clearly understood when we foreground the boundary drawing aspects of human rights norms and their logic. While they assist in the formation of politically successful alliances in one locale, it is a process that invariably creates opponents who can seek out new alliances to counter an emergent norm.

Often the relationship between colonization and Western societies has been framed as one where the technologies of power which regulated liberal subjects were practiced and elaborated in colonized spaces. Thus, Foucault argues that:

"We have, then [. . .] an early example of the sort of boomerang effect colonial practice can have on the juridico-politico structures of the West. It should never be forgotten that while colonization, with its techniques and its political and juridical weapons, obviously transported European models to other continents, it also had a considerable boomerang effect on the mechanisms of power in the West, and on the apparatuses, institutions, and techniques of power. A whole series of colonial models was brought back to the West, and the result was that the West could practice something resembling colonization, or an internal colonialism, on itself.” (Foucault 2003b: 103)

Such movements are undoubtedly important, and regulation of sexuality in the West continues to be impacted by this colonial past (as I argue elsewhere in the dissertation). Yet, it may be that we need to reconsider the dichotomy between “colonizer” and “colonized.” Rather than teleologically reading these terms as a one way transaction, this case foregrounds a non-linear relationship between actors located in Uganda and Western states. If we see colonialism as a “heterogeneous set of processes, ridden with contradictions and vulnerabilities,”
as Thayer (2009: 4) suggests, we would be able to examine how the global-local connections essential to the Ugandan debates over homosexuality leave the power relations embedded in these alliances “transformed by the friction of the encounter[s].” Because of this, I ultimately disagree with Oliver (2012) and Alexander (1997) who frame attempts by post-colonial societies to regulate sexuality as an attempt at resisting “neo-colonialism” or “recolonization,” terms understood to mean an imposition of mores from the West. To do so is, to follow Baudrillard’s (1975: 66) similar critique of Marx, to simply “analyze the conditions of [colonialism’s] reproduction” by failing to question its “retrospective finality.” Framing the anti-homosexuality bill as an attempt to articulate an anti-colonial critique is problematic not only because anti-sodomy laws were imposed on Uganda in its colonial past. Perhaps more importantly, this reifies the terms of debate in terms of politicized identities and claims to rights, a move which only further entrenches existing patterns of domination in global politics. To argue that the anti-homosexuality bill possibly represents some form of democratic anti-colonial critique misses this problem. Indeed, this problem is deeply obscured by the proponents claims that it is such a critique.¹⁷

On the one hand, both the anti-homosexuality bill and Western articulations of LGBT rights are manifestations of the focus on the “rule of law” as a way of remedying the perceived lawlessness of post-colonial African societies. These exercises are “focused on constitutions and constitutionalism” as the key to achieving societal stability. As Oloka-Onyango and Tamale (1995: 727) argue, “this reconstruction of law’s empire portends both a boon and a bane for liberation

¹⁷The reasons such problematic analysis persists might lie in the tendency for scholarship to characterize opposition to new human rights, including LGBT rights, as illiberal. This labelling might cause us to assume that opponents to LGBT rights do not somehow resort to the politicized identities characteristic of liberal politics.
movements.” While juridical rights offer a means of changing legal structures that have led to subordination, they also provide “for the entrenchment of new and different kinds of dominant actors.” Such problems regarding articulation of an LGBT rights framework have been systematically catalogued by existing scholarship (Duggan 2002; Brown 1995; Currier 2010).

However, this only tells one side of the story. The interface between existing sentiments regarding homosexuality and the addition of the rights claims of Lively and others has caused the pain of past wrongs to be the animating force behind anti-LGBT activism in Uganda. The pain is multi-faceted, resulting from, among innumerable factors, colonization, epidemics, ethnic conflict, fear, and the threat of death. The alliances articulated by the CR provide a linkage that appears seamless between the colonial past and the present in Uganda. The homosexual becomes a singular target for all of these outrages, one to whom a multitude of injuries can be attributed. By framing the homosexual as a violator of rights, the debate in Uganda accomplishes two moves. Firstly, assertion that homosexuality itself constitutes a violation of human rights becomes an absolute claim. Secondly, it displaces criticism regarding the material deprivation suffered by Ugandans, by finding one outlet for blame.

Arguably, the politicized identities at play in both sides of the debate facilitate avoidance of a different sort of debate about colonization, one which would seek to historicize Ugandan opposition to LGBT policy goals, whilst critiquing politicized identity and the rights claims it produces. While there has been much ink spilled over the problematic nature of the politicized identities of late-modern capitalism which are so central to LGBT rights activism (particularly in the West), the anti-LGBT alliances at play in Uganda are subject to the same sort of critique. It is important to consider more broadly what the politics of LGBT rights has meant for
the evolution of political discourse in Uganda. The sound and fury that is uncovered by focusing on the line drawing and alliance building that is endemic to debates over LGBT rights camouflages a broader dynamic, which is Uganda’s place in a world of capitalist inequality. Thus, this case raises important questions about the relationship between contemporary capitalism and global LGBT rights (and opposition to these rights). This case demonstrates how such debates dictate not only terms of debate for LGBT rights, but also a much wider political context. By creating a singularity to focus blame for the real material suffering that has been suffered in Uganda, the discourse of rights potentially elides the role that historical colonialism or contemporary capitalism play in this suffering.

This case highlights the *inevitably* transnational dynamics involved in mobilization for rights, particularly in how backlash against rights claims in one locale can reverberate within far removed locales. It thus allows us to reconsider how we conceive of colonization: not simply a historical assemblage of various technologies of power, but relations of domination that extend down to the level of the self and are marked by diffusion of one way of being into new environments. Thus, in Uganda, what we are seeing is not the diffusion of debates about the US culture wars or reaction against an emergent norm. *Rather, it marks colonization by emergent politicized identities as such.* It brings into being the politicized identities of liberalism that are ultimately driven by pain and revenge. As this occurs, this is layered over very difficult histories of colonialism. In essence, colonization takes on a new guise. It is through this trend that sexuality comes to defines Ugandans as a people unfit to rule themselves in the Western media.

Chandra Mohanty (2003: 7) argues that decolonization “involves profound transformations of the self, community, and governance structures” and challenges “structures of psychic and social domination” which are built upon
“patriarchal, heterosexist, colonial, racial, and capitalist legacies” within all areas of contemporary global politics. What this means is that decolonization is a complex and difficult process. It is not something that can simply be accomplished through a reversal of colonial laws, such as those which prohibit homosexuality. Human rights language and liberal principles will not in themselves undo a colonial past.

This complex picture leaves an important question - whither norms? If norms are indeed transformational, what is the nature of the transformation? When rights claims are made in terms of liberalism’s politicized identities, might we see a diffusion of what Brown calls their wounded attachments as well? This case suggests this as a strong possibility. Despite the real power that human rights language has to improve individuals’ material conditions (cf. Lefort 1986), human rights norms might also involve diffusion of other claims which run counter to the supposed norm. This study of effects in Uganda accentuate the contingent nature of an emergent norm regarding LGBT rights, one which depended not only on Uganda’s colonial past but also the particular understanding of human rights within Uganda and the activism of the CR. However to regard the outcome as a fait accompli for anti-LGBT politics would also require elision of the contestatory dynamics I discussed in the introduction. As such, I will consider the ways in which pro-LGBT activism in Uganda can shift our perspective on norms in the conclusion to this project.
Chapter 4

SAME SEX MARRIAGE AND AUSTERITY

“Marriage incites man to a capricious imperialism.” - Simone de Beauvoir (2010: 499)

Same-sex marriage has become an increasingly global phenomenon. Since its enactment by the Netherlands in 2001, it has been embraced by other jurisdictions at an accelerating speed. In addition, a large number of other jurisdictions have embraced schemes which provide same-sex couples rights equal to marriage under a different name. These jurisdictions are both geographically disparate and have diverse political institutions and history. The increasing speed and reach of same-sex marriage might seem, at first glance, to fit within constructivist accounts of a norm cascade. After a relatively slow start, more and more states and sub-national governments are enacting laws related to same-sex marriage. What was once inconceivable has become an increasingly important topic in global human rights discourses. There is also an increase in policy convergence; where civil partnerships were once considered an acceptable alternative for LGBT rights activists, marriage has come to be seen as the only appropriate policy to address their concerns. Indeed, at least in the West, enactment of same-sex marriage has come to be seen as the paramount goal of
In this chapter, I will begin exploring why same-sex marriage has emerged as a vehicle for enactment of a norm regarding LGBT rights at this moment in history. As was discussed in chapter one, dominant constructivist approaches would posit that we are seeing the spread of a “standard of behavior for actors with a given identity,” which links support for same-sex marriage to a political actor’s legitimacy in contemporary global politics. Support for marriage would be driven by norm entrepreneurs, actors who facilitate normative change through their strategic decisions regarding policy goals (cf. Finnemore and Sikkink 1998). In contrast, this chapter focuses on how specific policy goals are driven by extant power relations which channel demands for justice into policies that complement, rather than disrupt, the patterns of contemporary global capitalism. In particular, I argue
that same-sex marriage has become the preeminent issue of LGBT rights in certain contexts because of a synergy with the austerity politics of contemporary global capitalism.¹

To examine these issues in a more specific context, I have chosen to focus on the legalization of same-sex marriage in the United Kingdom, with particular attention to the role played by the Conservative Party. I begin with an overview of the existing literature on norm diffusion regarding same-sex marriage. I then turn to outline the overall evolution of the Conservative Party with regard to LGBT rights. I find that there are repetitive ideas — state spending, family values, and education — to which sexuality is tied over the years. It is the changing relationship between Conservative Party views on the relationship between these ideas and sexuality that accounts for their embrace of same-sex marriage, along with electoral concerns. I argue that this transformation reflects changes within the recent history of capitalism and Conservative attempts to impose austerity on Britain. I close by reflecting on the many exclusions made possible by the Conservative embrace of same-sex marriage.

¹Many scholars have highlighted how changes in marriage law are linked to relations of domination, a crucial element to the political aspect of norms regarding marriage. Such a relationship is what MacKinnon (1989: 162) identifies when arguing that “the liberal state coercively and authoritatively constitutes the social order [. . .] through its legitimating norms, forms, relation to society, and substantive politics,” which in her formulation serves the “interest of men as a gender.” Pateman (1988) presents a case that is more specific to marriage rights insofar as she argues that the marriage contract is fundamentally related to liberalism’s sexism and other forms of oppression, while “advances” in marriage law often served to undermine the status of women in the context of the liberal state. Collins (2005) points to how norms regarding marriage similarly reinforce social segregation and privilege through processes such as inheritance law, particularly in the context of race.
4.1 Same-Sex Marriage and the Politics of Rights

As a political movement, the modern drive for same-sex marriage is fairly young. LGBT political movements have a much longer history, where activism had largely been targeted at ending criminalization of homosexuality, establishing domestic partnerships, and decreasing violence and social stigmatization directed against LGBT people (Mertus 2009). Although some groups had brought up the issue of same sex marriage (e.g. *Baker v. Nelson* 1972), these efforts had been entirely unsuccessful and were not a major component of the LGBT rights agenda at the time. It was not until the 1990s that marriage became a central part of LGBT political movements (See, for example, *Baehr v. Lewin* 1993). Since that time, same-sex marriage has become the *sine qua non* of LGBT rights in many countries, overshadowing other goals which had been more longstanding.

Since same-sex unions are a recent phenomenon, there has until recently been little scholarly examination of their status as a diffusing norm within the norms literature. However, the existing literature has spoken to issues related to gender and sexuality which can inform same-sex marriage more generally. For example, scholars such as McEneaney and Ramirez (1997) or Frank and McEneaney (1999) would see same-sex marriage as spreading across different jurisdictions because of the rationalization and individualization of global culture, which promotes sexual autonomy (cf. Inglehart 1997). The most extensive work which has examined same-sex unions specifically has been undertaken by Kollman (2007, 2009). One of her primary arguments is that the spread of same-sex unions has occurred as “LGBT groups have sought to persuade governments that the recognition of gay and lesbian relationships is a basic right that the state cannot withhold if it is committed to the nondiscriminatory practices
that are the hallmark of liberal democracies” (Kollman 2007: 331). Human rights norms are assumed to hold high value for states that see themselves as liberal democracies, and enactment of such policies allows states to underscore their liberal credentials. While there is some merit to these narratives, the framing of same-sex marriage as a diffusing norm ultimately fails to capture how this norm is politically articulated. The mistake here is to see the state as the entity against which a right to marriage is claimed or the sole entity involved in the bestowal of rights. This discounts the transnational political formations that situate same-sex marriage within the broader politics of contemporary capitalism. To be sure, as will be discussed below, an emergent LGBT rights norm is used to facilitate cross-national comparisons which highlight the status of one state with regard to others. However, in the case of same-sex marriage, articulation of a norm also produces assumptions about the nature of the state and its relationship with the individual, civil society, the economy, and other political entities. Implementation of same-sex marriage has thus allowed for the formation of political alliances which not only allows for this implementation but also sustains austerity policies. In particular, promotion of same-sex marriage orients supporters of this articulation of LGBT rights towards the political and economic assumptions of austerity politics.

Additionally, accommodating LGBT people within the category of “marriage” can be seen to change the political interests of LGBT people (Duggan 2002). Pursuit of marriage naturalizes capitalism’s “ability to provide the good life for all” by privileging a white heterosexual middle class ideal (Brown 1995: 60). This removes a basis on which to critique the inequalities of contemporary capitalism, while simultaneously provoking antagonism towards those traditionally framed as a threat to this ideal, such as welfare recipients and single parents. Same-sex
marriage is thus articulated within a broader conception of equality which decenters economic and material inequality as a substantive concern of politics. Insofar as the primary stated aim of a rights claim is to achieve “fairness,” enactment of this right furthers an assumption that a given society may be regarded as “fair.” This is exacerbated by much of the rhetoric regarding LGBT rights (particularly marriage equality), which frames these rights as representing the final rights struggle of our time. The enactment of a right to same-sex marriage thus lends credence to the idea that if a given individual fails to succeed economically, this failure is their own fault. The state bears no responsibility for alleviating this failure, since it has provided the individual with an environment in which he or she can succeed. Ultimately, this reflects a common genealogy between the origins of the Conservative rhetoric surrounding gay rights and rhetoric treating recipients of government benefits as both “lazy” and “dependent.”

Such linkages between rights language and the political alliances, ideologies, and policies of neoliberalism have been well documented (See generally Fraser 2009a; Brown 1995; Towns 2010). In this case however, we are confronted with far more than a simple appropriation of rights language by Conservative politicians. Instead, an examination of the history of the Conservative Party’s positions regarding LGBT issues shows that sexuality has long been linked to broad questions regarding governance. And these are not simply high level questions regarding how best to govern at the national level; sexuality becomes enmeshed in projects extending from questions regarding national identity and the best model of multi-level governance all the way down to the individual’s soul. This is particularly reflected in Conservative concern over centralization/devolution, national identity, education, and fiscal policy that remained linked to questions regarding sexuality, even as Conservative attitudes on LGBT rights changed. In
short, LGBT rights, in the form of marriage equality, succeeded when it did because it could become integrated into a larger political project.

To demonstrate these dynamics, I will now turn to empirical evidence regarding transformation in Conservative thinking regarding LGBT rights. I first turn to the events leading up to passage of “Section 28,” a law restricting government support for messages which framed LGBT relationships in a positive way, which was passed by the UK Parliament in 1988. I then trace the transformation of Conservative attitudes which led to the recently passed “Marriage (Same-Sex Couples) Bill,” which provides for same-sex marriage in England and Wales. The enactment of this legislation by a Conservative-led government illustrates the complex politics underlying the societal transformations which made government embrace of same-sex marriage possible.

4.2 Sexuality and the State: Section 28

Until 1967, the United Kingdom was subject to a Victorian era law that banned the act of “gross indecency” between men as a statutory and common law offense, regardless of consent between the participants and their ages; in theory, convictions could result in prison terms of two years. The laws were not highly specific, due to Victorian era social conditions (and thus did not include women), but were widely applied to men practicing mutual masturbation, anal sex, oral sex, and intercrural sex. The 1950s saw the beginning of a legal movement to repeal these laws, with the report of the Wolfenden Commission perhaps the best known instance of such action. The work of the Wolfenden Commission reflected larger debates of the time in the UK about the propriety of enforcing criminal laws based on morality, particularly when this morality did not seem to have a connection to a
wider public interest (Dworkin 1966). The report is significant not only due to the policy changes it influenced, but also the way it drew its arguments around sexuality which are of continuing importance to debates over sexuality in the UK. I thus start my analysis at this point, as these changes were of special import to later debates on Section 28, and tell us something about Conservative attitudes towards homosexuality before the current era.

The report's broadest argument was that its mandate was to study "homosexual acts committed between adults in private." While acknowledging that "part of the function of the law [is] to preserve public order and decency," the committee argued that law should not interfere with private behavior unless this behavior could be shown to be "contrary to the public good" (Home Office 1957: 21). The Wolfenden Report was not the only example of government attitudes regarding the linkage between law and sexuality, with other examples provided in statements of government ministers and private member's bills. In 1951, for example, the Lord Chamberlain, who at the time had the power to ban plays from being performed within the UK, questioned whether the ban on plays dealing with homosexuality should continue in practice. In a reply, the Lord Chancellor supported the idea, saying "censorship frequently defeats its own object and [. . .] under modern conditions there is much to be said for free and open discussion" (UK National Archives 1951).

Within Parliament, there was sufficient agreement that moral judgments regarding homosexuality could not justify the legal criminalization of private behavior. When decriminalization was debated, the arguments about the

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2 These were embodied concretely in debates between legal scholars H.L.A. Hart and Lord Patrick Devlin, centered around the proper relationship between morality and the law, with ideas such as Mill's (2008) harm principle becoming a central point of contention (See, *inter alia*, Devlin 1959; Hart 1963).
distinction between public and private conduct allowed the repeal of these laws to gain cross-party support. Indeed, among the Conservative supporters of repealing the anti-sodomy statute was future Prime Minister Margaret Thatcher. An extensive discussion of this change in the law is beyond the remit of this chapter. Nevertheless, this change does provide a prism through which to view the future moves that Conservatives would take with regard to sexuality. Firstly, there was longstanding support for at least some measures within what would become the UK LGBT rights agenda among a significant segment of the Conservative Party, as demonstrated by the cross-party support for repeal of laws prohibiting homosexual acts. Secondly, the most frequently articulated rationale for the bill was bound up in the idea that there was an area that should be beyond the direct influence of the state. This provided a direct linkage between sexuality (particularly homosexuality) and the size and power of the state.

It is thus not surprising that ensuing debates over state power that dominated the premiership of Margaret Thatcher would invoke the relationship between sexuality and the state. We often remember this period from 1979 until the early 1990s as pivotal period in British politics due to the enactment of neoliberal policies emphasizing a small state, liberalization of markets, deregulation, cuts to social spending, disruption of labor unions, and strong national defense. One, often neglected, element here is that Thatcherism also entailed extensive centralization of state power, as a precondition to implementing economic policies (Bashevkin 1996). Homosexuality would become linked to both centralization and economic reform by Thatcher’s Conservative Party.

One of the more notorious actions taken by the Conservatives in the Thatcher era was support for what came to be known as “Section 28,” which placed restrictions on discussion of homosexuality in public education settings, through
an amendment to a local government bill. This Amendment said:

A local authority shall not— (a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality; (b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship (Local Government Act 1988).

Section 28 provides important insights into Conservative attitudes towards homosexuality during the Thatcher era, and as I note below, interfaced more broadly with Conservative ideas about the state during that period. However, more importantly for this discussion, there are important continuities between Section 28 (and earlier political debates regarding sexuality) and the later Conservative embrace of LGBT rights. While support for same-sex marriage might mark a change in attitude towards a particular policy, it would be a mistake to see it as a marking a complete abandonment of the Conservative Party’s past.

While the normative denigration of homosexuality, in particular the designation of homosexuality as a “pretended family relationship,” stands out in this bill, two other subtexts are present. Firstly, despite later misconceptions among the public to the contrary, Section 28 was not a restriction on government tout court. Rather, this was a restriction aimed squarely at local authorities and actions they might take on their own, or that they might choose to undertake within their limited involvement in public schools. The restrictions applied to no other arena of government, including any part of the national government. Secondly, in contrast to the laws in existence at the time of the Wolfenden Report, this law would not place any restriction on the ability of adults to engage in homosexual activity and thus did not disturb the settled legal regime with regard to these issues. Instead,

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3 Technically, bills in the UK have clauses, not sections, and the correct name is “Clause 28.” After enactment the clause would become “Section 2A.” However, most accounts of the laws repeal continued to use “Section 28.”
Section 28 addresses itself specifically to the act of promotion when undertaken by the state.

To a contemporary observer, it would be quite tempting to assume that Section 28 emerged from a broader anti-gay animus that existed within the Conservative political establishment. A reading of the Parliamentary debates regarding section 28 provides support for such a reading, with many Conservative MPs arguing that homosexuality is inherently immoral or disordered. One particular exchange exemplified the tenor of the Parliamentary debates. When MP Simon Hughes\(^4\) stated that other people’s relationship choices “should be accepted by all civilised adults, whatever their personal views on the rightness or wrongness of those relationships,” Conservative backbencher Elaine Kellett-Bowman replied that that “It depends what one means by ’civilised.’ I do not regard the practice of sodomy or buggery as being civilised” (House of Commons 1987: 993). Hughes responded that despite any MP’s personal views, “from the beginning of time” there had been homosexual people in relationships, who sometimes had children. Kellett-Bowman responded with one word - “Disgusting” (House of Commons 1987: 994). The implication of such arguments was that personal autonomy in the context of sexuality was not to be seen as a good in itself, but only insofar as this autonomy was compatible with existing social institutions.

Conservatives also evoked a trope that has long been deployed in debates over homosexuality, by arguing that homosexuals would behave in exploitative or predatory ways towards children. Section 28, it was argued, would prevent government from facilitating this exploitation, and in so doing, protect children. When a Labour MP asked “from what” children needed to be protected, Conservative MP John Greenway said “from any insidious and dangerous

\(^4\)As of 2013, Simon Hughes was the deputy leader of the Liberal Democrats.
influences such as homosexuality” (House of Commons 1987: 1000). Briefly afterward, a more specific instance of this danger was articulated by Greenway, where he pointed to advertisements for teaching posts which had nondiscrimination clauses related to sexuality. He articulated a specific complaint from local parents that “a homosexual recently appointed to a school board makes up his face in school in front of the children. [. . .]. One has to support them. That is wrong” (House of Commons 1987: 1001). The Parliamentary record thus discloses a belief among Conservatives that “abnormal” behaviors of homosexuals would cause children to become homosexual, an undesirable end. Indeed, Conservatives articulated their fears even more broadly than this. One of the most often repeated claims within the debates was that homosexuals were seeking to “recruit” children into homosexuality, and would use public schools as a means of enlarging an underground homosexual community. MP Geoffrey Dickens⁵ said that legalization of homosexuality in 1967 had allowed a “homosexual fraternity” to found “gay clubs” and “gay centres” and created an environment where “magazines could flourish and contacts be made, enticing and corrupting others to join their ranks.” He argued that they were now attempting to lower the age of consent to facilitate their goal of recruiting younger men (House of Commons 1988: 416). Frequent mention was made of pamphlets that supposedly told teenagers to experiment with homosexuality which supporters of Section 28 said were being distributed in schools by homosexuals.⁶

⁵Dickens was an MP from 1973 until his death in 1995. He was most notably involved in making allegations that there was a powerful network of pedophiles in the UK, making speeches on this issues on numerous occasions across his career.

⁶In the Parliamentary record such claims, though made repeatedly, are extremely vague. No one who made such a claim produced a quote, for example, and when questioned by opponents Section 28, supporters of Section 28 simply replied that they had heard this from constituents or had heard publicity about them.
These sorts of arguments led opponents of section 28 at the time, as well as later Conservative figures, to argue that the amendment represented a Conservative attempt to increase and exploit homophobic feelings within the public to endanger the civil rights of a vulnerable minority. One Labour MP said the debate was really about “standards of tolerance in a civilised society” and added that “if Conservative members had their way, those standards of tolerance and dignity would be downgraded” (House of Commons 1987: 996). Another Labour MP said that the bill reflected “ugly propaganda that has emanated from the Conservative benches” (House of Commons 1987: 1004). Other MPs were more direct in their statements - Ken Livingstone\(^7\) argued that the “Government are pandering to bigotry in the hope that that will produce votes” and that this was a continuation of Conservative tactics which “whipped up homophobia in the run-up to the last general election [1987]” (House of Commons 1988: 418). The logic underpinning the amendment was seen as far more than simply instrumental, however; many opposition MPs argued that the bill reflected beliefs “founded on prejudice” and aimed to “erode” and “downgrade” societal standards “of tolerance and dignity” (House of Commons 1988: 992, 996).

While this narrative is undoubtedly accurate in some regards, it elides the importance of Conservative ideology regarding government power (as opposed to simple “bigotry”) in enactment of Section 28. One of the most interesting elements of the debate regarding Section 28 was how it linked homosexuality to the broader issues of the Thatcher era. A central paradox of Thatcherism was its

\(^{7}\)Ken Livingstone was later elected mayor of London from 2000-2008.

Though claimed to be a widespread problem, this claim was also not substantiated by any evidence. While there may be problems with the veracity of these claims, they are important regardless, as they do provide insight into discourses regarding homosexuality within the Conservative party.
Figure 4.2: UK Conservative Party Posters, General Election 1987 (Bodelian Library N.d.)
dual focus on a broadly neoliberal market agenda alongside conservative ideals regarding family values. On policy terms, it is difficult to find a great deal of evidence (aside from examples like Section 28) that the Conservatives tried to enact policies which would strengthen the “traditional” family and assist it in assuming its societal role. However, as argued by Pascall (1997: 296), “in this case, what is not done is important and consistent with the liberal ideology on which Thatcherism drew.” There is ample evidence in the debates on Section 28 that the Conservatives were driven by concerns about the proper role of the state in the context of sexuality. In particular, there were concerns both about the idea of local governments overstepping their “appropriate” role in a democratic society and about maintaining a boundary between the state and society, with a concern that the former not encroach on the latter.

One theme that was repeated throughout the debates on Section 28 was that homosexuality, or rights claims related to homosexuality, were part of a broader political agenda which was aimed at increasing the size and power of the state. In generic terms, Conservatives exploited the issues at the heart of the Section 28 debate in their political campaigns, particularly to argue that there was a linkage between homosexuality and supposedly unsavory leftist causes and ideology. Such a linkage is not unprecedented, and has found various incarnations within Western states over the past century, perhaps most notably in the Cold War idea that homosexuals were more likely to be Communists or susceptible to Communist influence (See Herman 1997). Thus, when Conservatives used rhetoric regarding homosexuality against Section 28’s opponents, they did not simply attempt to stigmatize these opponents because of the “abnormality” of homosexuality. Instead, homosexuality was seen as problematic due to its linkage to other leftist causes. One MP gave an analogy saying that the intelligentsia had
“flirted with Communism in exactly the same way” that “left has attached itself” to homosexuals in hopes of gaining their votes (House of Commons 1988: 416). Conservative election posters (seen in the figure 4.2) from this era similarly linked gay rights to nuclear disarmament campaigns, Labour movements, and resistance to law and order.

This concern with the role of the state was most clearly manifested in the law’s most controversial aspect — the labeling in law of same-sex relationships as “pretended family relationships.” This language enacted, as a legally binding principle, Parliament’s view that same-sex relationships could not constitute a family. This wording caused many advocacy groups to cease their work as it related to LGBT rights, as the exact meaning of “promotion” was not especially clear. Opponents of section 28 repeatedly argued that this clause underlined the animus at the heart of the Conservative aim in the clause.

However, the Parliamentary debates over Section 28 highlight the importance Conservatives attached to questions regarding state power in their unease about such issues, and that the idea of “promotion” might be understood as residing precisely in state overreach. This concern centered around the proper amount of governance on issues related to sexuality. This idea was put succinctly by Conservative MP Nicholas Bennett, who said that few would argue that there is a “place for the law in sexual matter” and that government should only “deal only with those [issues] that have a dramatic and detrimental effect on society.” Section 28 fit within such a role for government, as it represented “what is right for society” (House of Commons 1988: 800). Two things are of note in the formulation of “society” used in these debates. Firstly, though its existence is repeatedly invoked, it is not expressly defined by any speakers. Despite this, certain aspects of society are seen as having definite and concrete manifestations. For the purposes
of the debate, one of the most important was the traditional heterosexual family, which many speakers argued had provided support to “society” for millennia. Secondly, even absent a clear definition, it is clear what society is not: the government. Speakers thus repeatedly invoke arguments that government should protect society but should regulate it as little as possible. Section 28 was understood to fit this specific role within the context of homosexuality. While opponents rightly saw the statement about “pretended family relationships” as expressing disdain or disgust for the intimate emotional relationships of homosexuals, there is more at work in this statement if it is examined in its own terms. In talking about “pretended” family relationships, the bill presupposes that “family” has a fixed meaning. Therefore, if the state were to promote alternative understandings of family relationships, it would be engaging in an extremely significant action which would have consequences throughout society.

The proponents of Section 28 repeatedly returned to the idea that its provisions would only apply to local authorities, and not the actions of the national government. This application of the clause was based on the concern that local authorities were overstepping their proper authority as it related to sexuality, among other matters. This was one issue upon which both proponents and opponents agreed in part. One opponent intoned that “I hope the House does not want the role of local authorities to be to promote sexuality of any kind,” thus using this theme to argue that homosexuality should not be singled out. Supporters of Section 28 repeatedly claimed, however, that examples involving local council and homosexuality necessitated the bill’s specificity. When the opposition attempted to amend the bill to ensure that it would not forestall local authorities from preventing discrimination, the government minister in charge of the bill (Michael Howard) stated that such an amendment was simply an invitation for unwarranted
government intrusion into the conduct of individuals. Of most concern was that the amendment would allow “attempts of local authorities to discourage discrimination by others.” By doing so, the local authority would be “[promoting] homosexuality” through discouragement of discrimination against homosexuals. Such moves, the government argued, amounted to a “busybody’s charter” (House of Commons 1988: 1020).

Such concerns about local authorities were not unique to the issue of homosexuality in the Thatcher era, and it is especially remarkable that Conservative concerns about sexuality manifested themselves as an amendment to a local government bill. In addition to perceived links between homosexual political activism and state power, Conservatives thus also linked homosexuality to a political agenda which would use decentralization of state power to undermine the policy goals of the Conservative national government. It is important to remember that the Thatcher government had contentious relationships with local authorities, especially those controlled by the Labour Party, which caused the Conservatives to introduce legislation which would undercut these authorities. For example, when the Conservatives began making cuts to social welfare funding in the early 1980’s, many councils increased their tax rates so locally provided services would continue unaffected, thus undermining Conservative policies related to taxation and state spending. In response to this, the Conservatives introduced rate-capping, which set a limit on the tax rates that could be imposed by local authorities, and forced them to cut taxes and spending, even if there was local political support for these actions.8 The overall tenor of the debate over

8Unlike in places such as the US, the British Parliament has complete control over local government and possesses authority to legislate over any matter, up to and including their dissolution.
section 28 shows how homosexuality was framed as a threat to Conservative economic policies, and thus framed homosexuality as similar to other disruptive forces such as local authorities controlled by leftist politicians.

At the same time that Section 28 was being considered, Margaret Thatcher hailed her government as creating the first “post-socialist society,” where individual responsibility was paramount. In Britain, Thatcher claimed, “self reliance is the first step towards helping others,” and that individual responsibility was “easily destroyed by the temptation of state-induced dependence” (Naughtie 1988). As she later put it, “economics are the method: the object is to change the soul,” evincing the sweeping scale of the Thatcher era reforms (Butt 1981).

Hence, it was also no surprise that Thatcher introduced policies such as the “poll tax,” a measure which would require all citizens of Britain to pay a flat fee for the maintenance of their local government. The logic of such a tax was simple — once all Britons were required to fund the services of local authorities, they would no longer put up with excessive spending. This would put an end to a wide variety of actions supported by leftist-controlled councils, including those supportive of LGBT rights.

For Thatcher, hope was tied up in the idea of individual independence and responsibility, while despair was to be found in a terminal reliance upon the state by individuals. It is thus significant that in one of her few speeches where she discussed homosexuality, Thatcher used this same language of hope and despair. In her 1987 conference speech, she claimed the following:

Children who need to be taught to respect traditional moral values are being taught that they have an inalienable right to be gay. And children who need encouragement — and children need so much encouragement — they are being taught that our society offers them no future. All of those children are being cheated of a sound
start in life — yes cheated. (Thatcher 1987).

By invoking such language, Thatcher was linking homosexuality to other supposed problems created by leftist influence in the proper education of individuals.

Additionally, as Smith (1994) demonstrates, the arguments against homosexuality have a great deal of similarity to Conservative rhetoric regarding race. Most notably, these groups were not framed as outside others, but rather as subversive threats from within, which would destabilize a white, heterosexual ideal. Both were seen as attempts at social engineering through promotion of what was then derided as “multiculturalism.” And as Smith uncovered in her examination of the Parliamentary debates, linkage between race and sexuality was explicit at times. In the Lords debate, one member argued:

We have for several decades past been emancipating minorities who claimed they were disadvantaged. Are they grateful? Not a bit. We emancipated races and got inverted racism. We emancipate homosexuals and they condemn heterosexism as chauvinist sexism, male oppression, and so on. They will push us off the pavement if we give them a chance. (qtd. in Smith 1994: 219-220)

Thatcher herself invoked a linkage between race and opposition to homosexuality. In the 1987 speech where she claimed that gay rights would rob children of a sound start in life, she also claimed that in addition to promotion of homosexuality, children were being taught “anti-racist mathematics,” rather than the ability to “count and multiply” (Thatcher 1987).

What is notable about the debate over Section 28 is not only a broad discussion about the proper role of the state. Sexuality became situated alongside a broad based political project which Thatcher herself said extended down to the soul and the relationship between individuals. The scale of this
project was perfectly encapsulated in debates over the abolition of the Inner London Education Authority (ILEA) by the Thatcher government, a move that brought together debates about sexuality, governance, education, and centralization. ILEA had been one of the local authorities accused of taking the most radical steps to “promote” homosexuality and other leftist causes. One of the earliest rows between Thatcher’s government and ILEA came about because ILEA had placed a book called *Jenny Lives with Eric and Martin* on its optional reading lists. The most controversial part of the book featured “some pictures of Eric in bed with Martin” when “Jenny wakes them up on a Saturday morning” (Shallice 1986). The book was denounced by Kenneth Baker, the Education Secretary who had implemented many of the Thatcher government’s education reforms (Fairhall 1986). Such moves were precisely the sort of “promotion” that Section 28 was designed to stop.

However, ILEA’s problems did not stop when Section 28 was enacted. In the Thatcher years, centralization of power had meant that there was no proper local government structure for London; rather, a fragmented system of local councils ran different areas of metropolitan London. ILEA was one of the remaining local government structures that provided government services to the entire area. Its perceived leftist orientation led to many attacks on issues other than homosexuality by Thatcher’s government. At one point when an ILEA administrator said that if “books did not project a positive self-image of blacks, minorities, women, and disabled people, ILEA was not interested in buying them.” Government ministers claimed that this represented attempts to “censor history texts and rewrite them on party political lines.” However, the concern was not simply with an undue influence by a government body using its power excessively. Rather, government ministers accused the council of imposing “thought control”
on the children enrolled in London’s schools. In line with Thatcher’s centralization agenda, shutting down ILEA became a top priority in 1987 and 1988, after the Labour party won 45 seats on the authority to 11 for the Conservatives (United Kingdom Election Results N.d.). As one council leader complained, this also meant that some of the poorest schools in London would now be left to fend for themselves without the broader support of an authority that could subsidize school spending in poorer areas of London.

In sum, to be fully understood, Section 28 must be seen as much more than a representation of Conservative homophobia during the 1980s. It was an attempt to coherently place sexuality within an agenda with much wider reach, a political project that was comprehensive in its aspirations and targets. This linked Conservative rhetoric regarding sexuality to a broad range of ideas which had as their goal the reduction in the size of the state. Thus framed, Section 28 became possible not because of a moral panic, but because of a particular moment in the history of capitalism. As I will argue below, the same was true of Conservative support for same-sex marriage. I now turn to outline how the Conservative Party’s stance towards homosexuality became transformed, alongside other changes in the political and economic realms.

4.3 Marriage and the Conservative Political Project

The ramifications of Section 28 echoed far beyond the Thatcher era. Margaret Thatcher successfully led the Conservatives through several elections in the 1980s, and her preferred successor John Major did the same in 1992. However, by 1997, many voters abandoned the Conservatives in favor of Tony Blair’s Labour Party. The long period that the Conservative Party was out of power from
1997 to 2010 was largely blamed on a poor public image of the party, an image that resulted, among other things, from enactment of Section 28. Further, many of the Conservative government’s actions, such as privatization of publicly owned industries and weakening of the trade union movement, produced an economic climate seen as hostile to working classes (cf. Glyn 2006). This was an especially acute problem in those areas of the country where labor unions were stronger; in Scotland, for example, the Conservatives were reduced to one seat out of 60 after the 1997 election. Other policies such as those related to tax and public welfare were often portrayed as unfairly targeting the poor (Hickson 2009). Ultimately, actions taken in government allowed Conservatives to be framed as indifferent to the socially marginalized (Hayton 2012).

Section 28 marks a relatively recent articulation of Conservatives views regarding homosexuality – as both morally disordered and threatening to society. Given this starting place, it is remarkable that within 25 years, Conservatives had legalized same-sex marriage from within government. The key question thus becomes how this change occurred. Was it simply because the UK witnessed a change in “standards of behavior for actors with a given identity” such that opposition to homosexuality became politically untenable? Such a narrative would share similarities with that articulated by the Conservative Party. According to this narrative, the Conservative Party’s electoral failings after 1992 were directly traceable to aspects of Conservative policy seen as alienating to large parts of the British electorate. Rather than reflecting the social norms of “modern” Britain, Conservatives were seen as backwards and parochial at best or nasty and exclusionary at worst. The proposed response was to change both the policies and rhetoric of the party so the party would better appeal to the electorate. As I will argue, this narrative elides important aspects of political debates over
sexuality, including ideas about economics, the state, and society, which similarly played a major role in the section 28 debates.

4.3.1 Transforming the “Nasty Party:” Conservative Modernization and LGBT Rights

In 1997 the Conservative Party was pushed out of power for the first time since 1979, recording one of the party’s worst election results in the 20th Century, a performance that was largely repeated in the 2001 election. However, despite these losses and the party’s poor image, the party’s attitude towards social issues such as homosexuality was largely unchanged. For example, in 2002, the Labour government introduced a bill to provide adoption rights for same-sex couples. This was vehemently opposed by the Conservative leader Ian Duncan Smith, who imposed a three line whip for the vote. According to media reports, Smith stressed his belief in “the rights of the children to be adopted, rather than the rights of gay couples who wanted to adopt” (Waugh 2002). However, ongoing concerns about the image of the Conservative party caused increasing dissent,

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9 As of 2014, Smith was the Minister for Work and Pensions. His views on LGBT rights evidently evolved alongside those of his party, as in 2012 he came out in support of same-sex marriage as a way to support marriage as an institution when it was, he claimed, falling out of favor (Park 2012).

10 British MPs generally receive instructions regarding how to vote on particular legislation from their party. In the paper detailing these instructions, bills are underlined by one, two, or three lines, which indicates how important party leadership regards an important issue. Single-line whips indicate party policy and are non-binding, while two-line whips are binding instructions to attend and vote. Three-line whips are uncommon by comparison, and reflect both the importance of the issue and the strength of the party leadership’s opinion on a given issue. Failure to vote with the leadership can result in severe discipline in such cases. Here, this can be read as an indication that Conservatives considered issues surrounding homosexuality to be extremely important and opposition to these bills to be a strong point of Conservative policy.
reflected in the decision of several Conservative MPs to vote against their leadership on this bill.

Concerns within the party were epitomized by a speech given by the MP Theresa May\textsuperscript{11} in 2002, which argued that the image of the Conservative Party was in serious disrepair. She said that “the Conservative party, its principles, its people, have been let down in recent years by the failure of some to represent faithfully the best in Conservatism.” Looking back over two election losses in 1997 and 2001, where the Conservatives were soundly defeated, May said “twice we went to the country unchanged, unrepentant, just plain unattractive. And twice we got slaughtered. Soldiering on to the next election without radical, fundamental change is simply not an option.” The most memorable line of the speech – so memorable it has entered the lexicon British politics permanently – argued that “our base is too narrow and so, occasionally, are our sympathies. You know what some people call us - the nasty party.” This was seen, most specifically, as a result of “demonizing” minorities and the poor, and excluding women. May’s speech did not specifically mention LGBT issues, but her broader emphasis on representing everyone in Britain would be embodied in the party’s evolving stance toward these issues.

Rather than representing an isolated intervention, these views were part of a broader movement among Conservatives. In 2002, the ruling Labour Party introduced a bill to provide civil partnerships to same-sex couples. The main rationale given for this move was to provide the rights of marriage to same-sex couples while recognizing the religious connotations of marriage. When the Civil

\textsuperscript{11}As of 2014, May is the Home Secretary and was also the minister for Women and Equalities in 2010 when the marriage bill was mooted; this made her the lead minister for the bill until she left that post. She is widely seen as a potential successor to David Cameron as party leader.
Partnership bill was introduced, attitudes in some quarters of the Conservative Party had changed on the issue of homosexuality. Smith decided to allow a free vote, an announcement made only months after he had voted against the prospective repeal of Section 28. One member of the Conservative leadership team argued “I think it shows that we’ve grown up a lot in the last nine months” (Waugh 2003). John Bercow\textsuperscript{12}, a Conservative MP, wrote that by allowing a free vote, the leader of the party was following a commitment to “fairness for all,” and that the civil partnership bill would “allow Conservatives to demonstrate the seriousness of [their] commitment to this principle” (Bercow 2003: 20). Despite these changes, many Conservatives viewed Smith as a leader who was unelectable, in part because of his past anti-gay statements. As such, he was replaced as party leader by Michael Howard after a vote of no-confidence in his leadership. When legislation permitting civil partnerships for same-sex couples came to a vote in 2003, more Conservatives were in support than opposed, and Howard voted in support.

Despite these shifts, the Conservatives suffered another election loss in 2005. The party’s vote share increased by a meager 0.7%, though the party did gain 33 seats.\textsuperscript{13} This loss caused Howard to resign as party leader, triggering a leadership election. The two front-runners, David Davis and David Cameron, were seen as representing the right and center of the party respectively. Davis was widely known for his support for Section 28 and his belief that the age of consent

\footnote{\textsuperscript{12}John Bercow is now the Speaker of the House of Commons, and has made LGBT equality a continuing part of his agenda in that role. He resigned from the Conservative Party upon his election to that office (as required by longstanding tradition).}

\footnote{\textsuperscript{13}It is striking that though the ruling Labour Party lost 5.5% of its vote share, very little of this resulted in Conservative gains. Instead, the Liberal Democrats were the man beneficiaries of discontent with the direction of the government.}
for homosexual and heterosexual relationships should not be equal, along with support for the death penalty and the “traditional” positions of the party more broadly (BBC 2005a). Cameron was widely tipped as the candidate that was most clearly associated with the “modernization” wing of the Conservative Party. Several high profile Parliamentarians emphasized the need for this election to express to the public that the party had changed, or “reformed” as MP Andrew Lansley expressed it (BBC 2005c).\textsuperscript{14} Another MP, Davis Willets, argued that the party must show that is was as committed to building a strong society based on “social justice” as it was to building a strong economy, and that it must strive for the “centre ground” to avoid looking like a party that wanted to “recreate British society as it was in the 1950s” (BBC 2005b).\textsuperscript{15}

Ultimately, David Cameron emerged as the victor. In a speech at the party conference prior to the election, a speech which was widely seen as securing his victory, he argued that the party had to “change and modernise our culture and attitudes and identity” to show they were “comfortable with modern Britain” (Cameron 2005a). In the following years, Cameron embarked on radically changing Conservative attitudes towards LGBT issues. Building on existing moves to increase the number of ethnic minority and women candidates, Cameron said the Party should make an effort to field more gay candidates (Dorey 2007). In another move, he opposed attempts by the Catholic Church and other religious organizations to seek exemptions from a law which outlawed discrimination against same-sex couples in adoption cases. In adopting this

\textsuperscript{14}Lansley was a member of the shadow cabinet and would become Minister for Health, and later Leader of the House of Commons under Cameron, and supported the same-sex marriage bill

\textsuperscript{15}Willets was shadow minister for trade and industry at the time, and became Minister of State for Universities of Science under Cameron, and supported the same-sex marriage bill. He later made controversial statements about feminism.
position, he said “I shall vote for the regulations because it is right to have clear rules against discrimination” (Jones 2007).

Cameron and other Conservatives also showed an increasing interest in demonstrating visually their commitment to LGBT issues by, for example, attending gay pride parades. Indeed in 2009, Cameron became the first Conservative leader to attend a gay pride event, where he made a most remarkable showing in support of gay rights by condemning the party’s previous support for Section 28. It is notable that Cameron had originally opposed repeal in 2003, yet now apologized to LGBT groups for his party’s role in its adoption. He further added that it gave him “great pride to be standing here to celebrate Gay Pride and all you have achieved. If five years ago we had a Conservative and Gay Pride party, I don’t think many gay people would have come or many conservatives. In wanting to make the party representative of the country, I think we have made some real progress.” He then tied this to a broader agenda for the Conservatives, saying that if they won the next election they would be more diverse and representative of the country as a whole than ever before. He added, “the Conservatives had the first woman prime minister and we are bound to have the first black prime minister and the first gay prime minister” (Watt 2009).

Such actions extended well beyond Cameron’s orbit, including Conservative politicians across the UK. In 2007, the Conservative candidate for the four-way marginal seat of Brighton Pavilion\(^\text{16}\) appeared at Brighton’s gay pride event and made the following claim:

\begin{quote}
It was wonderful to see the whole Brighton Community together with absolutely no hint of prejudice. It reaffirmed my desire to represent\end{quote}

\(^{16}\)At the 2005 election, the four leading parties (Conservatives, Labour, Liberal Democrats, and Greens) were within twenty percent of each other. Ultimately this seat was won by the Green Party at the 2010 election.
this constituency and to show voters that David Cameron's modern, inclusive Conservative party abhors discrimination. We wanted to make a statement by taking part in Pride. We represent the whole country in all its diversity. (Dale 2007)

Boris Johnson, a highly visible Conservative Politician who was running for Mayor of London at the time, said in an interview to an LGBT publication that he would continue the city’s funding to gay pride, and added that “London has a fantastic record of being attractive to gays around the world and being a place gays feel they can come and be safe and where they will have a tolerant society. That’s what I want” (Grew 2007).

The sum total of the Conservative evolution on LGBT rights might be understood in two complementary ways. Most narrowly, it was about gaining support from the LGBT population in the UK, which as a whole had tended to support the Liberal Democrats and Labour Party rather than the Conservatives. Indeed, as will be discussed below, the Conservatives made direct appeals which implicated the interests of LGBT people as an attempt to bring these voters into the Conservative fold. However, broadly speaking, the support for LGBT rights was also clearly an attempt to appeal to a broader swathe of the electorate which attached a high degree of import to the values of inclusion, equality, fairness, support for LGBT rights. This was largely the self-narrative presented by Conservatives in the examples above, arguing that they had made a radical break with a troubled past. It is especially evident in a move to not only disown Section 28, but also to apologize for it. Support for adoption rights, civil partnerships, and same-sex marriage represented a total reversal of the previous Conservative position that homosexuality was based on “pretended family relationships.” Through embracing a rights agenda, the Conservative Party accentuated a supposed enlightened and progressive stance.
To stop at this point would be to only tell a small part of the story, for Conservative support for LGBT rights issues did not emerge in a vacuum, either in the domestic or global context. A global economic slowdown combined with the Conservative Party’s leadership of the UK government after the 2010 election created the conditions for enactment of a set of Conservative ideals which shows remarkable continuity with the past. I thus now turn to an examination of the 2010 Conservative election campaign, which occurred in the aftermath of the global financial crisis, and to parliamentary debates on same-sex marriage and their linkage to the class warfare rhetoric utilized by Conservatives to justify their economic policies in government.

4.3.2 Austerity in the UK: LGBT Rights and Conservative Economic Policies

While support for LGBT rights served to remake Conservative political alliances by framing LGBT people and their allies as potential Conservative voters, it took on a different role when outside events drastically reshaped the context in which the Conservatives would attempt an electoral comeback. The most important of these were arguably the 2007-2008 Global Financial Crisis and the related Eurozone Crisis. While these events influenced politics throughout the world, the UK was particularly affected because of its economy’s heavy reliance on the financial sector and its position as a non-Eurozone member of the EU. In this context, the Conservative Party’s framing of its gay rights agenda can be seen as a way of building and maintaining alliances that would allow it to win the 2010 election on a promise to cut government spending and lower taxes.

While a full recounting of the financial crisis is beyond the scope of this chapter, there are two ways in which the crisis is particularly relevant to a
discussion of Conservative electoral strategy. Firstly, these economic crises were accompanied by the emergence of an austerity agenda of unprecedented scale, particularly in Europe. This was the result of lost tax revenues during the crises alongside the size of the government debt in several states, which left these states unable to pay their debt obligations without significant reductions in government spending. Popular resistance to spending cuts had led to political instability, and political parties which had enacted austerity suffered significant political decline in elections. Such events highlighted the importance of maintaining political alliances which could lead to the enactment of austerity and sustain its implementation.

Secondly, the Labour Party’s stewardship of the economy and public finances was quite vulnerable to attack. Prime Minister Gordon Brown was particularly savaged for past statements he had made regarding the success of Labour policies in ending what he called “boom and bust” by bringing stability to the British economy. In addition to these attacks on Labour’s responsibility for the state of the British economy, there was also a withering attack on the fiscal record of the Labour Party. With ongoing concerns around the issue of sovereign debt, critics argued that its level of spending had put the UK’s solvency in question, and that higher interest rates would be the consequence of a failure to cut spending. In exploiting these avenues of attack, the Conservatives emphasized how LGBT people in particular would benefit from their policies.

Because of these concerns, the 2010 elections were driven by questions about the global economy alongside government spending and government debt. Conservatives focused on their desire to cut spending and reduce the deficit, and their election materials particularly savaged the Labour Party for its (supposedly excessive) government spending. One election poster showed an image of a
hand throwing change into a storm drain, accompanied by the message “Labour: wasting your money since 1997.” The message of this poster is not only that the Labour government spent too much money, but that its spending had been wasteful and inefficient, with the implication that a Conservative government would rectify this. A particularly brutal billboard (seen in figure 4.3) displayed throughout the country attacked the Labour Prime Minister Gordon Brown for his management of the country’s finances as both Chancellor of the Exchequer and PM. It presented a picture of him saying “I doubled the national debt; Vote for me.” This billboard contrasted this with the idea that Conservatives represented change and would ostensibly reduce the national debt.

Meanwhile, the Conservatives made a concerted effort to attract LGBT voters in the election. The clearest evidence of this is seen in the document A Contract for Equalities which was published alongside the Conservative manifesto in 2010. The contract discussed how the Conservatives would address the “most important issues in politics” which it identified as “gender equality, racial equality, ending age
discrimination, LGBT issues, and helping disabled people,” and said that if the party did not address these issues, it should be voted out at the next election. The contract argued that, in contrast to earlier elections, “the Conservative Party has changed” in a way that “better reflect[s] modern Britain,” demonstrated by Conservative assertions that too many people suffered daily discrimination due to sexual orientation and policies that included “tackl[ing] homophobic bullying in schools” (Conservative Party 2010a: 2). The document went so far as to accuse the sitting Labour government of doing too little to prevent this bullying, because it prohibited teachers from touching students to stop fights. Family issues returned later in the document, with a promise to increase parental leave for all couples, including same sex couples. In addition, the Conservatives promised to “consider the case for changing the law to allow civil partnerships to be called and classified as marriage” (Conservative Party 2010a: 14).

Conservative austerity rhetoric was not simply linked to support for LGBT rights incidentally. Rather, the Conservatives articulated, in specific terms, how their tax and spending policies would benefit LGBT people. The Contract and manifesto also articulated a rationale of economic interests for LGBT people to vote for the Conservatives as opposed to Labour. It goes so far as to say that “the modern Conservative Party is committed to a fairer deal for gay people across Britain” (Conservative Party 2010a: 14). Such rationales were exhibited with the view that LGBT people were a natural constituency for the Conservative Party, rather than political foes as during the previous era. When John Bercow made his original argument in favor of Civil Partnerships, he argued that the current law was unfair because it hit same-sex couples “in the pocket,” causing financial hardship. By 2010, the Conservatives had begun championing the economic case for LGBT people to vote Conservative. In voting Conservative they, like their heterosexual
counterparts, would receive tax cuts the Conservatives had decided to target at married people.

Indeed, it is telling that Conservative support for LGBT rights would be built alongside the party’s embrace of devolution as a means of controlling government spending. The Conservatives have largely renounced their focus on the central government as the sole locus of legitimate state authority, supporting the decentralization of state power through devolution to Scotland, Wales, and Northern Ireland. In the context of the 2015 referendum campaign for Scottish independence, David Cameron joined other party leaders in a vow to deliver more powers to the Scottish Parliament that currently resided in London. Conservatives often argued that these devolved institutions promoted government spending, as they often were simply involved in spending money through government programs and did not have to raise the funds to make this possible. Thus Ruth Davidson, the openly lesbian leader of the Scottish Conservatives, argued that the current system “makes every Scottish election a spending competition, with no thought or regard of who the money comes from.” Granting devolved governments the power raise their own taxes would create a parliament that “finally — has to look tax payers in the eye” (Davison 2014). As with same-sex marriage, such moves would ensure responsible governance as individuals would aim to minimize governance from a centralized state apparatus.

4.3.3 Marriage and Governance

One of the most important aspects of Conservative Party rhetoric since David Cameron’s election in 2005 has been a narrative which defines the nature of the state, of society, and most importantly the boundary between them. When
Cameron was campaigning to become Conservative leader, he announced a set of sweeping ideas of which modernization was but one component. One of the main pivots for his speech was a line separating society and the state. Such distinctions were explicit, with arguments that "we know we have a shared responsibility, that we’re all in this together, that there is such a thing as society; it’s just not the same thing as the state."

During the 2010 general election, Conservative Party campaign posters provided a visual representation of these themes, as seen in figure 4.4. One poster took David Cameron’s statement about the distinction between society and the state, portraying society as a white balloon on a string pulling upwards, while state was portrayed as a heavy black weight on a chain, shown in the figure

17See Cameron (2005a,b).
above. One of the strong messages of this poster was not only that there was a stark difference between the state and society, but that the state served as an unnecessary weight pulling society down.¹⁸ Society, by contrast, is portrayed as productive and uplifting. A second poster contrasted “social responsibility” to “state control.” The former was embodied by a pair of white shaking hands, emphasizing cooperation and common purpose, while the latter was represented by a black fist slamming down, imagery often associated with authoritarian regimes. The 2010 Conservative manifesto built on these themes. It stated that “our society is broken, but together we can mend it,” with Conservatives supporting “Big Society, not big government.” In addition to the small government, when viewed alongside other Conservative initiatives, there is an insinuation that family values of society (including same-sex marriage) are incompatible with an oversized state.

Support for same-sex marriage can be seen as a particular instantiation of the Conservative approach to the state/society distinction. Despite the belief that the two are and should be separate, Conservatives argued that the government did have a role to play in creating a strong society. This approach is exemplified by the following passage from the 2010 manifesto:

> We recognise that it is not enough to create opportunities for people to get involved in building the Big Society; our reform plans require a social response in order to be successful. So building the Big Society is not just a question of the state stepping back and hoping for the best: it will require an active role for the state. The state must take action to agitate for, catalyse, and galvanise social renewal. We must use the state to help remake society. (Conservative Party 2010b: 37)

¹⁸This contrasted quite strongly with one of Margaret Thatcher’s most infamous statements - “There is no such thing as society.”
According to this view, while government regulations can interfere with the proper functioning of society and a state that is too large can encroach on matters best left to society, the state does have an active role to play in enacting policies that will make society stronger. Among the most prominent of these policies were those related to the family, with the manifesto arguing that “strong families are the bedrock of a strong society” which provide “stability and love that is needed by all people” (Conservative Party 2010b: 41). Among other things, the manifesto pledged to accomplish this by recognizing marriage in the tax code to allow married couples to pay less tax. This was designed to “signal that we value couples and the commitment that people make when they get married” (Conservative Party 2010b: 41). While this might seem like boilerplate in terms of a Conservative Party manifesto, the ideas articulated alongside were a vast departure from earlier manifestos. The first signal of this is seen in the tax cut pledge—the government pledged to not only recognize marriage but also same-sex civil partnerships in tax policy. The ideas about “commitment” were thus framed as applying to both same-sex couples and opposite sex couples who seek to have their relationship legally recognized.

It is interesting to note that this policy at the center of the “big society” represented a diminution of government power in the form of a tax cut. This reflected the a desire to “make Britain the most family-friendly country in Europe” by “redistribut[ing] power from the central state to individuals, families, and local communities” (Conservative Party 2010b: 35). In this context, strengthening the family serves not only to strengthen society, while requiring the state to take a back seat; it also justifies the ability of society to “get along fine” without government spending and regulation. In other words, policies that supposedly strengthen the family (and by extension society) serve as a strategy to allow for
reductions in state spending and power.

This raises an interesting possibility with regard to Conservative support for same sex marriage: that same sex marriage would increase the strength of marriage as a regulatory force within society, while simultaneously strengthening the “big society’s” raison d’etre, a reduction in state power. Rhetoric regarding “tradition,” “commitment,” and “stability” were an early narrative in Conservative support for civil partnerships, and later same-sex marriage. This was articulated in a discussion of marriage by David Cameron at the 2006 Conservative Party Conference:

When you stand up there, in front of your friends and your family, in front of the world, whether it’s in a church or anywhere else, what you’re doing really means something. Pledging yourself to another means doing something brave and important. You are making a commitment. You are publicly saying: it’s not just about “me, me, me” anymore. It is about we: together, the two of us, through thick and thin. That really matters. And by the way, it means something whether you’re a man and a woman, a woman and a woman or a man and another man. That’s why we were right to support civil partnerships, and I’m proud of that (Cameron 2006).

Further evidence for this exists within Parliamentary debates on the marriage bill. One MP claimed, for example, that “surely offering [marriage] to others can only strengthen it and ultimately build the society that we all want” (House of Commons 2013: 203). Another MP argued that marriage is “a force for good” in the country, and that legalization of same-sex marriage would allow Conservatives to accept a changing world while preserving “the best of what we inherited” (House of Commons 2013: 218). Support for LGBT rights thus served as a means of reinforcing the ideas at the center of the “big society.” Such statements provide evidence that, while sexuality was of continuing importance to the Conservative Party in defining the nature of society and the threats posed to
society, the role of homosexuality and LGBT people had changed. Homosexuality was no longer at the vanguard of a push for “big government” or a force that would threaten to destabilize society. Rather, LGBT rights issues such as same-sex marriage had become an integral means for Conservatives to achieve their political aims.

While this concern with the relationship between society and state represents a clear continuity with Thatcherism, government rhetoric regarding same-sex marriage also highlighted breaks with that era’s thinking as well. Smith (1994: 185) argues that Thatcherism “reduce[d] the political terrain to two spheres, the enterprising individual and her family on the one hand, and the central government on the other” wherein “no interruption” of this relationship was “tolerated.” Neither the “invented” concept of society nor the local government was supposed to mediate this direct connection.

4.3.4 Marriage and the Logic of Austerity

When the Conservatives became the lead party in government after the 2010 election, they continued to press on with a gay rights agenda that ultimately resulted in the enactment of same-sex marriage. Simultaneously, they embarked upon an austerity program of unprecedented scale. Importantly, this does not mean that the support for LGBT rights generally, and same-sex marriage specifically, was only instrumental in nature. Same-sex marriage did not simply affirm the distinction between state and society or promote the electoral interests of the Conservative Party. Rather, the logic underlying enactment of same-sex marriage (alongside other factors) provided support for austerity and vice versa.

When the Conservative-led government took office in 2010, it faced a difficult
fiscal and economic situation. In addition to a deficit due to spending decisions by the previous Labour government, the global recession meant that the government could not rely on existing tax revenue to support existing levels of spending and debt. The gravity of the situation is underscored by an anecdote regarding the change in government. On the first day in his new job, the new Chief Secretary to the Treasury found a note left for him by his predecessor. The note simply said “Dear Chief Secretary, I’m afraid there’s no money. Kind regards – and good luck!” These fiscal difficulties caused the government to embark on an expansive program of austerity which was among the most aggressive following the financial crisis.

It was in this context of these “difficult decisions” (as they were known in Conservative parlance) that Conservative support for LGBT rights, embodied in same-sex marriage legislation, emerged at its strongest. Indeed, there was a high degree of compatibility between language used by the Conservatives in debates on both same-sex marriage and their austerity policies. They repeatedly argued that both spending cuts and decreased government regulation would enable a greater degree of freedom. The Chancellor argued, for example, that “too often, the natural inclination of Government is in the opposite direction, creating new regulations, putting up new barriers, and making life more difficult for entrepreneurs and innovators” (House of Commons 2010: 533). The government’s adoption of austerity was not simply due to budget pressures. Austerity, after all, is not simply be defined as “budget cuts,” but rather “the policy of cutting the state’s budget to promote [economic] growth” (Blyth 2015, cf. Chwieroth 2010). Conservative policy-makers actively believed that austerity would both grow the economy of the UK and allow budget deficits to shrink (See generally Conservative Party 2010b, 2015).
The Conservative response to the economic crisis was to adapt the idea of the big society to discussions of how they would help the country recover from the economic crisis. This was encapsulated by an image that appeared throughout Conservative campaign materials in 2010, including in the Equalities contract, the main party manifesto, and issue specific manifestos. This image, seen in figure 4.5, consisted of a map of the United Kingdom, with the landmasses formed into letters of the phrase “We’re all in this together.” This phrase underscored Conservative ideas regarding the relationship between economic policy and the “big society” by emphasizing that everyone in the country, regardless of station, is affected by the problems confronting the county.

The idea of “we’re all in this together” also echoed ideas regarding equality that had served a fundamental role in the marriage debate. Many Conservatives argued that their support for the bill was because it would make people in the UK
more equal. As one Conservative MP argued, “I want to live in a society that does not discriminate. That is why I support the bill” (House of Commons 2013: 202). Another MP echoed this sentiment, framing the shift from Civil Partnerships to marriage as a recognition that “people cannot be a little bit equal” (House of Commons 2013: 204). Even the vocabulary used by Conservatives emphasized this point. Over and over, Conservative supporters returned to the phrase “equal marriage” in reference to their policy, rather than other terminology such as “same-sex marriage” or “gay marriage.”19 This emphasis articulates how, by legislating for same-sex marriage, the state has made people more “equal.” The issue of equality was closely linked to “fairness.” In response to a specific question on whether the debate over marriage was about whether to accord “equal rights” to people without regard to sexuality, Maria Miller responded that “we need to ensure that we, as a society, treat people fairly. That is at the heart of what we are doing today” (House of Commons 2013: 131). Later, she reemphasized that “this bill is about one thing – fairness” (House of Commons 2013: 133). The exact nature of this “equality” or “fairness” is especially important in considering its relation to Conservative economic priorities. One Conservative MP made a sweeping statement that gets to the heart of this, arguing that “this Bill is part of an astonishing and wonderful change that has [. . .] taken millions of us from criminalization to legal equality and the enjoyment of self-worth and validation” (House of Commons 2013: 214). Certainly this point is true; gays and lesbians had gone from facing criminal sanctions from to state to receiving recognition for their relationships in the form of marriage.

19This is not to say that other terminology was never used, but examples including government consultation documents and ministerial speeches emphasized this term repeatedly (See House of Commons 2012a).
If this term was familiar, it was because the Conservatives had also used it extensively in the 2010 election. One of the campaign leaflets argued that Labour’s governance of the UK was based on an “old-fashioned leftist idea that only the state can guarantee fairness” but that ultimately the outcome was that “Labour means an Unfair Britain” (Conservative Party 2010e). Throughout the Conservative election leaflets, the state became the singular target which was to be blamed for unfairness in Britain. Conservatives, in contrast, would create fairness by “giving people more control over their lives” (Conservative Party 2010d).

Indeed, this word “fairness,” used to describe the government’s approach to same-sex marriage, was also a prominent theme in its economic policy. In 2011, at the same party conference address where he came out in support of same-sex marriage, David Cameron said that the mandate his government had received was to rebuild his country’s economy in a way that was “right and fair.” He argued that one of the key ways to do this was by cutting spending on the country’s public pension system, requiring workers to contribute more to their pensions and to work longer, justified with the declaration “that is fair.” This was followed by another unequivocal declaration “what is not right, what is not fair, is going on strikes that will hurt the very people who pay for your pensions” (Cameron 2011). The next year at party conference, his target for the label of “unfairness” was those who received what he considered an excessive housing benefit, which lead to the imposition of what became popularly know as the “bedroom tax.” While discussing his welfare cuts, Cameron provided only one example of the kind of person affected: “the guy who’s been out of work for years, playing computer games all day, living out a fantasy because he hates real life” (Cameron 2012). This highlights the singularity of identity categories in Conservative rhetoric. Gays
were responsible people who got married, totally separated from the avid gamer living on the state dole.

However, these arguments about the government’s actions obscured the more complicated ways in which government policies interacted with the concept of equality. When presenting his 2010 Autumn forecast, the Chancellor of the Exchequer praised the government for the steps it had taken to reduce government spending and debt. He added that “our decisive actions have proved to the world that Britain can live within her means” (House of Commons 2010: 532). The Conservative’s public sector manifesto promised to institute a public sector pay freeze (which was enacted after the election), telling workers that “we all have to pull together to bring the deficit down” (Conservative Party 2010c: 12). Yet these “difficult decisions” did not seem to extend beyond cuts to spending and government regulation. This was most clearly on display when, in the same speech where he praised the government’s financial discipline, the Chancellor announced new tax cuts, including a reduction in the corporation tax which brought it to its lowest level ever. Such steps were repeated in subsequent years; In 2012, for example, the Chancellor announced that at the same time he would be cutting the welfare budget substantially (a move he called a “reform”), he would reduce the tax rate paid by the top earning taxpayers in the county and also providing tax cuts to small businesses. Ostensibly the cuts in welfare spending was designed to decrease the deficit. The word he used to describe the overall approach to the budget was “fairness” (See House of Commons 2012b).

The particular conception of “equality” employed by the Conservatives was clearly seen in the role that transnational comparisons played. After the legalization of same-sex marriage, David Cameron said the UK was “the best place to be gay, lesbian or transgender anywhere in Europe” according to “an
internationally recognised measure.” Of course, such a statement is made possible by the privileging of the idea that LGBT rights and identity are discrete from other political claims to economic justice, ignoring how many LGBT people have been made worse off by Conservative policies. Cameron further intoned that there was “still a lot more work to be done,” and he emphasized one effort in particular – the “export” of same-sex marriage across the globe (Cameron 2013b). This language is strikingly similar to that which has been used to show the UK as an “exceptional” economy during the austerity crisis. During debates over economic policy, Conservative ministers frequently utilized figures which compared the UK’s growth rate or other measure to those of other countries to demonstrate how much more “responsible” the UK had been in comparison to the rest of the world. The common thread in all these claims is the exceptional nature of the United Kingdom in undertaking decisive actions to “strengthen society,” which in turn allowed it to decrease the importance of the state in assuming this role.

The claims regarding equality made in the same-sex marriage bill go beyond “compatibility” with Conservative economic policies. The same-sex marriage bill, by privileging and enacting a particular conception of equality, could also serve to create the idea that the Conservatives were enacting an equal society, or at least that their policies were substantively concerned with these goals. In doing so, it also absolves Conservative policies from responsibility for residual inequality within the UK. Indeed, The phrase “we’re all in this together” also intones ideas about the responsibilities that individuals bear towards society, and sees a smaller state as the best means of achieving the goals of the “big society.” David Cameron discussed such ideas in 2005 when he was attempting to become party leader. Cameron claimed that “we are the only party believing that if you give
people freedom and responsibility, they will grow stronger and society will grow stronger.” This idea was articulated more concisely in another Conservative election image (Figure 3.3) which displays the phrase “By trusting people we help them grow stronger” in the shape of an ascending stair case.

How does this understanding of rights fit alongside the idea of responsibility embedded in “We’re all in this together?” Following Brown (1995), we would see that this creates a situation where individuals are produced as being wholly responsible for their own social and material circumstances. Acknowledgment of social difference, decreased taxes, and reduction in state power are the keys to ensuring success for individuals. And those who fail, given these conditions, can be assumed to have done so because of their own actions. A right to same-sex marriage plays a reinforcing role here, particularly insofar as it is couched as a claim limiting state power. While political claims to same-sex marriage are made by a political group (gays and lesbians), who is the corresponding state action addressed to? It is not addressed to the group as a whole, but rather to the atomized individual who chooses to enter into a marriage with a person of the same-sex.20

Such a stance is suggested by Conservative campaign materials detailing their strategies to recover from the economic crisis. The 2010 manifesto claimed that “by promoting equality and tackling discrimination, our policies [. . .] will give everyone a chance to play their part. Such action would make the UK “fairer” and create “a country where opportunity is more equal” (Conservative Party 2010b). If

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20To clarify this idea, it is helpful to remember that the liberal state’s response to a claim to rights is to enshrine a universal right. Thus, everyone has a right to enter a same-sex marriage (not just gays and lesbians). The universality of this right does not mean that the referent of the right is the “people” but rather the individual as a subject of the state.
this is the case, this means the emergence of same-sex marriage fits directly alongside the Conservative’s increased attention to those who supposedly take advantage of the welfare system. This places same-sex marriage at the center of a political debate in the UK which is often crudely framed as representing a conflict between “shirkers” and “strivers.” This was reflected in statements made by Chancellor George Osborne, who was responsible for implementing Conservative economic policies.

Where is the fairness, we ask, for the shift-worker, leaving home in the dark hours of the early morning, who looks up at the closed blinds of their next door neighbour sleeping off a life on benefits? When we say we’re all in this together, we speak for that worker. We speak for all those who want to work hard and get on. (Osborne 2012).

The conception of equality at the heart of the same-sex marriage bill allows for an undifferentiated characterization of all those dependent on welfare policies.

Creation of the “striving” individual is thus unsurprisingly one theme that was persistent in Conservative rhetoric in government. And it also explains why, as in the era of Section 28, education policy also played a key role in the rhetoric of LGBT rights. In 2010, the party refocused some of their efforts regarding LGBT rights on education, complaining that “homophobic bullies excluded from schools can be returned to the classroom by a bureaucratic appeals panel, and teachers are often unable to break up violent homophobic bullying because of “no touch” policies.” For Conservatives, there was one clear answer, provided in their 2010 Contract for Equalities: “we will give headteachers the final say over the exclusion of homophobic bullies” (Conservative Party 2010a). On one level, such a statement indicates a promise that there will no longer be endless appeals for homophobic bullying by appeals panels that often are more willing that teachers
to permit homophobic bullying. In fact, the Conservatives in 2010 promised to abolish the right to appeal decisions made by headteachers. Yet, it is important to emphasize that this pro-LGBT stance was taken alongside a broad raft of education reforms that fit in with broader Conservative themes of self-reliance and family values. In their 2010 manifesto, they stressed the need for broad education reform, saying that “a Conservative government will not accept another generation being consigned to an uncertain future of worklessness and dependency” (Conservative Party 2010b: 16-17). To meet this goal, the party promised to introduce a raft of reforms, including schools run by the private sector and a “more challenging curriculum” (Conservative Party 2010b: 53).

As time passed it also became increasingly clear that there was another dimension to the Conservative arguments regarding “shirkers:” that Britons should be especially concerned that many of those taking advantage of government welfare policies were immigrants, particularly those from Eastern Europe. For example, in his 2013 Party Conference speech, David Cameron specifically advanced the theory that “the problems in our welfare system and the problems in our immigration system are inextricably linked” (Cameron 2013a). Such language highlights another aspect to the conception of equality that Conservatives applied to same-sex marriage—that the tolerance expressed through legalization of same-sex marriage does not apply to identity categories related to national origin, particularly for those immigrants who fail to live up to the Conservative conception of societal responsibility. I thus now turn to a linkage between same-sex marriage and race that underscores the sort of “inclusion” at the heart of Conservative policies.
4.3.5 Immigration, Race, and Inclusion

In the run-up to the 2015 election, the Conservative Party became increasingly threatened on its right flank by the United Kingdom Independence Party (UKIP), which many perceived to be to the right of the Conservatives. An increase in UKIP support threatened the ability of the Conservatives to form a government after the next election. Many Conservatives placed same-sex marriage within a broader narrative which said that Conservatives had alienated their base through implementation of socially liberal policy. Any increase in Conservative support following from the modernization of party policy was coming at the expense of, it was argued, voters on the right of the party. In response, the Party began focusing on the issues that were seen as important to Conservative voters who might vote for UKIP. Policies that would crack down on “abuses” of welfare, discussed above were part of this. However, one particular issue emerged as a consistent theme of Conservative rhetoric during the latter half of its period leading the government: immigration.

The UK’s policies on immigration are heavily influenced by its membership of the EU, which allows complete freedom of movement among member countries. UKIP’s appeal, in addition to its more conservative stance on social issues such as same-sex marriage, was a promise to withdraw from the European Union. Thus, as Conservative support continued slipping away to UKIP, the Conservatives began making promises regarding what they would deliver if they won the 2015 general election. One response promoted by Conservative leadership, in stark contrast to their position on marriage equality, was to call for a UK-wide referendum to determine whether the country should leave the EU.

Conservative moves regarding immigration were much broader than this step,
Figure 4.6: A Home Office van which targeted undocumented migrants.
however. What emerged was a rhetoric regarding equality and fairness that had similarities with Conservative rhetoric surrounding both same-sex marriage and welfare spending. Indeed, there is considerable evidence that Conservative sentiment regarding immigration, as with those other issues, was driven by something deeper than simple fiscal prudence. And as with debates over welfare spending, there appears to have been some inherent logic of exclusion in the broader understanding of equality.

One prominent example was in a pilot project initiated in the Home Office which utilized vans which carried messages aimed at undocumented migrants, which were driven around neighborhoods in London (shown in figure 4.6). The side of the van contained a large image of the torso of an officer from the home office holding a set of handcuffs. The van carries a message that asks the viewer if they are “In the UK illegally?” and then states that they must “go home or face arrest.” The van provides a number which viewers may call to receive help or travel documents. Finally, it provides a chilling warning, which says “106 arrest last week in your area.” This image highlights the limits to the “tolerance” expressed in the context of the government’s acceptance of same-sex marriage, while reinforcing the aspects of equality which assumes that people are solely responsible for their own material sufferings.

It also shows that beliefs about limited state power in the UK are not absolute. There is no problem with providing government benefits and assistance to those who are foreigners, as long as they are outside of, or on their way towards leaving, the UK. This has been one of the more interesting themes of the political agenda of the Conservative party in recent years. While decrying excess with regard to government spending on benefits for the poor, the government has repeatedly promised to devote substantial resources towards foreign aid. This
was a longstanding commitment of the Party; in 2010, the Conservative manifesto promised that the government would legislate that 0.7% of GNI would be spent on foreign aid, the UN approved target. Such moves were framed as promoting the UK’s “enlightened national interest” (Conservative Party 2010b: 109, 117). This came to fruition in 2014 when the Party supported a bill in the House of Commons which finally enacted this manifesto commitment.

It is not surprising that as Conservatives directed increasing attention to immigration, the issue of “fairness” resurfaced again. One manifestation was David Cameron’s drive to force foreign prisoners fighting deportation to pay their own court fees, and to also deprive them of access to UK courts broadly in pursuing their appeals, framing the situation where this was not the case as a “national problem” (Cameron 2013a). A more significant moment came in November 2014 when Cameron made a long awaited speech on immigration that many Conservatives hoped would end their problems with UKIP. One of the key opening sentences was “Immigration benefits Britain, but it needs to be controlled. It needs to be fair” (Cameron 2014). The key policy announced in this speech was a removal of the right of EU migrants to claim many welfare benefits that any resident of Britain previously could claim. Cameron later said that those who were opposed to immigration controls “have never waited on a social housing list or found that their child’s classroom is overcrowded or felt that their community has changed too fast.” This line echoes sentiments expressed more broadly regarding welfare claimants, that they (not government policy) are to blame for “unfair” outcomes in UK public services.

However, the more striking elements of this quote is its clear continuity with Conservative Party rhetoric from the Section 28 debates. There, as here, race becomes a crucial subversive factor, threatening to undermine the strides that the
party has made in terms of LGBT rights. While the “modernization” project was one which allowed the Conservative Party to be portrayed as more in touch with the country as a whole, it is notable that the process was also framed as one which was incomplete, as evidenced in Parliamentary debates about the marriage bill. Some Conservatives saw the tenor of the debate as underscoring the party’s continuing need to evolve. MP Margot James (elected as the party’s first openly lesbian MP in 2010) said that the debate brought forth by the bill might signify that “we may have gone two steps forward, but I fear we have also gone one step back” and ultimately that “the modernisation of the Conservative party is not yet complete” (House of Commons 2013: 163). It was also this concern with a need to continue reform of the Conservative brand that transnational comparisons did play an important role. Referencing US political debates, one MP said that if the party failed to fully embrace equality, “we may end up like the Republican party, which lost an election last year” (House of Commons 2013: 164). Arguably, this was in reference to more than simply the failure of some Conservatives to embrace marriage, but rather a statement regarding the party’s overall attitude regarding equality.

Nowhere are the problems at the intersection of race and LGBT rights more clearly seen than the treatment of LGBT asylum seekers by the UK in recent years. One example became public in early 2014 when an internal Home Office report was leaked to *The Observer*. Among questions one gay asylum seeker was asked were:

- "Did you put your penis into x’s backside?"

- "When x was penetrating you, did you have an erection? Did x ejaculate inside you. Why did you use a condom?"
"What is it about men's backsides that attracts you?"

"What is it about the way men walk that turns you on?" (Taylor and Townsend 2014)

Although such examples were among the most extreme, the Observer report highlighted how Home Office skepticism was visible in similar cases. In one high profile case, a woman seeking asylum due to her sexual orientation felt that she would have to send an intimate video to prove her sexual orientation (See Dugan 2014). She had provided supporting documentation, such as letters from ex-girlfriends in both the UK and Nigeria, yet UK immigration officials did not believe this evidence.

Among the most peculiar criteria said to be used by home office ministers was to say that asylum seekers could not be gay or lesbian because they had children. This fear of individuals with children obviously played on racial stereotypes regarding foreign minorities who might exploit the British welfare system. And, despite Conservative distrust of centralized bureaucracy, such concerns seem not to have extended to these asylum seekers. This shows how in Conservative discourse, these people were first and foremost not British, irrespective of their claim to LGBT identity. This also hearkens back to a Thatcherite concern with the proper shape a family should take (cf. Jones 2002). If we reject the idea that they separate policies on separate policy areas, LGBT rights and immigration reveal to some extent that LGBT people remain suspect in terms of what they can contribute to society. It also shows the limited reach of the equality embedded in Conservative support for LGBT rights, with limits based on what an individual looks like and where they are from. Ultimately, the singularity of LGBT identity in Conservative rhetoric separated the idea of LGBT rights from other causes that
might affect the rights of LGBT individuals.

4.3.6 Tolerance, Equality, and Marriage

If foreign LGBT people were framed as particularly suspect, their liminal status in LGBT rights debates was perhaps camouflaged by Conservative opponents to marriage equality who claimed that they were, in reality, the ones being persecuted. To compound matters, these individuals were often the same ones who had taken the most vociferous positions against immigration and in favor of withdrawal from the European Union. These rebels also claimed the banner of “rights” in support of their cause.

Opponents claimed that the Conservative push for LGBT rights, and marriage in particular, served only an instrumental purpose in “detoxifying” the image of the Conservative Party. On both sides of the marriage debate, there were those who spoke about the link between same-sex marriage and Conservative modernization as if such a link was an illegitimate basis upon which to base support. This was articulated by one question posed during the Parliamentary debates by a member of the conservative Democratic Unionist Party, a right leaning party often in agreement with the Conservatives: “Is not the truth of the matter that this is about low political calculation and detoxifying the Tory brand rather than anything to do with principle?” (House of Commons 2013: 130). The leader of that party similarly argued that the law was being passed for “the most pathetic of reasons – public relations reasons” (House of Commons 2013: 205). Among Conservatives opposed to same-sex marriage, this was similarly an important issue. For example, one Conservative MP argued in the Parliamentary debate that “there is an element of token politics in this, which I do not like”
Many of those who opposed the same-sex marriage bill seemed worried that their opposition would cause them to be seen as “bigots.” One Labour MP recounted how a constituent expressed fear that opponents would not be regarded as simply “having a different point of view, but as bigots and homophobes,” and felt that he was “not just excluded from [the MP’s] view of equality, but criminalized by it” (House of Commons 2013: 153). Such views were expressed even more clearly by Conservatives, who split almost evenly in the final vote on the bill. One MP said he “never imagined that [he] would be in a position” of being characterized as “a ‘homophobic bigot,’ a religious nutter,’ a product of the dark ages,” or as someone on the verge of “making a tragic mistake” that he would come to regret in later years” (House of Commons 2013: 190). Another MP said that he had been called a “Nazi” and had received death threats (House of Commons 2013: 197). Comparisons to race were rare (in contrast to US debates), but were rebuffed with the argument that “the suggestion that opposition to the bill is akin to being a white supremacist in Montgomery, Alabama in 1955 is absolute nonsense” (House of Commons 2013: 200). One MP asked the government whether it accepted that “this change of policy greatly increases the chance of human rights litigation to force churches to have same-sex marriages?” (House of Commons 2012a: 23). Concerns about religious freedom dominated debate on the bill – and underscore how principles related to limited government pervaded debate on the bill, even among opponents. Supporters and opponents alike were both eager to prove that their position on same-sex marriage was more in tune with religious freedom. This religious freedom was articulated in one consistent way throughout the debates – religious freedom from state influence, with Conservative Christians as the prime targets of government policy
Maria Miller, the government minister in charge of the bill, reframed the religious debate on different terms, arguing that “there is no single view on equal marriage from religious organizations” (House of Commons 2013: 126). Indeed, the bill was argued to protect religious liberty as “all religious organizations—whether they be Jewish, Muslim, Christian, or any other—will be able to decide for themselves if they want to conduct same-sex marriages. Such sentiments were echoed by a Labour frontbencher, who argued that freedom of religions “means that no church or religious organization will be required to hold same-sex marriages” but added that “freedom of religion also means that people of faith such as the Quakers, the Unitarians and others who want to be able to celebrate same-sex marriages should be able to do so” (House of Commons 2012a: 24).

One Conservative MP, in addressing his colleagues who did not support the bill, said that “it is perfectly possible to respect those who take a traditional view of marriage. I do not agree with it, but I utterly respect those who sincerely hold that view (House of Commons 2013: 225). This was a recurring argument, and proponents were at pains to argue that the bill would not “marginalise those who believe that marriage should be between a man and a woman” which Miller said was a “mainstream view” (House of Commons 2013: 134). A Conservative MP opposed to the bill expressed this feeling from his point of view, saying “let us get away from the ridiculous mentality that too often pervades arguments on sensitive issues: that if someone is for some reason not in favour of a specific issues, they are against the whole cause – that if someone is not in favour of gay marriage, they must be homophobic or against equality” (House of Commons 2013: 157). He echoed the feelings of many Conservative parliamentarians who were in favor of civil partnerships but opposed the marriage bill. When Maria Miller began
speaking, she intoned that, “I also know that some colleagues in the House feel they cannot agree with this bill for principled religious reasons, and I entirely respect that stance. I do not think that it is the role of government to tell people what to believe” (126).

Indeed, some MPs seemed to underscore the fact that people could not help but have their positions. One MP argued that “constituents and colleagues who are neither prejudiced nor homophobic genuinely believe that it is impossible to change the meaning of marriage” (House of Commons 2013: 173). And it is difficult to find any responses to the bill’s opposition in the parliamentary debates that claims that their position is backwards or unacceptable. Ultimately, the government would not “tell people what to believe.”

However, a more important move is that this draws the debate over LGBT rights, and the idea of rights more generally, onto a ground that is favourable to the other goals of Conservatives. This discussion of tolerance and equality is directed towards a group of individuals that is overwhelmingly white and male, ignoring the other forms of exclusion present throughout the government’s programs. Such programs were summed up in the Conservative’s 2015 election manifesto, in a promise to “protect British values and our way of life” (Conservative Party 2015: 31). While the British “way of life” is never defined in the manifesto explicitly, nor are the precise values that are “British,” they seem to evince an overall concern regarding outsiders who might take advantage of Britain and change it in unfavorable ways. It is thus not surprising that the same manifesto promises swift action regarding immigration, and places particular emphasis on benefit tourism. Such messages re-assure Conservatives that they are not intolerant merely because they do not embrace progressive causes that might change the complexion of British society.
4.4 Whither Rights?

Thus far, I have focused on the idea that the emergence of same-sex marriage in the UK cannot be understood absent a discussion of its relationship to Conservative modernization. As I have outlined here, modernization articulates a relationship between a variety of political identities (including LGBT identities) and orients them towards a common project based on a understanding of equality that is compatible with an program based around decentralization, austerity, and the formation of a self-governing society. It also, most importantly, involves the drawing of boundaries which determines who can contribute to this society, based on race and social class. The language of rights plays a pivotal role here, providing a moral urgency to this project, while also camouflaging the means by which it is connected to other political projects.

Returning to Section 28 is instructive to understanding this pattern. There, we saw that Conservatives opposition to homosexuality was particularly salient because of the perceived alliance between LGBT rights advocates and other leftist causes. It is important to note that, as time has passed, Conservatives have not gone on to embrace all of the causes which they opposed at the time. Rather, it was only in seeing sexuality as a complement to the party's causes that Conservatives came to support LGBT issues. And, in the most important move, their articulation of LGBT rights would sever the possibility of alliances between LGBT advocates and the groups to whom they were historically linked.

It is thus essential to emphasize that in linking one particular form of equality to rights, this project has also done much to undercut the mechanisms by which other political projects may pursue rights claims. This not only undermines potential alliances between supporters of LGBT rights and other progressive
causes, but provides a much more unfavorable political ground upon which these causes can be contested. In essence, as LGBT political movements succeed in making their own rights claims, they undermine the mechanisms used by groups whose rights claims created the initial conditions where it was even possible to speak of LGBT rights. In this area, one thing is clear: Conservatives have been especially hostile to both the legal instruments which articulate rights and the political institutions which protect rights for the poor and for immigrants.

One of the most striking aspects of the Conservative government has been its extreme hostility to the practice of judicial review. Conservatives have also the authority of the European Court of Human Rights and currently are seeking withdrawal of the UK from the European Convention of Human Rights. It is important to emphasize that these moves have not taken place in a vacuum. Conservative defense on the UK’s human rights record with regards to other states frames the UK as a state that is unfairly targeted by the Court and is not a real offender. In this context, the government’s choice to emphasize the UK’s LGBT rights record serves to exemplify its promotion of human rights. In reality, leaving the ECHR would prevent appeals from many of the immigrants who claim they have a right to stay in the UK, even as the UK government attempts to deport them.

All of this serves to underscore a key problem in analyzing the UK’s embrace of same-sex marriage as a diffusing liberal norm: in many ways, it does not represent a historical trend towards an unbounded embrace of freedom and equality. By framing the UK as an exemplar of human rights, LGBT rights discourse served to facilitate the rejection of other international norms, such as adherence to the European Convention on Human Rights. As certain groups are embraced, others are excluded based on the supposedly inclusive rhetoric of
rights, which becomes equivocated to the Conservative ideas of “fairness.” In essence, passage of same-sex marriage through the legislative process serves to undermine other rights claims that might be guaranteed through the judicial process or international organizations. This serves as one final safeguard that the boundaries created by the overall Conservative project remain intact.

4.5 Conclusion

There has been a tendency for those who write about norms to treat them as free-floating rules which regulate the behavior of states in the international system. While these rules are often framed as interacting alongside and interfacing with other norms, little attention is given to how these norms become articulated as part of a broader political project, which aims to influence a wide array of actors.

In the case of LGBT rights in the UK, embrace of same-sex marriage was not simply a way to distinguish the UK as a state within the international system (though this played a role). More importantly, LGBT rights became part of a broad governing agenda, whose goal was to regulate individuals, civil society, and the nature of state power in addition to regulating the behavior of the state as a rights bestowing actor. Indeed, we see that when regulation of sexuality comes to the fore, it is always linked to a similar series of issues across time periods.

In the UK, marriage equality emerged at a particular moment in history when austerity had become a prime driver in both national and international politics, with very real implications for our understanding of norms and their role in the international system. If history is so important to understanding norms, this reinforces my claim that the standard definition - “a standard of behavior for actors
with a given identity" - is not viable. This still leaves two broad questions: how might we theorize norms in our current historical context, and why is this important from a normative perspective? These are questions I will address in the final chapter.
“At stake above all is a dynamic and historical conception of the human person, oriented definitively and creatively toward the future, acting in the present for the sake of tomorrow.” - Gustavo Gutierrez (1988: 21-22)

It is common for contemporary observers to make the historical claim that a particular struggle for a given right is the “last remaining struggle” in pursuit of equality, dignity, freedom, or justice. Such claims reflect utopian desires to materialize an end to political struggle. Whether the assertions are made by activists seeking an end to human suffering or scholars seeking an orderly end step in a model of normative change, the need to bracket political history with the final achievement of human dignity appears to be a strong temptation.\(^1\) Whatever the ultimate motivation for these pronouncements, such desires reflect an overriding presumption that progress towards justice is inevitable and predictable. These claims are quite powerful regardless of their veracity and are ultimately one of the reasons that liberal human rights norms have been so successful. To illustrate this logic, I return to Hillary Clinton’s remarks regarding LGBT rights

\(^1\)It could also be read as a vindication of Arendt’s (1970: 56) claim that “trust in the dialectical power of negation” and belief that “evil is but a temporary manifestation of a still-hidden good” are “shared by many who have never heard of Hegel or Marx.”
delivered in honor of International Human Rights Day:

There is a phrase that people in the United States invoke when urging others to support human rights: “Be on the right side of history.” [ . . . ] The march toward equality and justice has continued. Those who advocate for expanding the circle of human rights were and are on the right side of history, and history honors them. Those who tried to constrict human rights were wrong, and history reflects that as well. [ . . . ] As it has happened so many times before, opinion will converge once again with the truth, the immutable truth, that all persons are created free and equal in dignity and rights.

These words manifest the essence of human rights claims in terms of their historical ambition, universal scope, and moral certainty. This liberal narrative is one where, even though struggles lie ahead, the passage of time will inevitably correlate with increased recognition of human rights. This increased recognition is understood both in terms of the persons to whom rights apply and the geographic scope within which these rights are recognized. The universality of these claims stands in contrast to the boundaries these words simultaneously articulate. In this historical narrative, there are individuals on the “right” and “wrong” side of history, a distinction which corresponds to those who are allies and opponents within this particular articulation of LGBT rights. My project has been centrally concerned with why such remarks cannot be taken at face value. This is a political text and, as part of a broader discursive universe, brings the political struggle it describes into being.

This account of normative change is strikingly similar to that embraced by the norms literature. This literature has largely taken the claims of norms at face value, an error compounded by utilizing the assumed content of a norm as a yardstick by which to measure the success or internalization of a norm. By privileging the homogenizing and progressive aspect of norms over the
contestatory, constructivism accepts as positive fact what is a normative perspective of liberalism and has remained ignorant of the degree to which its own assumptions reflect a form of liberal parochialism. In this move, constructivism also surreptitiously takes sides in contemporary debates over the nature of political authority in a way that subverts democratic politics.\(^2\)

Conventionally, scholarship on norms has utilized static criteria to assess the success of a given norm, which most implicates assessing policy adoption (e.g. Finnemore 1993; Risse, Ropp and Sikkink 1999; Cardenas 2004). My analysis of an emergent global LGBT rights discourse shows that this phenomenon cannot simply be seen as either a “standard of behavior” or “policy goal” which spreads from state to state based on how actors perceive the normative status of sexual rights. LGBT rights discourses circulate alongside other discourses, norms, and concepts by necessity. To say that a “norm” such as LGBT rights can simply be understood in terms of geographic expansion misapprehends the ambitions of the

\(^2\)What troubling in light of this study are the discipline’s obliviousness to certain ethical questions. Despite problematic narratives regarding the diffusion of norms, one aspect of the dominant constructivist account provides insight regarding the role of norms in global politics, but in a damning fashion that punctuates the poor quality of this literature’s ethical reflections. Internalization, seen as the final stage of a norm’s diffusion, is defined by Finnemore and Sikkink (1998: 904) as having occurred when a norm becomes taken for granted and “conformance with the norm [is] almost automatic.” This acknowledges the profound role that norms play at the level of subjectivity, reshaping the very way in which individuals see themselves and others. Yet, it immediately depoliticizes this serious insight by failing to see that a single “norm” is never internalized as an independent matter. In particular, without considering the role that most contemporary liberal norms play in furthering the development of the political subject of late-modern capitalism, the norms literature collaborates with the economic and political agendas of neoliberalism, including violence exercised at the level of the subject in promotion of these norms. Such a realization raises the possibility that the constructivist account of norms serves to implicate this scholarship as an agent of contemporary capitalist and liberal values, rather an objective framework for the study of norms.
liberalism which underpins claims to LGBT rights (and incidentally most norms that seem to interest IR scholars). By operationalizing and measuring particular endpoints (for example, adoption of policies such as same sex marriage) to assess contemporary norms, the existing literature tells us very little about the effect and operation of norms. The alternative I have embraced examines norms as sites of contestation and struggle, wherein the discursive construction of a particular norm can only be understood through rich and detailed accounts which emphasize its local and contingent articulations (cf. Norval 1996). In doing so, I turned to scholarship outside the norms literature, particularly work undertaken by feminists, to gain a more complex understanding of these phenomena.\(^3\) At a time when Brown (2005: 66) argues that capitalism has played an increasingly unimportant role in our analysis of politics (including critical approaches), this study indicates the importance of the recent history of neoliberalism\(^4\) in explaining the emergence of a norm regarding LGBT rights at this particular moment.

5.1 Norms, Boundary Drawing, and the State

My first consideration turns to the question of how this study sheds light on what it means to speak of the emergence of a global LGBT rights norm. Contemporary discourses touching on both liberalism and sexuality\(^5\) share a key dimension: they

\(^3\)These works have been cited throughout this project, and a full examination is beyond the scope of this conclusion. For examples, see *inter alia*, Fraser (2013); Agathangelou (2008); Brown (1995); Grewal and Kaplan (1994b); Mohanty (2003); Alexander (1997); Enloe (2007); Swarr and Nagar (2010).

\(^4\)I understand neoliberalism here both as a particular historical assemblage emphasizing the role of markets, privatization, and the decline of the welfare state in contemporary capitalist and political relations of rule (cf. Brown 2015; Fraser 2013).

\(^5\)Discourses regarding sexuality have long held a central role in drawing political boundaries, whether these were the alliance politics of kinship, the racial divides of colonialism, or epidemiological categories regarding abnormality. As demon-
make their claims in universal terms. LGBT rights discourses depend upon a new understanding of the rights bearing subject which sees sexual orientation as both a universal and cardinal element of individual identity. They embody the idea that “homosexuals” or “gays and lesbians” represent a discrete political identity category, and that this category of identity is one of the most fundamental to human self understanding and awareness. Most importantly, there is an assumption that this identity entails a given set of common interests.⁶ It is this universality that renders LGBT rights discourses as depoliticizing, framing opponents as immoral in their opposition to basic human rights. This depoliticization can serve a more instrumental purpose within a broader discursive context. In chapter two I discussed how one articulation of LGBT rights attempts to naturalize an alliance between LGBT individuals and the Israeli state, while demobilizing pro-Palestinian LGBT activism specifically through rights claims. In chapter four, I similarly said that the moral force of the language of norms was used to cement alliances between LGBT individuals and the Conservative party. The effect of these claims is to obscure the social, political,

stratified by Foucault (1990), and many other scholars that have followed (e.g. Stoler 1995; Weber 1999; Eng 2010; Puar 2007), sexuality has persisted as a force to be mobilized for numerous political projects. As demonstrated in this project, its importance as a boundary drawing device remains, whether these boundaries are between colonizer and colonized, the moral and the immoral, or the aspirational and the dependent. In all these cases, sexuality becomes attached to a much broader political project whose aims are about far more than the rights of LGBT people as individuals. Yet, in reading the norms literature, one is left with the idea that our investigations of norms can be narrowly tailored examinations of rather predictable processes (but cf. True 2011).

⁶The Yogyakarta Principles (2006) represent one embodiment of this, in its attempt to articulate a set of rights to which LGBT people are entitled. Swibel (2009) has outlined the sorts of essentialism that this approach entails, as the “elaborate list of rights based on sexual orientation and gender identity tends to reify sexual preferences into solid, essentialist identities.”
and historical contingency of a particular claim regarding rights.

I argued in the introduction that the boundary drawing practices of norms are characterized by their moralizing judgments which distinguishes them from other articulatory practices in the political realm. This sort of boundary drawing is an especially visible political tactic among contemporary struggles, not simply at the local or national level, but at the global level as well. Whether it is the 99% versus the 1%, or “shirkers” versus “strivers,” we see a neat vision of political space that divides individuals into categories based on their moral stature. It might seem at first glance that these political divisions have little to do with the politics of LGBT rights, that “LGBT rights” is simply a universal discourse of identity politics that cuts across the divides of economic class or national identity. This view represents a fundamental misunderstanding of the political space in which global LGBT rights discourse exists. The moral certainty expressed by LGBT rights discourse may instead highlight its connection to these divides; indeed, we make a grave mistake if we assume that our contemporary understanding of “global LGBT rights” exists *sui generis* rather than being born out of the political struggles of our age.

There is an overall broad dynamic at work in all my chapters — the deployment of rights to create *division*. Hindess (1998) has argued that the “divide and govern” strategies of contemporary neoliberalism use the territorial boundaries of states to isolate subject populations from one another. This argument, as I will discuss shortly, is faulty in its reliance on the sovereign state as a guide towards interpreting the political alliances of neoliberalism. In contrast, my work shows how norms could create a different sort of divide and govern strategy, one which keeps certain subjects from practicing political solidarity through articulation of competing transnational alliances. In particular instances it renders
impossible certain alliances — such as LGBT people and Ugandans, or LGBT people and the poor — while naturalizing other alliances in a way that furthers the race, gender, and class politics of contemporary neoliberalism. LGBT rights discourses make their claims in terms of universality and globalism, only to use this same universality to produce distinct identity categories (i.e. lesbian, gay, bisexual, and transgender) which can then be deployed in boundary drawing political discourses. These very boundaries in turn are based on acceptance or rejection of this universalizing language. This fits with the broader global patterns of neoliberalism, which Brown (2015: 49) describes as an “order replete with contradiction and disavowal [. . .] intensely governing subjects it claims to free from government.” This universalizing discourse traverses state borders, permitting the articulation of locally contingent political alliances.

Despite their contingency, however, there is one key part of global LGBT rights discourse that is both global in scope and provides it with political saliency. The political alliances and conflicts to which LGBT rights become attached are repeatedly tied to the power of the state — particularly whether, how, and how much it should govern. As such, one conclusion of this project is that LGBT rights discourses are enmeshed within broader global debates about the role of the state. It is notable that the state as an actor in its own right is largely absent from the pages of this project, and this is with good reason. Each of this project’s chapters illustrates how a multiplicity of actors effectuates the emergence of something we are able to call a norm. It would be fallacious to reduce any of these actors to the “state.” Thus, insofar as the state enters the discussion, it does so as an object whose very role and functions are part of the normative contestation in question.

Such a linkage between sexual rights and state power is evident throughout
my chapters. In chapter two, this was evidenced in a double move which on the one hand justified rule by a colonial state apparatus for Palestinians, while simultaneously praising the Israeli state for the freedom it allows to LGBT Israelis. Chapter three highlights the use of anti-LGBT discourses which resort to law as a means of regulating homosexual behavior. This regulation is aimed at providing a sense of national unity within a fragmented state buffeted by the vicissitudes of global capitalism and domestic unrest. In chapter four, LGBT rights come to be seen as a way of reinforcing societal stability, providing a bulwark against austerity measures, and promoting a broader discourse which emphasizes the need to reduce reliance on the state. In all three instances, not only do we see the power of the state at the center of political claims, but also the deployment of rights language as a means of gaining a strategic advantage by rendering these claims uncontestable.

This dynamic provides some evidence that the existing constructivist literature misapprehends the stakes of the liberal norms with which it is concerned. This is nowhere made more manifest than in a constructivist preoccupation with the state as an actor against whom rights are designed to secure protection for a designated group. In some ways, the tendency to focus on the state was understandable; the norms that were originally the concern of scholars were those of the post-World War II and Fordist era, where the importance of the state as an institution and an actor was ascendant (See generally Glyn 2006). In her research on one norm, Finnemore (1993: 565) offers a statement characteristic of how this was reflected in scholarship: “Since their establishment in Europe some five hundred years ago and particularly since World War I, states have grown in both the variety of tasks they perform and the organizational apparatuses with which they perform their tasks” (See also Cronin 2003). Such a statement is
contestable in multiple terms, but particularly in this project’s examination of *rights*. Rights, after all, have always had as their goal a supposed reduction in the state sphere and the creation of a private sphere into which the government could not intrude. Debates over rights, in other words, are inherently debates about the role and authority of the state. When we apply a framework which foregrounds the contested meaning of norms, it is insufficient think of states as actors whose compliance with norms is our central theme (e.g. Checkel 2001; Simmons 2013), nor may we regard the state as an *a priori* entity in our analyses of norm diffusion. Norms not only have the potential to reshape the behavior of states, but the ontological status of the state as an actor.

5.2 Intersectionality

The recent trend within IR has been, of course, to talk about the social construction of anything and everything, far beyond states and norms. This has led to a damaging extreme in our understanding of norms. Liberal political identities are approached in such an abstract way that they are treated as if formed in a vacuum. In other words, we forget that for all their “social construction,” they are very real and born out of political struggle, not just generic social interaction. The result is a way of thinking that relies on reductionist and ahistorical accounts of identity politics and assumes that all similarly situated subjects must share a common set of interests. This bequeathes a strangely essentialist definition to not only norms, the state, and processes of social construction, but also upon the subjects of various normative struggles, such as

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7Ultimately, much of this has to do with how work on “social construction,” particularly in IR, has strayed from its radical roots. After all, it was Simone de Beauvoir (not, say, Alexander Wendt) who said that “one is not born, but becomes, Woman.”

The story of LGBT rights has often neglected a very real dynamic at work in any political struggle: victories within one issue area may have negative ramifications. Success on a policy such as same-sex marriage may have the effect of entrenching other forms of inequality for LGBT people or for other groups (cf. Huffer 2009b). A argument Fraser (2013: Location 3922) makes with regard to feminism is relevant here: heterosexism “intersects other axes of subordination in ways that complicate” the project of LGBT rights. Indeed, rather than serving as the last rights struggle of our time, success within LGBT rights movements has often resulted in novel forms of inequality and oppression. This problematizes dominant narratives regarding LGBT rights. LGBT rights struggles are often framed as analogous to “past” (in reality, ongoing) struggles related to race, gender, religion, or class. These are compared to LGBT rights insofar as they similarly represent, in the words of Hillary Clinton (2011) how “step by step, barriers that once prevented people from enjoying the full measure of liberty, the full experience of dignity, and the full benefits of humanity have fallen away.” This narrative, while highlighting an important common history between these struggles, fails to appreciate the extent to which LGBT rights victories have often undermined other movements’ gains or introduced new forms of oppression. In the contemporary environment, it is not enough to think that rights “speak to power” as one prominent author states (Brysk 2013). Rights do not exist within a space of critique external to the state or other international actors, but rather exist within a pre-existing set of power relations. As my chapters demonstrate, this means the effects of rights language can vary greatly based upon local and historical context.

My study shows the importance of the concept of intersectionality for
understanding an emergent LGBT rights norm. At its simplest level, it tells us that
the effect of the norm on its ostensible subject (the LGBT individual) will vary with
regard to that individual’s race, gender, geographic location, and so forth. This
sort of analysis is present to some degree in in existing approaches (e.g. Ackerly
2008). The effect of an emergent norm regarding LGBT rights will have a
differential effect for a gay Israeli than a gay Palestinian, an issue I discuss in
much detail in chapter two. Evidence from chapter three suggests that LGBT
rights discourses may have contradictory immediate effects upon the very
category of individuals they are designed to protect. As I stressed there, it is
simplistic to argue that an anti-LGBT backlash in Africa was caused by legal
victories for LGBT rights in the West. However, it seems inarguable that the
success of activists in the West had some effect upon pre-existing struggles
regarding LGBT rights in the region, which often manifested in legal sanctions
and physical violence against LGBT people.

My concern with an intersectional analysis is much deeper than this simple
interaction of LGBT identity with other factors, however. Instead, it would focus on
the extent to which LGBT rights become articulated not only in terms of the
particularistic interests of LGBT individuals, part of a broader alignment of
movements rooted in identity (including LGBT rights) with the values of
contemporary capitalism. This is in part a result of a phenomenon discussed by
Fraser (2009a), whereby LGBT rights are part of an ascendant political discourse
which privileges discretized claims to recognition, disconnecting them from class
politics and economic redistribution. Rather than a focus on economic or political
justice more broadly, for example, LGBT rights activism has often focused on
goals such as marriage or non-discrimination measures, which are narrowly
focused on sexual orientation and identity. Indeed, insofar as there is a goal to
this strain of identity, it is to achieve status within the political system it critiques, a “bourgeois (masculinist) ideal” (Brown 1995: 59). According to this narrative, the emergence of LGBT rights as a salient issue is simply part of a broader turn to an identity politics where the intersection of sexuality and economic class is demobilized as a basis of political identity. LGBT individuals become *subject to* an identity politics which elides the problem of economic inequality and *subjects* (i.e. agents) of capital who have a stake in the success of neoliberalism.

Such moves are indeed evidenced in my chapters. In chapter two, I discussed how LGBT rights discourse placed Western gay men at the center of a relationship which naturalized their position as consuming subjects within transnational space. This positioning is part of what prevents the formation of alternative alliances between these men and those who suffer at the hands of their consumption. Chapter five most clearly evinces this dynamic in a double move. On the one hand, LGBT struggles for “equality” and “fairness” negate potential struggles which would capture these signifiers and use them in opposition to an austerity agenda. On the other hand, LGBT individuals are framed as having a stake in the success of an austerity agenda imposed by a Conservative government and are enlisted as allies in pursuing this project.

In addition to these insights, my concern is to push this idea of intersectionality yet further, as the previous examples to some extent overstate the coherence of relations of rule under the politics of contemporary capitalism and betrays a Eurocentric framing of the politics of LGBT rights. In the words of Mohanty (2003: 23) this produces a “discursively consensual homogeneity” regarding LGBT individuals that is at odds with the “historical material reality” of the political struggles in play. In other words, there is little attention to how differently situated individuals might experience their sexuality in different ways, and how their sexual
identity might intersect with a broad array of interests. As such, LGBT identity and struggles might have diverse impacts that are not adequately captured simply by discretely looking at the ostensible subject of LGBT rights, a subjectivity which mirrors the political narrative regarding identity presented by neoliberalism. Indeed, what work on global LGBT rights has examined its affect on, say, a single heterosexual mother who receives government benefits in the UK, suffering at the hands of government imposed austerity? As articulated by Conservatives in the UK, an alliance between this person and the LGBT community seeking rights due to their “responsible” behavior becomes impossible.

This provides insight regarding the normalizing action that norms perform in differing locales. Much has been written on the subject of homosexual normativity or “hormonormativity,” the idea that to be accorded political legitimacy, LGBT individuals must both behave according to a normative standard and also demonstrate normative qualities regarding race and class (e.g. Duggan 2002; Puar 2007; Haritaworn, Tauqir and Erdem 2008; Ahmed 2011). My chapters highlight how these categories interact to render certain sexual subjectivities invisible. In chapter five, I highlighted how such dynamics erase the reality that gay individuals would be targets (and not simply beneficiaries) of the emphasis on fairness taken on by the UK’s Conservative government. It also touched on how migrants and asylum seekers are seen first and foremost as outsiders who must legitimize their credentials as sexual minorities. Each of these moves is significant, because they highlight the effects that political articulation of a norm regrading LGBT rights has in an local context.

These dynamics are nowhere more clearly expressed than when they are embodied in the experience of a gay Palestinian, as I discussed in chapter two. As a gay man, he should be entitled to a set of juridical rights, rights he should be
able to claim against the Israeli state that occupies the land he is on. Yet his racial identity as Palestinian renders him unfit to rule himself. This restriction occurs simultaneously at the level of his individual subjectivity — meaning he is not considered worthy of exercising the rights available to a gay Israeli man — and at the broader social level — meaning he is part of a group of people who are unfit to exercise sovereign rule over a given territory. His relationship to the state and to his own sexuality is quite different than that of a gay man in a locale such as the UK. And the very localized struggles over state power that are unique to each context are part of how a norm regarding LGBT rights is articulated in both contexts. In many ways, this complicates the idea of “global” LGBT rights in terms of both its inclusivity and worldwide reach.

In short, an intersectional approach to norms would not only look at identity categories in isolation, but situate them in material and historical relation to a broader set of political identities and movements. Doing so implicates a norm regarding LGBT rights not only as compatible with the class, race, and gender politics of neoliberalism, but to some extent arising out of them. Emphasis on intersectionality ultimately allows us to see more clearly the distance between those who occupy differential positions with regard to alliances formed in support of LGBT rights (cf. Cohen 2010: Location 175).

5.3 Democratizing Norms

It is common among contemporary critical observers to bemoan de-democratization or depoliticization they claim is emblematic of our current political and economic context. To be certain, this project has been concerned

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8I dissent from an increasingly common argument about how rights discourse generally and courts in particular have usurped democratic governance. The fol-
with how certain ways of talking about human rights norms are depoliticizing, creating a narrative of normative change which is undemocratic in its emphasis on social diffusion of coherent norms. This vision of normative change, articulated by dominant constructivist analysis, is certainly compatible with a strain of neoliberal discourse which minimizes democratic contestation. However, my concern with these discourses is not that they ultimately eliminate democratic contestation, but following argument by Wendy Brown (2010), which I quote at length, is symptomatic of these claims:

Capital and neoliberal rationality are not the only forces responsible for gutting liberal democratic institutions, principles, and practices. Rather, fourth, along with expanded executive power, recent decades have witnessed the expanded power and reach of courts—domestic as well as international. A variety of political struggles and issues, including those emerging from domestic social movements and international human rights campaigns, are increasingly conferred to courts, where legal experts juggle and finesse political decisions in a language so complex and arcane as to be incomprehensible to any but lawyers specializing in the field. At the same time, courts themselves have shifted from deciding what is prohibited to saying what must be done—in short, from a limiting function to a legislative one that effectively usurps the classic task of democratic politics. If living by the rule of law is an important pillar of most genres of democracy, governance by courts constitutes democracy’s subversion. Such governance inverts the crucial subordination of adjudication to legislation on which popular sovereignty depends, and overtly empowers and politicizes a non-representative institution.

Brown (2010: n. 5) argues that “this expansion is, in part, the issue of well-meaning activists who spy prospects for ‘winning’ in the courts even though democracy may be an inadvertent casualty of their success.” This argument is, I believe, fundamentally flawed both in its conception of the relationship between courts, rights, and democracy and in its strangely formalistic understanding of the nature of democracy, which seems at odds with Brown’s own broad conceptualization of the term (cf. Brown 1995, see also Brown 2015). In contrast, I emphasize rights discourse generally, and courts in particular, as an arena where democratic contestation may find a foothold that it cannot elsewhere.
rather that they obscure the democratic contestation that is actually occurring in contemporary global politics. While the state has never been the only space where democratic contestation occurs, the trends of neoliberalism suggest that the state is becoming less important as a site of this contestation; it does not mean this contestation is disappearing, but rather that it is occurring in other sites.

Framing of LGBT rights as a derivation of particularistic interests, rather than in intersectional terms, of course negates the very processes on which radical political movements have depended. Yet, acceptance of an anti-essentialist stance which also de-centers traditional avenues of normative change might be seen as undermining any attempt to either practice or analyze a politics of LGBT rights. What it allows, however, is a different kind of analysis that looks more authentically at how struggles over LGBT rights have emerged. While similar types of analysis have been articulated by authors from a variety of theoretical traditions (e.g. hooks 2000; Grewal and Kaplan 1994b; Smith 2008; Thayer 2009), perhaps it is most clearly articulated by Mohanty (1984, 1991) as a “common context of struggles,” which is founded on the basis of “historical and political practice and analysis” (Mohanty 2003: 24).9 When framed this way, the dynamics presented in this project underscore not only the problematic aspects of global LGBT rights discourses and their linkages to certain relations of domination, but also “the emancipatory possibilities created by new inter-local connections” (cf. Thayer 2009: 4). In other words, emancipatory political projects can take advantage of the same resources for building transnational political projects as the projects discussed in previous chapters have. When done in the name of

9Cf. Best and Kellner (1991: 292), who argue that “while capitalism cuts across social groups, the specific concerns of any one group do not intersect with all other groups.” Such reasoning still allows for the imagination of broader political alliances within the context of contemporary capitalism.
LGBT rights, this too can have effects far beyond what was intended.

Such alternative political imaginaries are present within the political struggles I have discussed throughout the pages of this dissertation. Part of my insistence on sketching out the contestatory dynamics in my three analytical chapters is that they shed light on these alternative articulations of LGBT rights, unsettling the notion that such a norm might have a clear content. In chapter two, for example, I noted that LGBT Palestinians are often engaged in simultaneous struggles for Palestinian sovereignty and sexual rights. By linking them to an anti-racist politics, they articulate a politics of LGBT rights that link sexual and national self-determination.10

It is also worth noting that groups opposed to austerity in the UK articulated support for same-sex marriage along quite different lines than in the Conservative Party discourses I discuss in chapter five. Many Scottish nationalists had, for example, discussed a different vision for political alliances involving LGBT rights — one that was built on an anti-austerity progressive Scottish identity. Included in their claims was the idea that an independent Scotland could create a new constitution that enshrined LGBT rights at its core. The Scottish Government’s legislative program for 2012-2013 laid out plans for both an independence referendum and a same-sex marriage bill. Marriage, along with the entire legislative program, were linked with the drive for independence. The program entailed a vision for Scotland as “a successful European country, reflecting Scottish values of fairness and opportunity, and promoting equality and social cohesion” (Scottish Government 2012: 4). This fits in with the Scottish National Party’s ambition for an independent state based on a progressive Scottish identity. In many ways, this serves as a rejoinder to those arguments which would frame

10For more details on these linkages see Kuntsman (2009).
Scotland as a “backwards” region, unable to stand on its own. The program indeed argued that legislating for same-sex marriage showed that the government was “committed to a Scotland that is fair and equal.”

A post-script to my chapter on Uganda highlights the most intriguing possibilities of such dynamics. On July 7, 2012, the group Sexual Minorities Uganda (SMUG), assisted by the US based Center for Constitutional Rights (CCR), filed a lawsuit against Scott Lively in the United States District Court in Massachusetts. SMUG filed suit under the Alien Tort Statute (ATS), arguing that Lively’s activism in Uganda entailed a conspiracy with several other actors to commit a clear violation of widely accepted international legal norms. SMUG also included claims that Lively had violated state laws in Massachusetts. SMUG claimed that the Court had diversity jurisdiction over its claims because of the diverse nationalities of the individuals involved in its complaint. SMUG picked Springfield as the jurisdiction to file its claim because Lively was resident there.

Action in Massachusetts became a way to protect the few legal victories that LGBT activists had secured in Uganda itself. SMUG noted that in the case *Mukasa and Oyo v. Attorney General*, the Ugandan High Court ruled that “gays and lesbians – like anyone else – could challenge the unlawful conduct of the authorities – i.e., that they simply enjoyed the basic protections of law.” As noted by SMUG, one of those involved in Lively’s conference “repeatedly referred throughout the conference to the *Mukasa* case as illustrating why the law was not strong enough,” even though it provided life imprisonment for homosexuality (Center for Constitutional Rights 2012a: 102). SMUG argued that Lively’s conspiracy was designed to affect “severe deprivations of fundamental rights,”

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11 Since SMUG alleged violation of both federal and state law, a federal court was empowered to hear both claims.
including “equality,” “freedom of expressions, association, assembly, and the press,” freedom from “arbitrary arrest [. . .] torture, and other cruel inhuman and degrading treatment,” “human dignity,” and “the right to privacy” (Center for Constitutional Rights 2012a: 230). It also argued that these effects were intentional on the part of Lively and were designed to provoke a “widespread or systematic attack against a civilian population” (234). In short, Lively threatened to undo the constitutional protections afforded to LGBT people under the Ugandan Constitution.

I have been quite attentive throughout this project to how practices of boundary drawing within the politics of LGBT rights are often used in exclusionary ways. SMUG’s lawsuit, in contrast, marks a form of articulatory practice that seeks not only to grant legal protections to LGBT people in Uganda; it radically challenges the boundaries of existing human rights discourse. On one level, it attempts to use domestic law as a way of articulating a global understanding of LGBT rights. We often think of national courts as the bearers of domestic law, a law which is seen as providing human rights protections within the geographical limits of a given country. Indeed, the idea of the “people” is one of the center pieces of the American constitutional framework. A recurring theme in political struggles in the US context has been the ways in which the judiciary becomes a tool to expand who precisely is included in the demos. The avenues opened by the transnational processes regarding anti-LGBT activism in Uganda have allowed SMUG to, at a minimum, make a radical intervention regarding who should be included in the “people,” by taking the step of situating themselves as subjects entitled to a legal process that has historically been only available to the American demos.

The filing thus embodies a means of cutting across the race and class boundaries of contemporary neoliberalism in pursuit of a claim to rights, and
stands in contrast to approaches which attempt to claim universality out of ahistorical narratives. As I discussed in chapter two, colonialism has often resulted in a repression of the heterogeneity of those who are subject to its relations of rule (cf. Mohanty 2003). This is where an approach that fails to take account of intersectionality will fail. Through their universalizing gestures, dominant approaches to norms fail to allow space for the diverse alliances that exist or could exist in support of a given norm. Assuming that a norm will have the same or similar effects in all locales will camouflage how a norm participates in local articulations of the race, gender, and class politics of neoliberalism.

At the same time, we would elide the radical dimension of the activity SMUG has taken with regard to global LGBT rights. It would be all too easy to say that the intervention is simply an attempt to reinforce the universality of an LGBT rights norm through the application of international law. However, when we consider the other agents involved — the Center for Constitutional Rights (CCR), which has mainly been concerned with domestic constitutional claims, and Scott Lively, a lawyer and white citizen of the United States — there emerges a more complex geography of the sort that I believe should be of central concern to norms scholars. In its articulation of a broad demos which is inclusive of LGBT Ugandans, it directly challenges the a-historical alliances built by Lively. It is this sort of politics based in solidarity and common struggle which can allow us to creatively imagine and reforge alliances for LGBT rights.

5.4 Final Thoughts

It is easy to overstate the significance and consequences of a contemporary political movement. The emergence — and success — of LGBT rights discourse
may be transformational, but it is not unique. LGBT rights mark only one
contemporary example in the long history of political struggles involving claims to
justice and human freedom. It is also only the latest political struggle caught in a
ambivalent relationship with its economic and political context. Despite contrary
claims, it is certainly not the last.

This study has highlighted the complexity and risk entailed in intervening in
normative struggles such as those involving LGBT rights. Action to promote this
so-called “good norm” touches power relationships that involve every aspect of
human life. These power relationships place real and maddeningly frustrating
limits on attempts to achieve change in politics at any level. Victories on one issue
can mean setbacks on others; activism aimed at increasing human freedom
always risks cooption by dominant forms of governance. The discipline of
International Relations — including work on international norms — often
expresses a belief that applying social theory to international politics can
automatically enlighten our attempts to create a better future. This hubris is most
clearly manifested in attempts to discern the discrete mechanisms that will \textit{finally}
allow us to cause a singular norm to spread across the international system, or
provide a three step process that need only be implemented by some
“policy-maker.”

I believe my project provides two key objectives for future work on norms in
International Relations. The first would be to more systematically historicize (or
even periodize) processes of normative change, in place of the current models
that exist. Such work could track the interrelationship between changes in
dominant discursive and economic forces (such as liberalism and capitalism) and
the ways in which norms emerge in IR. I suggested above, for example, that the
role of the state might change significantly over time within a changing system of
capitalism. Such detailed work is beyond the scope of this project but is sorely needed in order to properly frame the sort of contestation that IR scholars examine when they look at norms.

Secondly, future work must be devoted to changing *a priori* assumptions regarding norms into *empirical* questions that can only be answered with *empirical* research. This must include a rejection of the idea that the identities with which we are concerned, and the rights which ostensibly protect them, can be taken as “given.” Following Foucault (1972: 209), I argue that to intervene in politics, an arena characterized by “complexity and density,” is to “perform a complicated and costly gesture, which involves conditions [. . .] and rules.” I do not deny “the possibility of changing discourse;” rather, this project’s critique rests on removing “the sovereignty of the subject of the exclusive and instantaneous right to do so,” by escaping or obliterating relations of power. Indeed, starting from a perspective which foregrounds the power relations which suffuse contemporary global capitalism, this project has been able to show the many openings that exist for those who seek to not only end the very real suffering experienced by sexual minorities across the globe, but to do so in a way that is mindful of other contemporary relations of domination and understands that normative change always comes at a cost.

Human action in these circumstances is very serious indeed, implicating not only the success of a given “rights” agenda and the claims of interest it embodies, but also decisions about life and death. Scholarship regarding norms has not frequently addressed these implications in our work. If my observations regarding the process of normative change and the misguided posture of scholars regarding norms are credible, this should lead us to undertake a project which mirrors what I have attempted to do with the problem of LGBT rights in this study. Such work
values the complexity of the political arena and the democratic potential inherent to contestation over rights. This recognizes that the value of our work is not in providing answers, but in creating space for the politics with which our work is concerned and directed towards. It recognizes the limitations of theory, and the uncertainty of our empirical observations. As such, the policy implications of this work are ultimately something for politics to work out, rather than the scholar.

I follow Fraser (2009b: 158) in her belief that “If I were able to formulate some arguments or create some conceptual resources that turned out to be of use in emancipatory social struggles, I would feel that the time I spend doing critical theory was time well spent.” This is a very different agenda from that of “policy relevance.”
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