

Between Liberal Policies and Conservative Values:

The Role of the EU in Improving Sexual Minority Rights in Albania

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Abstract

In 2009 the People's Advocate in Albania announced their suggestion that Albania should become the first Balkan country to legalize gay marriage, a suggestion backed by the country's Prime Minister Sali Berisha. The odd thing is that this suggestion was presented in the same country voted the "most homophobic in Europe" according to a recent study, and simultaneously the suggestion came at a time when Albania did not even have an anti-discrimination law, and, assumingly, at a time when LGBT activist groups seemed more or less nonexistent. Since 2009, Albania has progressed severely in relation to LGBT matters, and the small Balkan country has adopted noteworthy liberal sexual minority policies. Yet, as stated above, this appears as a rather paradoxical fact, since homophobia in Albania appears widespread, and since it could be questioned why a country would even need to legalize gay marriage, since the gay population are unlikely to benefit from this kind of legislation, due to the harassment and marginalization of this particular minority group. The mismatch between the conservative values in Albania, and its emerging liberal policies, will therefore be the main research topic of this thesis, and I intend to explore the causes of this mismatch by looking into the characteristics of the Albanian society, its traditional values and customs as well as the current political situation. I want to explore not only why homosexual groups are under pressure in the Albanian society, but also what might be a driving force behind the political changes seen in recent years.

Abstrakt

V roce 2009 People's Advocate v Albánii představili návrh, že by se Albánie měla stát první zemí na Balkáně, kde bude legalizováno gay manželství. Tento návrh byl také podporován premiérem Sali Berishou. Zvláštní na tom je, že tento návrh byl představen ve stejné zemi, která je dle informačního přehledu, nejhomofóbnější zemí v Evropě. Představen byl navíc ve stejnou dobu, kdy Albánie neměla antidiskriminační zákon a LGBT aktivistické skupiny se zdály být víceméně legálně neexistujícími. Od roku 2009 však Albánie zaznamenala pokrok v přístupu k LGBT záležitostem, a pozoruhodně přijala liberální politiku pro sexuální menšiny. Přesto, jak je uvedeno nahoře, zůstává paradoxem, proč země jako je Albánie, kde je tolik rozšířena homofobie, potřebuje legalizovat gay manželství. V takovém případě zůstává stále velmi nepravděpodobné, že gay populace bude používat tento druh zákona, kvůli obtěžování a marginalizaci této minoritní skupiny. Neshoda mezi konzervativním zastoupením společnosti a vznikající liberální politikou bude proto hlavním výzkumným tématem v této diplomové práci a je mým úmyslem zkoumat příčiny tohoto nesouladu při pohledu do charakteristik albánské společnosti, jejich tradičních hodnot a zvyků, ale i aktuální politické situace. Cílem mé práce je zkoumat nejen příčiny proč jsou homosexuální skupiny pod tlakem v albánské majoritní společnosti, ale také co by mohlo být hnací silou stojící za politicko-sociálními změnami viděnými v posledních letech.

Chapter 1 - Introduction

Protection of gay and transgender rights is an important element of the EU on treaty level, as discrimination based on sexual orientation is prohibited. Article 2 of the Treaty of the European Union specifically states that “the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail”, and article 10 and 19 of the Treaty on the Functioning of the European Union concludes that “in defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation” and that “without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation” (eur-lex.europa.eu). Combating homophobia, it is then clear, is a sought-after purpose of the EU, which far from seems to be an achieved goal. According to a study done by EU's Fundamental Rights Agency (FRA) Europe's homosexual minority groups still face discrimination, social isolation and even assaults, and the study concludes that a large portion of the LGBT (Lesbian Gay Bisexual Transgender) community feels it cannot openly acknowledge its sexual orientation (fra.europa.eu)

With this in mind it is only reasonable to assume that the EU has played a dominant role in creating these liberal policies in an otherwise conservative playing field in Albania. By reviewing and analyzing the homosexual history of Albania and its political LGBT-movement, I hope not only to find an explanation to the cause of the strong homophobia, but also an explanation to the changing policies. I will argue that homophobia in Albania is often indulged in or at least condoned by state authorities, as to why its cause is partly due to what I will refer to as “politicization of homophobia”, and, in short, that the topic is more about cultural identity and national pride than about sexual orientation or public morality.

The other perspective of this dissertation will be the role of the European Union, NGOs and delegations in addressing and combating homophobia in the Post-Communist Albania. By doing so,

I will explain two of the main definitions of homophobia, Cultural and Institutional Homophobia, as stated by the LGBT Resource Center, by analyzing the affect of cultural, religious and political institutions in forming the policies and public attitudes related to homosexuality. Furthermore, I intend to analyse the characteristics and position of the LGBT movement (with “movement” as a notion used very lightly) to see if – and how – they have been able to make their way into the political arena. Finally, I intend to analyze the affect of the (post-) communist society and democratization, and later prospects of EU accession, on the abovementioned issues within the Albanian society. I will follow up on these results with a perspectival debate to conduct a final conclusion.

Why Albania?

In a long course of scholarly writings an impression has often been given of the Balkans as violent, backward and uncivilized. Rebecca West is one author who is often criticized for articulating this viewpoint, especially with her travel book *Black Lamb and Grey Falcon*, which, according to Richard Holbrooke, writer of *To End a War*, has “influenced two generations of readers and policy makers” (Holbrooke 2011: kl. 633-634), and according to Rose Ramos at Trinity University, Rebecca West additionally portrays a view of violence as a mean of resolving conflict as simply “the Balkan way” (Ramos 2003: p. 3).

In the prologue of her book West writes; “violence was, indeed, all I knew of the Balkans”, while adding that “it was impossible to think of the Balkans for one moment as gentle and lamb-like” (West 1984: p. 21), and in an 1996 article for *The New Yorker* entitled “Rebecca West’s War” Brian Hall tried to explain why the book had become “the key reference for the new generation of Balkan commentators” (Hall 1996). According to Hall *Black Lamb and Grey Falcon* became legendary after World War II, and he explains how the book regained popularity after the war in Yugoslavia in the beginning of the nineties, where the book was also translated into Serbo-Croatian for the first time. The book sold well, and it was cited by many journalists and politicians. Hall writes; “the moral argument that West had fashioned for fighting evil aggression, instead of supporting pacifist inaction, became the centre of the debate in the West once again” (Hall 1996). Ramos also points out that West’s observation of the Balkans as “inherently violent, impossibly complex, and morally convoluted” is passed on to many journalists who were trying to gain insight in the Balkans (Ramos 2003: p. 4). In other words, there seem to be a shared agreement that West’s

book has helped spark western judgement and generalization toward the Balkan region, and Hall, Ramos and Holbrooke all mention Robert Kaplan's book *Balkan Ghosts: A Journey Through History* as a book that has had a significant influence on the Western world, while also Maria Todorova's book *Imagining the Balkans* should be mentioned in this context, as it is considered one of the most influential scholarly work that has targeted the negative stereotypes of the region.

In this context I find it necessary to emphasize that I in no way intend to follow up on an already existing viewpoint that the Balkans should be an in particular violent or backward region. Nor do I wish to indicate that homophobia is solely an issue in the analyzed countries, since studies show that the problem is widespread even in countries of Western Europe. However, despite of an increased sexual freedom, traditional values still seem to dominate the Balkan way of life. In a more recent survey Albania is listed as the most homophobic country in Europe, although this was a survey not including Serbia, where homophobia might prove to be even more serious, and for this reason I find the Balkans to be an interesting and relevant area to conduct my research, not to confirm already existing data, but to try to discover the reality behind them, and to look into the role of the EU in combating homophobia in the region and making life for LGBT people better.

I choose to study the Albanian society in this context due to different reasons. First of all, there is the paradox and the mismatch between the survey ranking Albania as the most homophobic country in Europe and the very liberal policies emerging in Albania these years, including laws that are said to even surpass similar laws in USA and Western Europe. At the same time I find Albania to be an interesting case in the Balkan context, since the country was most likely the most isolated during the communistic rule, and therefore can be hypothesized to have more distinctive sets of values and traditions compared with other countries of the region, although the similarities naturally must not be overlooked. My expectation is, which I will continue to illuminate during this analysis, is to find a society where religious communities play a much smaller part than for instance in countries such as Serbia and Romania, where the Orthodox Church has a big effect on people's daily lives and their ways of thinking. This, I feel, is a motivating factor for working with Albania, as it is necessary to look to other factors than just religion to find some of the causes of homophobia.

Chapter 2 - Literature review

Studies on Albania agree that the society is based on traditional values, predominantly connected to the Kanun and its strong notions on family. The literature on Albania reveals a patriarchal society dominated by men, although signs of gender related changes in politics and customs are also acknowledged in the scope of literature. In the article *Religious Values in the Post-Communist Albania* Ina K. Zhupa confirms a broad consent that the family and its traditions play a much bigger role for the average Albanian, compared with their trust in religious institutions (K. Zhupa 2014), and when it comes to the core of the topic – homophobia – available data in journals and reports also imply that traditional family values, as opposed to religious beliefs, is used more often as an argument against homosexuality. Literature, nonetheless, lacks clear explanations on the causes of homophobia in Albania. The patriarchal society is often solely blamed, while other factors – such as the lack of education and the fact that sexuality in general is considered a taboo in the Albanian society – is overlooked. This creates a one-dimensional and, to some degree, naive scope of literature that often does not look into the politicization of homosexuality nor conducts analytics of the Albanian LGBT community and their opportunities to make political gains.

The literature on the homosexual history of Albania – although sparse – includes a range of writers spanning from poet Lord Byron to German specialist in Albanian history and culture Johann Georg von Hahn, balkanologist Gustav Ludwig Weigand and Paul Näcke, German psychologist. In this context the consent is that homosexuality flourished somewhat openly among the Scythian warriors, and some research exists about what has been referred to as “boy-love” in the Gege culture in Northern parts of Albania. However, disagreements exist to the extent of homosexuality in these cases, and while historian John Boswell does not jump to conclusions about the cases of ceremonies of same-sex unions in Eastern Europe between Christians and non-Christians, Paul Näcke discussed these unions in Albania strictly in the context of homosexuality. However, in some contexts Näcke can probably be considered a questionable source, as his findings are not well documented but rather reports on anecdotes and “assurances” from native Albanians that is hard to confirm. The same goes with Johann Georg von Hahn who uses poetry, which he calls “the actual language used to him by an Albanian Gege”, as a way to document homosexuality in the Gege-culture. There are in other words certain gaps in these nineteenth-century books and travel ethnographies that only give an idea – as opposed to documented facts – about homosexuality in Albania at the time.

Literature that deals with homosexuality during communist times is also sparse, and only legislative facts seem possible to fully document. Most of the literature and articles stem from native Albanians who lived through that period as homosexuals, such as Genci Xhelaj and others interviewed by a range of newspapers. Their stories provide a good general idea about the dangers of being homosexual at the time, but it does not provide any true or detailed facts of the period in question, or about how Hoxhism deals with the issue.

In more contemporary data certain gaps are visible when it comes to clear explanations. The available data are pretty straightforward, but does not provide any true explanation to their background or causes, to the position of the Albanian LGBT-community or the influence of the EU. Some journals do give an impression of the position of the EU, but they do not measure any real connection between the criteria of EU-accession and the situation in Albania, and a scope of literature concerning the Albanian LGBT-movement is also lacking.

Chapter 3 - Research methodology

My method will be to analyze the two main definitions of homophobia, Cultural and Institutional homophobia, as stated by the LGBT Resource Center. I will accordingly examine the affect of cultural, religious and political institutions in forming the policies and public attitudes related to homosexuality in the Albanian society. The conclusions retained from this first part of the research will be used to explain the affect of the (post-) communist society and democratization, with the current prospects of accession, on the abovementioned issues within the Albanian society.

To analyse the role of the EU I intend to look at the LGBT-movement within the Albanian society. I will use available political opportunity theories to analyze the position of the Albanian LGBT-groups in order to finally analyze their opportunities to make political gains and have their voices heard. This I will conduct in contrast to Europeanization theories, since the hypothesis is that EU is the main institution paving the way for LGBT-issues.

I have evaluated the combination of these methods to be the best way to fully analyze the situation of each country in both qualitative and quantitative measures.

Limitations of Methods

One limitation could be the lack of diversity in data. Due to this diversity there will most likely be certain complications in comparing data from different periods, with some form of unavoidable conjectures, and as a result a more general and overall analysis of currents and trends is needed to provide the best possible conclusions. Another limitation could be the language barrier as I do not speak Albanian (or any other Balkan language), although I have evaluated that enough information and data is available in English for me to conduct the research.

What Data to Analyze

Surveys and statistics published in journals and reports from the EU, delegations or Human Right/LBGT NGOs will be my main source of data. I will compare and contrast these data to make a full analytical evaluation of the characteristics of homophobia in Albania to the effect of the EU, NGOs and delegations. The needed data can be freely collected from reports and journals available on the internet, while information is available in papers and articles that will help place the data into context and to put them into perspective.

Chapter 4 – Cultural tradition and patriarchy

Gender relationships, such as the position of the woman, has always been subdued to traditional rules, and although the state was able to regulate gender relationships in the public domain up until the end of the Second World War, families would still be structured according to their own rules in the private domain (Bailey, Çaro & van Wissen 2012: p 104).

During Ottoman occupation and later domination self-governing communities (tribes) started to govern themselves according to the rules of the traditional law known as the Kanun (Zavalani 2015: kl. 2023-2026). The Kanun basically takes on the meaning ‘principle’, ‘standard’, or ‘rule’, and the Kanun of Lek Dukagjini (Northern Albanian prince) was passed orally from generation to generation, until being published in 1933. It consists of 1263 paragraphs of 12 sections that deal with matters such as family, church, honour, marriage, etc. (Rira 2012: p. 207), and the patriarchal elements of the Kanun are quite clear, as the divisions of rights and duties between husband and wife in the family are articulated, just as the women’s exclusion from family inheritance. The woman is submissive of the man, and her biggest role is to take care of the home and to carry on the family by having children, and patriarchy can be described as a social structure where men dominate and exploit women. During the communistic regime, the communist party and the dictator went against the Kanun, but during the period of democratic transition, taking place since the 90s, there has been a revival of the Kanun especially in the Gege culture of Northern Albania (Rira 2012: p 207; Bailey, Çaro & van Wissen 2012: p 105).

In the Albanian tribal societies, the tribe, also called *fis*, consists of members, who, according to myth, all descend from the same male ancestor, and members of the tribe are thus reckoned as brothers and sisters, why they cannot marry amongst one another. Family is the most essential element of the tribe, and brothers and unmarried sisters live together in the same house, shared by a family easily up to thirty members. The head of the family is the absolute master of the household. He will arrange the marriage of his sons and daughters, not needing their consent to do so. As I will later reveal the “Sworn Virgin” phenomena exists within these tribal societies, and this oath of virginity is the only way a girl can escape being married against her father’s will (Zavalani 2015: kl. 2028-2046).

The influence of the Kanun within the Albanian tribes is in particularly seen through the phenomena of honour killings and blood feuds (Rira 2012: p 207), a tradition that stems from the Albanian concept of honour. Next to family the concept of honour is at uttermost importance for the

Albanian tribal-societies, and a popular Albanian saying goes “A man lives for his honour”, as to why even the slightest offence can lead to retaliation, often in the form of a blood feud (Zavalani 2015: kl. 2046-2050). Even today blood feuds are occurring among Albanian families, especially in the Northern parts and in Kosovo, and the fight, taking place between combating clans, can endure for generations. Blood feuds can develop from any conflicts between two people, as it is custom and considered honourable for another member of the clan, usually a brother or other male relative, to seek revenge. Hence, the violence keeps growing, and the entire family is put at risk. It should however be mentioned, that the rules on blood feud does not constitute the core of the Kanun, as often mistakenly believed (Rira 2012: p 208).

Changes came during the Socialist regime. Women now had the right to work with the campaign of equal pay, and they could undertake higher education. Migration from rural areas of Albania to the cities have taken place since, and according to studies women have taken an active role in this migration-process, although the patriarchal structure according to the Kanun is still widespread (Bailey, Çaro & van Wissen 2012: p 102; 104-105)

Albania and Religion

In Albania the country is considered before religion, and an expression – first used by a 19th century Albanian poet during the Albanian Unification – goes: “the religion of Albanians is Albanianism not Christianity or Islam” (Cinecitta Luce Doc). The plurality of religions might not be unique for Albania, but the high level of regional identity despite diversity in religions, makes Albania an interesting case. Even the Kanun portrays a society, where these religious differences are respected (K. Zhupa 2014: p. 4). This also corresponds with a study done on religious values in Albania that shows that 73.9% of the respondents consider God very important in their lives, although 34.4% of the same group has lack of trust in religious institutions. One explanation could perhaps be that all religion was banned in Albania during communist rule, while another – and probably more likely explanation – is the dominating family values and traditions. The same study had results on the level of religious atmosphere, as rites, symbols and religious behaviours in the family, and 61.7% answered that they did not grow up in a religious atmosphere. The study further shows that Albanians most often practice religion during special religious occasions (K. Zhupa 2014: p. 8). Although it is clear that religion does play a part in the Albanian identity formation,

there is a lack of trust in religious institutions, while the customs of the Kanun and the family seem to be of even greater importance.

Homosexual history of Albania

As I am about to examine, mostly through nineteenth-century books and travel ethnographies, homosexual relations were relatively more common in the pre-socialist society of Albania (Mai 2004: p. 49). There are many theories about the origins of the Albanian people, but one view is that they descended on one side from the Scythians and on the other from the ancient Macedonians, while they are believed to have been soldiers who called themselves Skipetars and spoke a mixed language with a Slavonic basic (Dumas 2006: p. 8; O. Murray 1997: p. 187). According to Havelock Ellis in his book *Studies in the Psychology of Sex, Volume 2 / Sexual Inversion* homosexual tendencies “appears to have flourished chiefly among warriors and warlike peoples” (Ellis 2004: kl. 237), and he states that during war and separation from women homosexual instincts tend to develop. The Scythians are mentioned as a specific group where this is believed to have occurred, and Ellis continues to write that “when there has been an absence of any strong moral feeling against it, the instinct has been cultivated and idealized as a military virtue” (Ellis 2004: kl. 237-242). In his book Ellis also refers to German specialist in Albanian history, language and culture Johann Georg von Hahn, who – in the book *Albanesische Studien* – claims that young men between 16 and 24 loved boys from about 12 to 17, and that this “boy-love” among Gege (Albanian Muslims (O. Murray 1997: p. 188)) would only cede (although not in all cases) after the Gege had married, usually in his mid-twenties. Hahn has reported the following as being “the actual language used to him by an Albanian Gege”:

"The lover's feeling for the boy is pure as sunshine. It places the beloved on the same pedestal as a saint. It is the highest and most exalted passion of which the human breast is capable. The sight of a beautiful youth awakens astonishment in the lover, and opens the door of his heart to the delight which the contemplation of this loveliness affords. Love takes possession of him so completely that all his thought and feeling goes out in it. If he finds himself in the presence of the beloved, he rests absorbed in gazing on him. Absent, he thinks of nought but him. If the beloved unexpectedly appears, he falls into confusion, changes color, turns alternately pale and red. His heart

beats faster and impedes his breathing. He has ears and eyes only for the beloved. He shuns touching him with the hand, kisses him only on the forehead, sings his praise in verse, a woman's never."

(Ellis 2004: kl. 249-255)

One of these love-poems of an Albanian Gege runs as follows:

"The sun, when it rises in the morning, is like you, boy, when you are near me. When your dark eye turns upon me, it drives my reason from my head."

(Ellis 2004: kl. 255-256)

Albanian Nezim Frakulla is another one of these poets who is believed to have addressed male-lovers in his poems on separation from and longing for his friends and lovers. In the poem *In the Dust Left by your Footsteps* translated by Robert Elsie he writes:

"You're my king, and I'm the beggar, You're my moon, and I am night time, You're the dawn, and I await you, You're the twilight, I am evening... I'm your slave and you're the master, You're the guardsman, I'm your sabre, I'm the ball, and you're the striker, I'm the bird whose heart you've captured..."

(Frakulla 1735)

The famous Albanologist Baron Franz Nopcsa is another interesting figure in this context. Nopcsa was born in Transylvania, but ended up becoming one of the leading Albania specialists of his time. His publications in the field of Albanian studies from 1907 to 1932 were concentrated primarily in the fields of prehistory, early Balkan history, ethnology, geography, modern history and Albanian customary law (NFP 1933; Elsie 1). From Nopcsa's notes on the Albanian Congress of Trieste in 1913 and on the selection of a European noble to become the crowned head of the newly independent principality of Albania, Nopcsa expressed his interest in becoming King of Albania. In the end, Nopcsa's plan failed to convince the right people, and he was passed over for King of Albania. This was the beginning of the end for him. One problem was that Nopcsa was homosexual, and although his memoirs reveal only indirect and probably unwanted references to his sexuality, it is well documented that he had a long-term intimate relationship with his Albanian

secretary Bajazid Elmaz Doda who died with him in a murder-suicide act conducted by Nopsca (NFP 1933; Elsie 1).

Homosexuality was decriminalized in 1858 by the Ottoman Empire (Hussein 2011: p. 10), and in *Male Homosexuality in Ottoman Albania* Stephen O. Murray follows up on the before-mentioned by referring to Edward Gibbon who writes that “*they were much given to homosexual practices, and where quite uninhabited about them.*” According to Gibbon, they were a people not only proud of their bravery, love of liberty and the devotion to their native mountains and villages, but also of their faithfulness and gratitude to friends as well as their “liveliness of feeling”. Gibbon continues to write that “it was customary for young men who were closely attached to each other to swear eternal vows” (O. Murray 1997: p. 187-188), and Murray describes how a German linguistic familiar with Albania (suspected to be Balkanologist Gustav Ludwig Weigand) in the early twentieth century in correspondences with scholar Paul Näcke commented on a “male love” among the Greek Orthodox Tosks of south Albania, which was described as “deeply ingrained”. The German linguistic also writes that it was common for young Skipetar boys to “cherish a truly enthusiastic love”, and that “the passion and mutual jealousy are so intense that even today they kill one another for the sake of a boy”. According to the linguistic this kind of love in particular flourished among the Muslims (O. Murray 1997: p. 188), although it was also found among the Christians, where it received the blessing of the priest in church (Ellis 2004: kl. 260-261). Pacts of brotherhood are also mentioned, sometimes entered between a Christian and a Muslim, where “each pricked the other in the finger and sucked out a drop of blood. Now each has to protect the other to the death” (Neill 2009: 315). Although it might seem improbable to connect these relationships entirely with homosexuality, James Neill describes it exactly as such in his book *The Origins and Role of Same-Sex Relations in Human Societies*, where he writes that a lexicon of sexual terms published by German anthropologist F.R. Krauss in 1911 “included two terms related to these homosexual unions, *büthar*, which literally means “butt-fucker”, and *madziipi*, a term for such relationships” (Neill 2009: 315).

In *Same-Sex Unions in Premodern Europe* John Boswell writes that ceremonies of same-sex unions were increasingly performed in Eastern Europe between Christians and non-Christians, especially Muslims, since the Ottomans dominated this area in early modern centuries (Boswell 1995: kl. 7993-7995). Boswell also mentions Näcke who discussed these unions in Albania strictly in the context of homosexuality: According to Boswell, Näcke reported that a native informant

assured him that such unions were common even in the Roman Catholic sections of Albania, but also among the Muslim population. Näcke even went to such lengths as describing how Christians tended to practice interfemoral rather than anal or oral intercourse with their partners (Boswell 1995: kl. 8027-8031), which corresponds with the German linguistic Weigand who noted that “oral intercourse was in vogue with the Turks” and that “the Albanians practice intercrural intercourse” (O. Murray 1997: p. 188). However, according to Boswell, Näcke suggested that many of the men involved in such unions were using them purely for sexual release rather than actually realizing romantic inclinations, although he noted that sometimes an educational role (as among the Greeks) was involved along with sexuality (Boswell 1995: kl. 8034-8036).

The British poet George Gordon (Lord Byron) also experienced “powerful homosexual relationships” among Albanian men, when he (as the first Englishman) travelled the country in the early parts of the nineteenth century (Boswell 1995: kl. 8036-8037). Lord Byron, some of whose poetry is said to depict homosexual love affairs (Snider 2007), corresponded with John Hobhouse, a British politician who also travelled Albania and wrote books about the country. In his letters Byron described his encounters with both Ali Pasha of Tepelena and Veli Pasha, Ali Pasha’s son (Elsie 2), and while much has been written about the “boy-love” in Ali Pasha’s court, Lord Byron himself described his court as a place where “beautiful boys in long curly hair strutted about in crimson petticoats or paraded naked” (Drake 1992: p. 29). In the second half of the eighteenth century Ali Pasha succeeded in becoming the ruler of southern and central Albania, and managed to obtain the title of Vizier of Yanina. His son, Veli Bey, became the ruler of Tepelena, a small town in southern Albania (Zavalani 2015: kl. 1631-1634). According to scholar Jonathan Drake “Ali regularly bled his boys to keep them “docile, pale and beautiful”, and he writes that ““smooth-limbed young ganymedes”” entertained visitors with lewd songs and dances”. Both Ali and his son were accordingly cruel and sadistic to the boys of Ali’s court, and Drake goes as far as to comparing Ali’s sexual torture with the sadism of French scandalous writer Marquis de Sade (Drake 1992: p. 29).

Homosexuality during communism

When the communists came to power, homosexuality was included in the criminal offences, and it was defined as ‘pederasty’ by the 1977 Penal Code (Kadi: p. 81; Mai 2004: p. 49), where it was also described as “crimes against social morality”, just like pornography and prostitution, and

in the leading Albanian textbook on penal law it was furthermore described as "... one of the most repulsive remnants of the morality of feudal-bourgeois society" (AL 1989: p. 34). Homosexuality (among men) could now be punished by up to ten years in prison (Mai 2004: p. 49).

It should however be mentioned that sexuality in general was frowned upon, and sex-oriented conversations, sexual preferences and so on represented a social threat at that time as those actions were deemed immoral, deviant or taboo. Even in Albanian weddings no Albanian bride and bridegroom kissed each other although their relationship was already official (Mete & Leka 2013: p. 93-94).

During his long dictatorship Enver Hoxha planned the extermination of Albanian homosexuals. People from all walks of life were targeted, and many homosexuals were imprisoned and left to their fate, while many committed suicide because they couldn't stand the discrimination, violence and shame (Xhelaj 1994).

Looking at this from an ideological point of view it can be concluded that the Marxist-Leninist view characterised male homosexuality as a product of the "degradation of the woman", and Friedrich Engels maintains: "This degradation of the woman was avenged on the men and degraded them also till they fell into the abominable practice of sodomy". Scholar Ivor Montagu furthermore points out that in the more remote regions of the Soviet Union male homosexuality "...was an institution for inculcating every new generation with the conception of the superior nobility of the male and the relegation of the female to the darkness of the veil. There the fight against homosexuality was by no means an 'indefensible interference with the liberty of the subject' but an understandable part of the defeat of counter-revolution, the ending of backwardness, the letting in of a share of life's light to half the community" (AL 1989: p. 34-35).

Socialists, such as Hoxha, saw homosexuality as something from the "traditional world," and a product of bourgeois decadence, and it can therefore only be guessed that Hoxha's view of homosexuality was in line with the Marxist-Leninist view that deemed it a form of gender chauvinism. It is however rumoured among scholars and internet writers that Hoxha himself was a homosexual, although this has been a claim impossible to fully document.

This period of aggressions toward homosexuals, who were often ridiculed and condemned even by the people closest to them, lasted for nearly 50 years (Kadi: p. 81), and in 2010 the Albanian newspaper *Korrieri* carried out an interview with a 48-year-old gay man from Tirana named Erion, who describes life as a homosexual both during communist rule and the last 20 years of a democratic society: "Before the '90s, under the communist regime, it was totally terrifying

even to think of yourself saying, 'I am homosexual', because this earned not just moral disapproval but punishment under the law. You could be sentenced to seven to ten years. You had to keep it secret." Erion then continues by explaining that "I would never have thought that 20 years later homosexuals would still be living in secret, still scared. Some are liable even to suicide. In the last year there have been three suicides because people have been outlawed by society and their families. This shows clearly what the situation in Albania is like," Erion said (Hodgson 2010).

So, despite the fact that homosexuality was decriminalized in 1995, it is still: "highly stigmatized and Albanian gays are forced to retreat into silence and invisibility" (Mai 2004: p. 49). A study for instance shows that 53 percent of Albanians responded that they "believed that 'gays and lesbians should not be free to live life as they wish'" (IRB Albania 2013), while a 2003 survey showed that in Albania 90% of respondents considered homosexuality to be a disease, while 80% said that they would abandon a child or relative who had a homosexual orientation (COWI: p. 5).

Transgenderism & Lesbianism

Although not completely falling under the category of transgenderism, the 'Sworn Virgin' phenomena can be interesting to mention in this context. It should, however, be stressed that the tribal societies – and also the Sworn Virgins – is not concepts exclusively connected to Albania, as the same traditions can be seen other places in the Western Balkans, in particular in Montenegro (Boehm 1984).

As previously stated the head of the clan was the absolute master of the household, but if he abused his authority too often, he could be cast out by the rest of the family. Should this happen he would be succeeded by his eldest brother or son or any other suitable member of the family, but in cases without an adult male in the family, a women could take the lead. For this to happen she would have to declare herself a lifetime virgin, after which she would be shown the same respect as a man (Zavalani 2015: kl. 2036-2040).

"A woman is known as a sack made to endure as long as she lives in her husband's house."

The description above is taken from Article XXIX of the Kanun (Young 1998: p. 62-62), and it a good indicator of how women where perceived, and how dominating the man's role were in the

household and in the *fis*. It should nonetheless be stressed that being a sworn virgin is not in any form a sign of lesbianism (nor really transgenderism), although the phenomena certainly is a strong indicator of the patriarchal characteristics of the Albanian society. The anthropologist Andrew Shryock also connected the essential character of the "Albanian virgin" with her asexuality and her unwillingness to marry, and described her as "culturally "male"" (Young 1998: p. 64).

The reasons for some to become sworn virgins have varied - it could be out of practical reasons with the need of a male heir in a family, or the sworn virgins chose the male identity for different personal reasons. The tradition and social position of sworn virgins is not practiced in Albania today, and the few sworn virgins left belong to the older generations. A research project estimated in the beginning of the 1990s that there were about 100 sworn virgins left in the country (COWI: p. 6).

There is very little data on the situation for transgender persons in Albania (COWI: p. 12), but it is known that there are no possibilities for gender reassignment treatment in Albania, and due to a lack of possibilities for gender reassignment treatment, transgender people most often go abroad to receive treatment (COWI: p. 3). Due to lack of employment possibilities, and lack of social support from families, some transgender women carry out sex work in Tirana – a vulnerable position with increased risk of harassment or abuse. At the same time transgender women are often subjected to police violence, and there are cases where policemen go to the places where the trans- community hang out and commit both psychological and physical violence (COWI: p. 12).

Although lesbianism naturally lists under homosexuality it is necessary to add in a separate comment, since it was only male same-sex sexual acts that were criminalised in communistic Albania. In fact, it was not imagined that women could have homosexual tendencies, and lesbianism is barely discussed or understood even in Albania's capital (Young 1998: p. 67).

According to a survey conducted by GISH (a Human Rights Organization in Albania) the situation of lesbian and bisexual women is more difficult than that of gay and bisexual men. The survey shows that only 3 (out of 87) of the respondents were women, and GISH explains that the lack of female respondents is due to the difficult position of women in the Albanian society. Lesbians are often vulnerable, invisible and dependent, which also mirrors the patriarchal elements of the Albanian society. The community of lesbians and bisexual women – and female sexuality in general – is largely socially invisible and not recognised in itself (COWI: p. 6).

The overall problem in Albania is therefore connected to the very rigid and traditional gender stereotypes that create the idea, not only for men but also for women, about what it means to act and live a specific gender, although male homosexuality is often perceived as more provocative than female homosexuality. Hence, gay and bisexual men are particularly subject to internalised homophobia and homophobic harassment (COWI: p. 6).

Sexual revolution in Albania

To gain perception of a sexual revolution in Albania is difficult due to absence of studies of this kind, and it can be complicated to get a clear overview of sexual behaviours and attitudes of the Albanian young people today. About 20 years ago, when Albania was still an isolated country under dictatorial rule, Albania had prohibited sexual behaviour in every form. Now, after the collapse of communist regime, sexual behaviours of young people in Albania and their attitudes to sex has begun to change significantly, and it seems that a sexual revolution is somewhat manifesting, although the question of homosexuality still remains a taboo. According to a recent study of 186 interviewed students, only 2 (who are females), admitted to have bisexual preferences and the rest of 184 persons preferred heterosexual relations (Metu & Leka 2013: p. 93-94, 96).

Chapter 5 – Cultural and Institutional Homophobia

Cultural Homophobia in Albania

The term Cultural Homophobia, which refers to “social standards and norms which dictate that being heterosexual is better or more moral than being LGBTQ, and that everyone is or should be heterosexual,” is “caused by social norms which dictate “correct” sexuality” (LGBT-RC 2010), and this term can be considered highly relevant in the case of Albania.

In a paper on the approach toward gay marriage in the Albanian legislation and society Xhensila Kadi from the University of Tirana explains that although homosexuality as a natural part of life could be seen depicted in Albanian popular culture from those areas where the Turks found greater support and began to develop their culture, other areas of Albania were less tolerant. In Central Albania the phenomena “was not seen as a criminal act even though it was not accepted openly by the society”, and Kadi also mentions that although traces of tolerance toward homosexual tendencies can be found in Albanian culture, it had nothing to do with the attitude of the majority of the Albanian society, which he describes as being “very manly and very intolerable to women” and as a society that “could not accept such phenomena as homosexuality”, since it was considered “a betrayal of the gift of being male” (Kadi: p. 80). In the article “Albanian masculinities, sex-work and migration: Homosexuality, AIDS and other moral threats” Nicola Mai supports this view, as he refers to the Albanian term *kurvë* as coming close to the Western concept of ‘gay’. In Albanian *kurvë* means ‘female prostitute’, and as Mai also points out this creates an obvious symbolic association between “the figure of the queer and that of the whore”, which should be analyzed in the context of the very patriarchal tendencies of the Albanian society and cultural tradition, as I have already reviewed. According to Mai this association can be seen as “consistent with a thoroughly heteropatriarchal socio-cultural context where only real men (...) are the carriers of honour and respectability and are entitled to administrate power by asserting their predominance and domination on their less honourable and masculine others” (Mai 2004: p. 49-50).

The public attitude towards LGBT persons is in other words characterised by ignorance and non-acceptance strengthened by the dominance of very traditional gender roles, and in 2010, after the coming out of a “Big Brother” contestant, human rights activist Kristi Pinderi commented to an Albanian newspaper that “Albania is less allergic to homosexuality than ill-informed about it. This

is because Albania is ill-informed about sexuality in general,” when he was asked why Albania is traditionally “allergic” to homosexuality (Hodgson 2010).

Maybe precisely due to these elements of ignorance, strong cultural definitions and importance of both masculinity and femininity, it is common for gay people to experience strong reactions from both families and the society as a whole, ranging from silence and marginalization to disgust, open discrimination, maltreatment and even abuse (Mai 2004: p. 49). Cases of persons coming out to their families are also not widely known due to the risk of not being accepted and possibly rejected by their families (COWI: p. 3), and a survey conducted by GISH (An Albanian Human Rights Organization) in 2006 shows that of the 87 LGBT persons questioned, 91% are not out to their families and 90% are not out to their friends. The fact that it is so hard for LGBT persons to come out is directly linked to the low level of acceptance regarding LGBT. The 8%, who are out to their families, and the 10% who are out to their friends are, according to the survey, primarily people with a high level of education, which indicates that it takes not only self-esteem, but also financial security to live openly as gay, lesbian, transgender or bisexual in Albanian society (COWI: p. 5).

The social stigma in other words remains high, even among Albania’s young population, who foster a great deal of negativity toward homosexual minority groups, and a recent study by the FES Foundation found that more than 50% of Albanian youth are homophobic (Albania OGN 2013: p. 30-31; Shepherd 2013).

The media

Cultural Homophobia is also channelized through the media, as heterosexuality is “spelled out each day in television shows and print advertisements where virtually every character is heterosexual, every erotic relationship involves a female and a male, and every “normal” child is presumed to be attracted to and will eventually marry someone of the other sex” (LGBT-RC 2010).

In 2006 GISH claimed that “the Albanian media portrays homosexuals in a negative light” and GISH also mentions how a newspaper refused to accept payment to publish articles on the LGBT community, stating that LGBT-persons are immoral. In the GISH survey it is also revealed that 97% of the respondents think that LGBT issues not dealt with in the Albanian media as an important social issue. 96% of the respondents think that LGBT issues are not dealt with in the Albanian media systematically. 98% of the respondents think that LGBT issues are dealt with in the Albanian media in an offensive/insulting manner. 60% of the respondents think that LGBT issues

are dealt with in the Albanian media as a show or fashionable phenomenon. 98% of the respondents think that LGBT issues are dealt with in the Albanian media as disease or something abnormal. 98% of the respondents think that LGBT issues are not dealt with in the Albanian media as something natural (COWI: p. 12).

Academic text books have also been the source of unfavourable views of homosexuals. In 2007, for instance, a book on legal medicine, enlisted homosexuality along 'sexual perversions most commonly encountered' such as fetishism, exhibitionism, sadomasochism, zoophiles and necrophilia, and another medical book stated that 'sexual perversions are avoidance from norms of sexual instincts' after which homosexuality was listed as the most common sexual perversion (Littauer 2012).

LGBT concerns seem all in all to have been a non-issue in the Albanian media in previous years, unless in relation to "sensational articles", and this tendency is still observed, although there are signs of changes to this picture with more LGBT representations and related articles - including positive or neutral ones (COWI: p. 3). Then, in 2010, the "Klodi case" swept across Albania, which refers to the coming out of TV-reality Big Brother contestant Klodian Çela, who admitted to his sexuality on national TV, where he also asked for the understanding from everybody, especially his mother. The Tirana-based newspaper Korrieri stated that "explosive debate and discussion has broken out everywhere", as protests had immediately sparked in his hometown Lezha with messages like "Lezha is clean – we have no homosexuals" and demands that Klodi would be removed from the "Big Brother" house (Hodgson 2010). Several threatening and aggressive groups were also formed on social media groups, and demonstrators threatened to beat him up and even kill him. As a result his family had to move to another town (COWI: p. 8).

Following the event huge media frenzies followed with positive inputs from some known journalists. Under headings such as "I'm homosexual" (Fatos Lubonja) and "A homophobic protest that worries no-one" (Mustafa Nano), they were critical about the conservative mentality of Albanian society and about the silence that the government and the Albanian intellectuals had in this case. It was further underlined that LGBT rights are human rights and there is nothing pathological in being homosexual. Another similar case involved a young openly gay man from a smaller town who was also threatened and attacked with stones from local citizens (COWI: p. 8-9).

When human rights activist Kristi Pinderi was interviewed in Korrieri he said that: "Whether we like it or not, an important chapter in the history of human rights in Albania will be linked to

Klodi's name. We don't understand this right now, because of prejudice and decades and centuries of repression, but we are living through some days, weeks and months and no doubt years in which this history will be written" (Hodgson 2010).

Institutional Homophobia in Albania

Institutional Homophobia refers to "the many ways in which governments, businesses, churches and other institutions and organizations discriminate against people on the basis of sexual orientation," caused by the competition for power and a form of scapegoating in order to "maintain the status quo and the position of those in power" (LGBT-RC 2010), and in Albania this type of homophobia is also visible, although it must be seen in interrelation with the Cultural type of homophobia.

Having already gone through the position of homosexuals during communism, which can also be categorized as Institutional Homophobia, I intend here to look further into the current political situation in relation to sexual minority groups.

Political parties

Although there are no strong political extremist groups actively mobilising against LGBT persons or events (COWI: p. 3), and although LGBT activists report that there are no organised extremist groups actively focusing on anti-LGBT activities as seen in some other countries in the Balkans (COWI: p. 6), the resistance toward sexual minority groups nonetheless are still strong in both right-wing as well as more liberal parties.

The Republican Party have downright proposed "prohibiting homosexuality" (CIG 2014: p. 16), and in 2011 member of the ruling Democratic Party, and former Deputy Prime Minister, Tritan Shehu commented that "homosexuality is a disease and should be treated with hormones" (Likmeta 2012). Such a statement corresponds with real life cases where families have taken children to be treated for suspected homosexuality. In a February 2013 report on LGBT access to the health systems, Aleanca LGBT (The Alliance Against Discrimination of LGBT Persons) & Pro LGBT expressed concern that:

“[...] there are still families that believe that their homosexual children can be cured through hormones, and what is more disturbing there are still doctors who take the responsibility to try to do this! We have had two concrete cases related with two male gays of the community whose parents have sent them to public and private hospital doctors asking them to “cure” their children with hormones. The behaviour of the doctors in these cases has been not ethical. (...) In one of the cases the person who has been taking these cures has suffered severe psychological and physical damage’.

(CIG 2014: p. 22)

Although it cannot be directly proven that comments from politicians, like the one from Tritan Shehu mentioned above, has an effect on the general Albanian population, it can certainly be said that such comments only maintain a strong level of ignorance, especially since the comparison of homosexuality with a disease comes from a politician, who is also a licensed doctor (Kurani 2013). In another case Shehu commented:

“It’s absurd and it doesn’t aim to defend rights. On the contrary, it’s destructive. Universal right is that of the creation of a family which will guarantee continuity at least. Family is a holly concept. Its destruction will lead us to the destruction of human society. Its essence consists on the relation between man and woman, who later hope to have their children.”

(Kurani 2013)

Shehu then argued that “to defend the concept of the true family is not discrimination. The opposition is discrimination against universal values“ (Kurani 2013), and by using the idea of “the true family” as an argument in the scare campaign about how legalization of gay marriages will be a “destruction of human society”, he is not only turning to political scapegoating of homosexuals as the main threat against the “universal values”, he is also proving why the cultural and institutional terms of homophobia are strong interrelated, especially in the case of Albania (Albania OGN 2013: p. 30; OSCE-ODIHR 2012: p. 9). In 2013 the former Deputy Defence Minister Eqrem Spahia was quoted in the press declaring that same-sex relationships were “immoral” and “perverse” (CIG 2014 p. 15-16), and although both politicians were criticized by the international community, civil society

and many citizens, some political leaders and religious organisations supported their comments. Politician Murat Basha threatened openly gay activist Kristi Pinderi on national TV by saying “I will cut your throat” and by claiming that “If you were my son, I would put a bullet in your head” (Albania OGN 2013: p. 30; OSCE-ODIHR 2012: p. 9), and the – at the time – Deputy Minister stated that the Ambassador of the Netherlands, Henk van den Dool, should be declared *persona non grata* due to his support for the rights of LGBT people, and due to the fact that he had an attitude that were “too gay friendly” to fit with Albanian culture. In this case, the EU Delegation in Tirana condemned the statement of the Deputy Minister (ILGA-Europe AR 2013: p. 42).

Similar tendencies are seen in other parties as well, as when Mesila Doda from the Constituency of Fier, objected to the incentive of the People’s Advocate for the drafting of a bill on gay marriages, as Igli Totozani, president of Peoples Advocate, wanted Albania to become to first Balkan country to legalize gay marriages.

“The family can only come from the marriage between a man and a woman and together they support and welcome the children who are born. I invite everyone to be an obstacle for such incentives which are against the essence of our life, against the will of God who blessed our world with the union between man and woman.” Mesila Doda.

(Kurani 2013)

LMP (Legality Movement Party) is another party opposing gay rights, and the party has made claims that they “despised beyond concept” the incentive of the People’s Advocate for the legalization of gay marriages, which they consider as a need for public attention or close personal interests of the leader Igli Totozani, and it was commented that he was “constantly trying to damage social moral and best Albanian traditions” (Kurani 2013). In 2013 the media were also able to publish a private text message from former justice minister Eduard Halimi to Democratic Party parliamentarian Fatos Hoxha during the ombudsman’s appearance at a parliamentary meeting, warning Hoxha to “not mess with the ombudsman because he supports faggots” (HRP 2013: p. 23).

About a year before, in 2012, when the LGBT-community was planning a pride parade in Tirana, Eqrem Spahia had made another comment, when he responded to the announcement of the

Parade with the words: “My only commentary on this gay parade is that they should be beaten with truncheons (Albania OGN 2013: p. 30; Ross 2012). Albania’s Ombudsman, Igli Totzani, swiftly condemned Spahia’s homophobic remarks, saying they contradicted “the spirit of tolerance, coexistence and diversity as the traditional values of Albanian society.” In addition, he said, such statements “incite violence and hatred, constituting also a criminal act” (hrw.org 2012), and the US and EU respond by reminding Albanian to respect gay rights. Albanian gay rights organisations have also been quick to react to Spahia’s outburst. “This is a call to violence, and we will ask through our lawyers that Spahia be convicted, in accordance with Albanian law, to a prison sentence of up to five years,” said activist Kristi Pinderi.

At this point the Royalist Party had officially released a statement saying homosexuality “is a sexual deviation, a vice, a misfortune or a curse that cannot be tolerated.” (pinknews.co.uk; ILGA-Europe AR 2013: p. 42), and due to the incident gay issues were on the front page of every Albanian national newspaper and the topic of Albanian talk shows (Michels 2012). In the end, the Pink Embassy, fearing for the safety of the participants, decided to postpone the march (Szabłowski 2012), and after Spahia’s comment the incident were discussed within the Committee of Ministers of the Council of Europe, of which Albania was holding the Presidency. Aleanca LGBT and Pro LGBT then signed a complaint requesting that Minister Spahia be charged under Article 226 of the Criminal Code. The prosecutor however responded that Article 226 does not refer to hate speech against LGBT people and therefore was not applicable to this case. The Commissioner for Protection from Discrimination (hereafter CPD) consequently started an investigation on the comments made by the minister, but nothing came out of it, because, as was told, not ‘sufficient proof’ had been found that the statement had actually been made by the Minister (ILGA-Europe AR 2013: p. 42). At the same time it can be noted that while the government’s antidiscrimination commissioner received several complaints from LGBT-individuals and organizations, some of which was also based on the violent and hateful comments from politicians, the politicians ignored the sanctions against them, and the enforcement of the law is therefore generally weak (HRP 2013: p. 25).

Religious institutions

Also religious institutions in Albania strongly object the plan to legalize marriage. In 2010 it was due to lobbying by religious groups that the proposed draft of the 2010 anti-discrimination law a same sex marriage-equality provision, included in the proposed draft of the bill, was omitted from

the text of the final law (CIG 2014 p. 11), and AMF (Albanian Muslim Forum) have made the following comment on the issue:

“Marriage is more than an issue of equality and more than an issue of love. There cannot be a marriage within incest relations, involving children or within the same gender.”

(Kurani 2013)

With this AMF also blurs out the lines between Cultural and Institutional homophobia, as the thought is that “marriage is an institution established on the conviction and long historical experience of people before the state, courts or other institutions were born. It’s the true foundation of society and its movement or the movement of its parts cannot be done by appointed or elected officials, by the agenda that promotes their interest, but by the majority of people” (Kurani 2013), and according to AMF “no state institution can redefine marriage, as this must be done by a significant majority of the people” (Kurani 2013). Radical Islamic groups have in particular taken to popular social media sites to advocate for wiping out of the LGBT community (Williams 2013), and during the march of the Festival of Diversity, a ‘profamily’ counter demonstration was held by an Islamic group. In their statements in the media they condemned homosexuality and asked for homosexuals to leave Albania. Similarly, representatives of the Catholic Church demonstrated their institutionalised homophobia through bias motivated comments about a potential Pride Parade in Tirana (ILGA-Europe AR 2013: p. 42), and also leader of the Mosque spoke against the plans of celebrating the Pride. “Such public demonstration is an abuse of human rights and freedoms and presents a danger for the morals and tradition of the Albanian family,” Mr Agron Hoxha, representing the Muslim community, told local media. Echoing these comments was the spokesman for the Catholic Church, Gjerg Meta, who said that “homosexuality is opposed to the natural order and the morals of society” (pinknews.co.uk).

Schools and the Workplace

Also in schools and at the workplace is homosexuality a taboo. The GISH survey shows that 93% of the respondents hide their sexual orientation at school (COWI: p. 10). Due to the lack of knowledge in schools not only about LGBT but about sexuality in general, alongside with the common use of insulting words for LGBT persons for bullying, LGBT students are not out in

schools. However, there are some lectures on LGBT-issues taking place at university level (COWI: p. 3) and in Albanian public schools the ombudsperson have recommended that the Ministry of Education and Sciences should include information on LGBT-issues in school curricula and education programmes, and that academic staff would be trained on LGBT-issues (Albania OGN 2013: p. 30-31).

LGBT-persons are largely invisible in the work place, and it is only possible in certain branches to be open at work. The risk of being fired or discriminated against for persons not conforming to traditional notions of gender (e.g. butch lesbians, effeminate men and/or transgender persons) seems legit (COWI: p. 3), and according to a study 93% of the respondents hide their sexual orientation in the workplace. Only 5% of the respondents answered that they know of concrete cases of non-acceptance and discrimination on grounds of sexual orientation at their workplace, but the fact that so many are hiding their sexual orientation shows that general level of acceptance towards LGBT-persons at workplaces is perceived to be low (COWI: p. 10).

Civil and legal rights

According to the GISH survey LGBT-persons has little trust in official rights protecting them and the law enforcement structures in Albania. Only 9% of the respondents replied that they trust the courts to protect their rights; 9% trust the Prosecutor institution; only 4% trust the Police and 17% trust the Ombudsman Institution to protect their citizen's rights. None of the respondents have ever complained about cases of maltreatment or discrimination to the state institutions. Very few, only 3%, have complained to human rights organisations/defenders. The low level of trust is another factor showing that the level of acceptance (at least perceived acceptance) is very low in the Albanian context (COWI: p. 5).

There is no official or quantitative data on hate crime or hate speech. LGBT-activists report that violent hate crime, as far as they are informed, is not a widespread phenomenon as most LGBT-persons are not open and not recognised as LGBT, whereas transgender persons (in particular transgender women) are more subject to violence due to their visibility. There is some concern of incidents of police abuse, however reports from human rights organisations indicate that the practice of the police has somewhat improved in recent years. In a few known cases, demonstrations have been organised against specific gay men who were publicly known as being

gay - the activities included threats of violent attacks in their hometowns (COWI: p. 3), and as a representative from Aleanca LGBT explained: “Hate crime is not widespread because it’s difficult to identify LGB persons but when you are out of the closet the risk to be a victim of hate crime is very high” (COWI: p. 7).

In the GISH survey most of the respondents accuse the police of physical and psychological abuse of LGBT-persons. According to the survey, they are often kept in jail for many hours without knowing the cause of the arrest; they are humiliated and often subjected to unjustified police violence. Although police have been criticised by public officials in cases of violence against sexual minority groups, their behaviour has not been labelled as discrimination. However, the experiences of the Albanian Human Rights Group is that the police have become less discriminative and more cooperative in recent years, not least because the media is increasingly reporting on human rights abuse (COWI: p. 8), and at the same time a Memorandum of Co-operation between the State Police and LGBT civil society has been created (Albania OGN 2013: p. 30-31).

In May 2013, the assembly passed an amendment that added sexual orientation and gender identity to the list of classes protected by the country’s hate crime law. Even though this law is a relatively new one, it has started to be enforced by the Government and the CPD. The changes primarily consist of amendments to the Albanian Criminal Code, but it also includes legislation on pre-university education (CIG 2014: p. 10).

Chapter 6 – The LGBT-movement in Albania

Social movements can be considered "Networks of informal interactions between a plurality of individuals, groups and/or organizations, engaged in political or cultural conflict, on the basis of a shared collective identity" (Tani: p. 6), and the issues of LGBT persons have been pushed into the political agenda many places in the world, as homosexuals are now seen meeting openly with presidents, prime ministers, cabinet members and senior officials. There have been gains in public policy and the courts in policies related to sexual minority issues, and governmental attention to sexual diversity has increased. Legislative and judicial prohibitions of discrimination on the grounds of sexual orientation have also proliferated, and many of the most oppressive policies have been challenged and changed. Nonetheless, politicians and parties are still reluctant to take unambiguous stands on sexual orientation, as positive measures toward homosexual minorities are still feared to be able to cause the loss of votes and thereby provide opponents with effective weapons for negative campaigning (Rayside 2001: p. 23-24).

LGBT-persons are each considered members of a particular social group as they share a common and immutable characteristic which is either beyond the power of an individual to change or is so fundamental to their identity or conscience that it ought not be required to be changed and, as I have already analyzed, the Albanian LGBT-groups especially share a distinct identity which is perceived as being different by the surrounding society (CIG 2014: p. 5).

In Albania there are several cases of LGBT-persons having applied, and been granted, asylum in other countries. Until recently, the situation regarding LGBT-persons, rights and practices have largely been characterised by an almost complete public invisibility. This has also characterised the public opinion or general attitudes where LGBT-issues have not been dealt with, or have not been an issue as such (COWI: p. 3-5).

Today, to the surprise of the Albanian public, Albanian LGBT-groups are being formed, and activists step forward to claim their rights, and some organised LGBT-activities have helped raise the level of visibility and created some public and political attention, but also initiated a process of LGBT community building in Tirana (COWI: p. 3-5).

In this section I tend to analyze the characteristics of LGBT-activism in Albania in order to see what happens when their issues enter mainstream political processes, as to be reviewed in the

next section, where I also tend to analyse how certain political and social contexts shape opportunities for social movements to make gains.

Shoqata Gay Albania (SGA) became Albania's first and only gay and lesbian organization and was formed illegally in March 1994. That same year the group members were severely beaten by police in an apparent attempt to discover the name of the group's president (Iglhrc 1994).

Since homosexual acts between consenting adult males remained illegal in Albania, the group was unable to seek legal recognition (Iglhrc 1994), but in 1994 president of SGA Genci Xhelaj sent a letter to organizations around the world with the purpose to “speak of one aspect no one has written about yet, that of Albanian homosexuals who have taken a great step forwards recently, perhaps the greatest step in their history” (Xhelaj 1994). In his letter Xhelaj told the story of an article he had written for the newspaper Playboy in Tirana in 1994, the first time the Albanian press dared publishing anything about homosexuality. “We were ecstatic although there were very negative reactions” Xhelaj writes, who also claims that the article had been called “historic” by a German who interviewed him later on. Despite of – or maybe because of – the negative reactions to the article, it was also this article who came to form SGA, and was assembled and formed secretly by around ten homosexuals living in Albania (Xhelaj 1994)

Xhelaj himself defined the main objectives of the group to be:

1. The support of the interests of Albanian homosexuals (male and female) and to fight for full equality and integration in Albanian society.
2. To spread positive and more objective information about the homosexuals community and to fight prejudice, fanaticism, ignorance and hatred.
3. To support the fight against the spread of AIDS.

(Xhelaj 1994).

Due to fear of negative reactions, it was difficult to gain support: “We first spread word of the existence of the group among Albanian gays. Some of them joined us while the most distanced themselves out of fear. We hesitated, but then resolved to continue” (Xhelaj 1994). Then, in the spring of 1994, SGA received an invitation to attend an AIDS conference in Budapest, which was the first time the group was presented in public. Back in Tirana SGA distributed a news bulletin

about the existence of the group to all Albanian newspapers as well as to radio and television. According to Xhelaj “The reaction was overwhelming. Everyone in the capital was suddenly discussing the topic and there were the wildest reactions” (Xhelaj 1994), and the newspaper *Gazeta Shqiptare* called it a “courageous step”, in particular in view of existing legislation (Xhelaj 1994).

In 1994 the Albanian government proposed a revision of the law criminalizing consensual adult homosexual acts, under which homosexuality would have remained illegal, but with the maximum sentence reduced to three years. The proposal, however, did not live up to the requirements of the Council of Europe (Iglhrc 1994).

"This level of official persecution of gay people resembles Nazi tactics in the 1930's," remarked Jorge Cortinas, Program Director of the International Gay and Lesbian Human Rights Commission. "Defenders of liberty and human rights around the world need to denounce such state directed persecution in clear and unequivocal terms" (Iglhrc 1994).

The draft of the penal code – prepared by the ruling Democratic Party and soon to be discussed in Parliament – pushed SGA into action: They sent fifteen members of the Democratic Party two strongly worded protests with the appeal that the passage was dropped. They requested help from ILGA (International Lesbian and Gay Association) and other international organizations (Xhelaj 1994), and ILGA sent a letter of protest to the Albanian president (at that time Sali Berisha) and to other high government figures. Protests from other countries arrived too, and in June 1994 a representative from ILGA arrived in Tirana. After a discussion with SGA he held talks with leading parliamentarians who then promised that the proposed passage would be withdrawn and that there would be no more discriminatory legislation against homosexuals (Xhelaj 1994). Then, in 1995, after a long political struggle, the consensual homosexual relations in Albania were finally decriminalised (Mai 2004: p. 49), and that same year the Albanian Gay and Lesbian Association (ALGA) was formally registered (AGMRT 2010: p. 1).

One year after, in 1996, Albania ratified the European Convention on Human Rights, whose court jurisprudence provides implicit protection to LGBTI individuals under Article 8: The right to a private and family life (refugeelaidinformation.org), and in 2001 the age of consent became equal at 14 for all, regardless of gender and/or sexual orientation, while it had previously been 18 for homosexual males, and 14 for lesbians and heterosexuals before 2001 (Williams 2013; ageofconsent.com).

In 2004 a group of gay men started a small capacity building group with the support of LGBT-organization COC in the Netherlands. However, the demands towards them from the COC were too much, and the group quickly dissolved (dayagainsthomophobia.org). In the mid-2000s the Pink Embassy (hereafter PE) was started, a non-profit organization which works for the protection and advancement of the rights of lesbians, gays, bisexuals, transgender, intersex and queer people in Albania (pinkembassy.al), and PE started organizing social events, discussion groups and other activities that “empower [the LGBT] community to become spokespersons and defenders of their own rights” (pinkembassy.al; IRB Albania 2013). In January 2012 PE opened a shelter for the LGBT-community, and according to the organization, it is the first emergency shelter for LGBT-persons in Albania (IRB Albania 2013). What should be mentioned, however, is that PE, like other organisations working for LGBT rights, receives support either directly from the EU or from EU-based projects (pinkembassy.al).

By 2006 other organizations that assist homosexuals in Albania included Aksion Plus, Albanian Human Rights Group (Hereafter AHRG) and the Organization for Security and Cooperation in Europe, which are located in Tirana. AHRG provides legal assistance and social support and recorded cases of discrimination against homosexuals in 2004, which were mostly perpetrated by police officers. These organizations have also carried out projects to raise public awareness of human rights issues and to help organize the LGBT-community (IRB Albania 2006).

However, despite of massive progress, it was also reported in 2006 that only few homosexual organizations exist in Albania. Although these organizations generally operate without government restrictions, their effectiveness is limited due to a general hostile attitude towards homosexuals, the unwillingness on the part of members to disclose their sexual orientation and a lack of funding for activities. To protect itself, GISH is officially a human rights organization and not a gay organization (IRB Albania 2006), and in 2006 it was the opinion of the Executive Director of GISH that neither the Albanian government nor international organizations have made an effort to improve the situation of homosexuals in Albania, since national protection mechanisms for homosexuals were still absent in Albania. But that same year AHRG drafted an anti-discrimination bill that would protect homosexuals from ill-treatment, and, with the support of other organizations, started lobbying for the bill to be passed by parliament (IRB Albania 2006).

From 2009 LGBT-groups had started organizing meetings through the use of Facebook and other social media (dayagainsthomophobia.org), and in Aleanca LGBT were created. The group focuses mainly on building and strengthening the LGBT community in Tirana and organises weekly parties and discussion groups. However, Aleanca LGBT also does awareness-raising activities, plan to establish human rights monitoring and have, among other things, carried out a poster campaign with the slogan: "Homophobia is a social disease" (COWI: p. 7).

In 2009 – after the ombudsman had announced that Albania should become the first country in the Balkans to legalize gay marriages – Berisha announced his support for the legalisation. This came to much surprise in the Albanian public, as Berisha is the head of a conservative party that sympathises with Muslim organizations. For this reason there was nobody to oppose him (Szablowski 2012)

The day after all the religious groups came together – the Muslims, Catholics and Orthodox – and made a press release categorizing homosexuality as abnormal. Members of LGBT-groups came together and made a press release responding to the comments from the religious communities. Shortly after their press release made it to the television titles, and, according to activist Pinderi, this was the first time an LGBT movement went public. After this, Pinderi claims, “the organisations were more mobilised”, and they got registered at the court (dayagainsthomophobia.org).

In 2010 came the anti-discrimination law which:

“[...] regulates the implementation of and respect for the principle of equality in connection with gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social situation, pregnancy, parentage, parental responsibility, age, family or marital condition, civil status, residence, health status, genetic predispositions, restricted ability, affiliation with a particular group or for any other reason ”

(IRB Albania 2013)

And pursuant to the anti-discrimination law, CDP was established as an institution which exercises its authority independently and ensures efficient protection from discrimination (kmd.al),

and in 2010 the International Day Against Homophobia was marked by Aleanca LGBT with several days of activities, including public events (COWI: p. 3).

In 2012 a country report stated that: “The government reiterated its support for the LGBT community, and Prime Minister Berisha stated that LGBT activists would be permitted to organize a public demonstration according to their legal rights.” The state police also coordinated with LGBT organizations and provided effective security for several LGBT-related events during the year (IRB Albania 2013), and the Ministry of Labour, Social Affairs and Equal Opportunities began the action plan that should ensure right for LGBT persons (Albania OGN 2013: p. 30-31). That same year civil society also organized a diversity festival to mark the international day against homophobia and transphobia (CIG 2014: p. 14-15). Altin Hazizaj, First Ambassador of PE said: “The LGBT-movement in Albania within such a short time has achieved a lot in terms of changes to laws, policies and even public perceptions. This shows that through cooperation and dialogue with institutions and general public we can bring a positive change to the lives and the perspectives of every LGBT-person. Society only benefits by respecting LGBT rights” (ilga-europe.org 2013).

According to the European Commission, state authorities were present at the festival, and Agence France-Presse indicated that some politicians joined the event to show their support. However, the European Commission's report notes that “in the run-up to this event, derogatory homophobic statements were made by a member of government and a political party representative” (CIG 2014: p. 14-15). In May LGBT activists also organized a "pride-related" bicycle ride in Tirana (IRB Albania 2013).

In 2013 Prime Minister Berisha arranged a meeting with representatives of the LGBT-community where it was decided that the first step should be to review compulsory education textbooks so that stereotypes that could encourage discrimination were removed (Albania OGN 2013: p. 30-31). As mentioned, this was in particular to address the case of two medical books that condemned homosexuality as unhealthy. These books were replaced with books that do not degrade homosexuality and offer accurate and scientifically tested informatics (Williams 2013)

In May then opposition leader and current Prime Minister Edi Rama also publicly met with LGBT-activists in a highly publicized event at which he voiced his support for the community (HRP 2013: p. 25), and in 2013 PE in collaboration with the Ministry of Labour, Social Affairs and Equal Opportunities, CPD and the People's Advocate hosted a round table with the topic: “Albania

against homophobia: LGBT in front of politics, media, youth and anti-discrimination measures” (ilga-europe.org 2013).

As shown, it can undoubtedly be said that the LGBT-movement has made tremendous progress in Albania. Still, according to members of the gay community homophobia is deep-rooted and continues to make life for homosexuals difficult. "Discrimination against homosexuals in Tirana is neither sophisticated nor secret. It is open in public places and at work, and it is vicious. I have been present when homosexuals have been abused in public places, beaten up in the most bestial fashion. The police not only do not protect homosexuals but beat them up themselves," Erion, who I previously introduced, explained (Hodgson 2010).

Nonetheless, despite of fear, discrimination, lack of acceptance, and, perhaps most importantly, the shame felt by many homosexuals, LGBT-activists are beginning to openly protest against homophobic and violent remarks of governmental officials. Young LGBT-Albanians are giving presentations in college classrooms and going on television talk shows, educating students and the Albanian public about the realities of their lives. Leaders of LGBT-organizations are speaking out in newspapers and on television. Therefore, Albanian society may not radically different than it was some years ago, and fear, potential violence, and concerns about familial shame have not changed. But what has changed is “a feeling of community among these new gay Albanian activists” (Michels 2012).

Chapter 7 – Political opportunities

Political opportunities have been defined as “the ways formal political institutions and more informal alignments of relevant actors condition the prospects of relatively powerless groups to effectively challenge the existing order”, and it “portrays the opportunities that weak groups have within the society” (Tani: p. 7-8). According to David Rayside the success or failure of a group or movement can largely depend on the resources available to them, and the skill applied to mobilizing them. Rayside uses the term ‘Resource mobilization’, which includes “not just the number of movement adherents, financial resources, and media facilities, but also the skills required to deploy them”, and Rayside argues that groups must not only be able to organize resources on a scale sufficient to be noticed, they must also build a certain policymaking capacity of their own in order to gain credibility with their own constituency and the media, but also to enter the “policy communities”. Rayside, however, stresses that these are resources that few groups and movements can marshal in significant amounts, as “many social movements, representing the already marginalized, face the disadvantage of a playing field tilted against them” (Rayside 2001: p. 31).

Blasius argues in “An Ethos of Lesbian and Gay Existence” that it is not the homosexual act itself that sparks fear and hatred, but rather the “gay lifestyle” of those who engage in the homosexual act, a fear and hatred that might manifest into the fear of losing one’s gender identity, as well as anxiety that the (stereotype of the) gay lifestyle is causing the downfall Western civilization (Blasius 2001: p. 146), and this view is an interesting one, since it corresponds with Rayside’s argument about the “playing field” working against a social movement. In Albania the homosexual’s “lifestyle” not only goes against the norms of sexuality, it also goes against traditional values and tradition in relation to the family, marriage and the “rules” of the Kanun, and when politicians like Tritan Shehu comments that “to defend the concept of the true family is not discrimination. The opposition is discrimination against universal values” (Kurani 2013), this perfectly describes Blasius’ argument on the ‘gay lifestyle’ as the trigger for fear and hatred, as Shehu is here using political scapegoating of homosexuals as the main threat against the “universal values”.

As I have proven up until this point, the Albanian LGBT had – and still has – this type of “playing field tilted against them”, as articulated by Rayside. The patriarchal society alone constitutes a considerable part of this “playing field”, as strong cultural traditions and customs – especially relating gender and family issues – are becoming almost inherent homophobic

characteristics in the average Albanian person. However, the fact alone that this particular topic is sexuality should be taken into account, as sexuality in general is still taboo in Albania, where affection even among a heterosexual couple is rarely shown in public places. As I have touched upon earlier in this thesis, a sexual revolution seems to be only in its initial phase in Albania, so the cause stemming from sexuality – not just homosexuality – in itself creates a part of the “playing field”, due to the taboo surrounding the subject. At the same time – or as a continuation of this – the lack of awareness on sexuality matters brings forth ignorance in regards to homosexual people and sexuality itself, which further strengthens the “playing field”.

When asked about Albania’s problem with homophobia, Amarildo Fecanji, General Manager for PE, answered that “what is a problem in the Albanian context, is a general lack of information on sex, sexuality and the fact we have never gone through a sexual liberation phase as a nation or as a society. Most Albanian people will still have an issue talking about sex in general, let alone gay sex” (Shepherd 2013), and this kind of ignorance corresponds with previously used example of the top politician – who is also a doctor of profession – who categorized homosexuality as a disease curable with hormones – a “treatment” still practised today in Albania. At the same time homosexuality was in 2007 still labelled a disease and a perversion in some medical text books, as previously shown. Other politicians have followed with discriminating – in some cases violent and threatening – comments and religious institutions are furthermore lobbying against LGBT-issues. When SGA was illegally created in 1994 it was difficult to get member to join, as most distanced themselves out of fear, and only ten homosexuals living in Albania joined the organization, which created a consisting problem with the number of the movement’s adherents right from the get-go, as fear of the public and family’s reaction is still persistent among homosexual people. In 2007, however, there was a community of approximately 3500 in Tirana alone, according to Genci Terpo, a lawyer within AHRG (Andoni 2007).

Financial resources

According to Rayside the success or failure of a social movement also depends of its financial resources. From the beginning it was not only a challenge for SGA to find members, it was also a problem raising enough financial funds for activities.

“The present situation of our members can only be described as extremely difficult. Almost all of us live with our families and are dependent on them

in one way or another. It is virtually impossible to live alone because of the housing situation in the country. Most of us are unemployed and without any income or social assistance. Many are forced into questionable activities in order to survive. Employers react very negatively towards homosexuals in view of public opinion, so most of our members hide their homosexuality from the public“

(Xhelaj 1994)

With this Xhelaj not only depicts the financial difficulties of the individual SGA member, he also stressed the need for financial support of the group itself when he, as previously mentioned, asked for financial support from gay and lesbian organizations abroad to help “materially or financially in publishing a gay news letter or magazine” (Xhelaj 1994), which also serves as an interesting situation in relation to Rayside’s argument on media facilities, as I will look into later.

When homosexual relations in Albania were finally decriminalised this also happened with support (financial and political) from ILGA and the Council of Europe, and 10 years after, in 2006, lack of financial resources was listed as a limitation to gay organizations effectiveness, alongside “a general hostile attitude towards homosexuals” and “the unwillingness on the part of members to disclose their sexual orientation” (IRB Albania 2006).

The Ministry of Health, which supports HIV/aids-prevention activities targeting men who have sex with men, is also supported via global funds (COWI: p. 3), and The Ministry of Health also cooperates with the countries’ LGBT-organizations (COWI: p. 7). It can in other words be concluded that the LGBT community in Albania had gotten nowhere had it not been for the opportunity to gain financial support from international organisations and EU institutions, as I will also look further into in the next part of this analysis.

Media facilities & Mobilisation

Studies indicate a relationship between the level of information and the existence of prejudices, stereotypes and distance toward homosexuals. Those who are better informed show more interest in their surroundings (CeSID 2010: p. 30), and when Xhelaj in 1994 made the following comment about LGBT-issues and the media,

“Our group is endeavouring to sensitize public opinion with articles in the press, at least in those newspapers willing to publish on the subject. Up to now, there are no Albanian publications specifically for lesbians and gays.”
(Xhelaj 1994)

, he did so knowing its importance, and when he made the request for international funds to launch a magazine for LGBT-people of Albania, he did so knowing he would have to gain support and mobilize members in order to raise awareness and support for the group. 1994 was also the year when the first article dealing with homosexuality was printed in an Albanian magazine – an article that was described as “historic” – and it was this article, despite (or due to) strong and negative reactions that became the real beginning of the formation SGA. When the group was back in Tirana, after having attended a meeting on LGBT issues in Budapest, SGA distributed a news bulletin about the existence of the group to all Albanian newspapers as well as to radio and television, and according to Xhelaj “Everyone in the capital was suddenly discussing the topic and there were the wildest reactions” (Xhelaj 1994). In this situation SGA was able to use the media to gain awareness of their group – although, as I will analyze in the next section, this did not happen without international help, and, after the meeting in Budapest, the SGA fight was called a “courageous step” by a national newspaper.

However, despite to some success in getting LGBT issues profiled in the media, the overall situation is not good. I have previously mentioned that LGBT have basically not been an issue in the Albanian media in previous years, and this tendency is still observed, although there are signs of changes to this picture with more LGBT-representations and related articles - including positive or neutral ones, and today the gay and lesbian groups of Albania effectively use social media such as Facebook, allowing people to connect for discussions, film screenings, parties, direct actions, and other events allow the opportunity for establishing friendships and shared identity.

The question of media facilities also leads to Raysides argument that the skills applied to mobilization is a criterion for success or failure, and in the case of the LGBT-movement in Albania difficulties in mobilizing support has been a major obstacle.

As already revealed SGA experienced huge challenges in gaining adherents and started out with just ten members. This was due not only to fear by potential members, but also to the “playing

field titled against them”, and the lack of funding. A lack of sufficient finances to carry out activities again led to limitations of access to the media, as SGA had to ask for international funding in order to open up a magazine. A shift nonetheless seems to have taken place in the end of the 2000s when, as shown, LGBT groups started using social media to strengthen mobilization. However, as revealed earlier, 2009 was the most important year in this context and is remembered by members of LGBT-groups as the day they became “more mobilised” and got registered at the court. The interesting thing is that it was the suggestion by the People’s Advocate to legalize gay marriage and the support from Sali Berisha that made it possible for the LGBT-groups on that day to have their public statements appear in TV as a reaction to the statements made by the religious community in relation to the gay marriage suggestion, and this, as I will also conclude later, confirms that it was an outside force helping LGBT-activists to gain recognition by politicians and media alike.

Opportunity Structure & Litigation

Opportunity Structure

Rayside uses the term “opportunity structure” to describe the openness of the political system, the extent of centralization or decentralization of the regime, the relationship between executive and legislature, patterns of political opposition and party cohesion, the nature of the electoral system, and the capacity of courts to challenge governmental action, the support for rights claims available in the existing legal environment, and the array of media voices. LGBT movements may in other words be faced with more impenetrable system in more centralized parliamentary system, although they can still benefit from a gay-positive government. In decentralized regimes movements locked out of one level of government may find inroad in others and in regimes with strong courts and constitutional protection against discrimination, such groups can circumvent the avoidance patterns of elected politicians, and Rayside comments that “a strong right-wing media can undermine even the most resourceful of movements; pro-gay media can propel even a weakly organized movement onto the political agenda” (Rayside 2001: p. 32). On the flipside of things a social movement might benefit from the political support of a particular party, but the unambiguous support of a small party might do little except to provide occasional visibility for the group’s demands inside the legislative arena, while support from a larger party might spark exploitation from opposition who are given the

opportunity to “create substantial nervousness about preceding with the issue” (Rayside 2001: p. 32). Finally, there is public opinion which also plays a role in the opportunities to lead activism for sexual minority groups. When public opinion is favourable it is an obvious asset for any movement, but in many public opinion in cases with sexual orientation issues is not, and disapproval of homosexuality is often vocalized in hateful terms both outside and within the political class (Rayside 2001: p. 34)

All in all it can be concluded that the institutional and partisan settings in which lesbian and gay activists operate profoundly shape the social movement itself and the opportunities for progress, and that openness in a polity portrays a window of opportunity for social movements to surface, while it can be concluded that when opportunities of this sort are not apparent then it is highly unlikely that social movements will emerge (Tani: p. 12), and although there have been changes during the last few years, ‘Homophobia, prejudice and discrimination still prevail and many officials fail to refrain from discriminatory remarks or from taking positive measures in this regard’ as stated by General manager for PE, Amarildo Fecanji (Shepherd 2013).

In Albania the windows of opportunity for LGBT social groups have been closed and unavailable. When SGA first formed in 1994 they had to operate illegally and face abuse and violence from the police, and there were no real political support for any LGBT issue during the 90s. In the 2000s thing started to look up, but the political openness in the Albanian society was still tremendously difficult for the LGBT groups to penetrate. As I have shown throughout this thesis, even top politicians have been politicising homosexuality and homophobia to cherish and uphold Albanian traditional values, and some politicians have furthermore turned to violent comments and death threats, which have had no or very few legal consequences. At the same time other parties have officially supported some of these hateful comments, which in the end have led organizations such as PE to postpone the planning of a Pride celebration in Tirana (Szabłowski 2012).

Religious institutions also play a part in closing the political system for LGBT-issues, which was the case in 2010 when a same sex marriage-equality provision, included in the proposed draft of the anti-discrimination bill, was omitted from the text of the final law, due to lobbying by religious groups, and opportunities for LGBT people is further closed due to police violence and abuse, as they form an institution part of society – and thereby democracy – that can be considered closed to people of sexual minority groups. One of the most serious problems involving public

order and internal security is that the police officers are largely untrained, ill-paid and often unreliable. Now, however, police officers receive training on gender issues and human rights in general, but the Council of Europe still found that excessive use of force and ill-treatment by law enforcement officials continued to be a widespread problem” (IAT 2003), thus creating another part of the “playing field” titles against the LGBT movements of Albania.

At the same time it has been difficult for LGBT-groups to gain support even among the left-wing parties, who supposedly are in favour of gay rights. In an interview with Kristi Pinderi – activist, archaeologist, historian and all round LGBT policy expert – he explained that “we have a left-wing party which is not really willing to communicate about LGBT-issues in public. They do have a specific paragraph at the page 54 of their programme – political programme – stating that they support the family as a tool to improve the society; and by family they recognise not only the traditional families but partnerships and all the other alternative families. It doesn’t explicitly refer to LGBT-people but it is clearly understandable that this is also referring to LGBT-people. So what we want to do this year, before the elections in June, is that we will try to make them – at least 40 party political representatives – to take a stand, a public stand, on questions like same sex marriage, the right to adoption, gender reassignment and gender recognition“. Pinderi then explained that “we will send them official questions... and at the end we will present, before the election, all the results in a press conference. And it will be sort of a guide for the LGBT-community to vote in a smart way” (dayagainsthomophobia.org). Conclusively, the challenge in getting political parties to take a stand on the covered issues has been proven a difficult one, which creates another none-existing “window of opportunity” for the Albanian LGBT-movement.

In the article “Europeanization, Party Systems, and LGBT Rights: The Cases of Estonia, Latvia, Montenegro, and Serbia” Michael Pelz argues that the stability of national party systems, measured primarily in the continuity of parties over numerous elections, but also to some extent the ideological polarization of national systems, appears to be an important variable in shaping a country’s willingness to respond to EU norms or not, which seems true both in the pre- and post-accession periods. Countries with more stable party systems appear more willing to accept, and act on, EU LGBT-norms, while countries with more fragmented systems, characterized by numerous, and often ideologically incoherent parties; are less likely to do so. One explanation is that unstable national party systems with a high degree of polarization considerably lift the costs for elected

officials to address LGBT-issues, and can facilitate the negative politicization of LGBT-rights by political entrepreneurs. Negative politicization of LGBT-rights can have long term impacts, and can again result in LGBT-rights being left off the domestic political agenda entirely, and block EU norms working to support LGBT-persons (Pelz 2014: p. 3).

The case of Albania is a somewhat paradoxical one in this context, being that ideological polarization has been a major obstacle in Albania's EU integration process. Political infighting and lack of consensus between the two major parties – the Democratic Party and the Socialist Party – is one of the biggest problems that stand between Albania and the EU: This deep polarization, and the strong personal feud between the parties' leaders, Sali Berisha and Edi Rama, makes it close to impossible for them to work together and therefore necessary reforms are stalled or prevented. Both parties, however, are in favour of EU accession, and, as I have shown, both leaders have been meeting with LGBT-persons, thus acknowledging their right to exist and work for better LGBT-conditions. This being said it seems clear that the EU accession – not LGBT-issues – are the real political agendas of both parties and politicians, creating at least one subject they can agree on, hence also making the leaders of both parties increasingly positive toward LGBT-concerns, although homophobic tendencies exist within both parties, making the stance on sexual minority rights an ambiguous one. The Albanian case also shows that Michael Pelz is right when he claims that negative politicization of LGBT rights can have long term impacts, and can again result in LGBT-rights being left off the domestic political agenda entirely, and block EU norms working to support LGBT-persons, because even though Albania have seemed almost eager to meet EU-requirements, also in relation to LGBT-matters, I will continue to analyse in the following how the laws implemented in this context have often been weakly enforced, if enforced at all.

Litigation

Another perspective of social activism opportunities is litigation, which can provide an initial entrée into the political arena. Early studies suggested that groups that employ litigation as a strategy for change turn to the courts because other political tools are either unavailable or beyond their resources, although other theories take the position that litigation is simply one of the tactics available to encourage political change (Mae Salokar 2001: p. 263).

In accordance to the resources necessary for effective interest group litigation, some of these are identified as governmental support, repeated use of the courts by the groups and financial

soundness, and studies show that interest groups have been largely successful in employing a litigation strategy to attain their goals (Mae Salokar 2001: p. 264). When it comes to certain interest groups, and here in particular groups based on sexual orientation, political officials are generally not willing to take the lead in putting LGBT-rights at the top of their political agendas. Even if they are sympathetic to the cause, and interested in gaining the electoral support of LGBT-people, advocating LGBT-people can often mean political suicide on Election Day. LGBT-activists in other words do not have many other choices than to employ a litigation strategy to effect political changes (Mae Salokar 2001: p. 269).

What have been analyzed so far are the difficulties of the LGBT social groups to enter the political arena due to massive politicization and mobilization against their cause, mainly from politicians, but also from religious institutions, the average Albanian citizen and a media reluctant to publish articles on LGBT-issues. In the cases where politicians have made violent and extreme comments in relation to LGBT-groups, they have been criticized by the international community, but also by civil society and many citizens. For instance, when Spahia commented that participants of the planned Pride-Parade should be “beaten with truncheons”, activist Kristi Pinderi said that he should be convicted, in accordance with Albanian law, to a prison sentence of up to five years.

After Spahia’s comment the incident were discussed within the Committee of Ministers of the Council of Europe, and, as I have already shown, Aleanca LGBT and Pro LGBT then signed a complaint requesting that Minister Spahia be prosecuted. Boris Dittrich, advocacy director in the Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights Program at Human Rights Watch (Hereafter HRW), commented: “Albania’s government ministers should be upholding its anti-discrimination legislation and human rights obligations, not advocating homophobic violence,” and he further said that “the government should distance itself publicly from the remarks of the deputy-minister, reprimand him, and take all necessary measures to prevent similar incidents in the future” (hrw.org 2012). For this reason it came to much surprise that the CPD was unable to find sufficient proof that it was a case of discrimination and that the statement was even made by the Minister (ILGA-Europe AR 2013: p. 42), and CPD declared that they did not have “access to the facts” of the case, even though media sources covered the statement and the Ombudsman, Prime Minister, and human rights organizations condemned the statement. To this the Commissioner stated that “it was impossible for the Commissioner to get evidence and prove if there was a discriminatory behaviour or not, so the case was dismissed” (IRBC 2014 II). At the same time it can be noted that

while the government's antidiscrimination commissioner registered several complaints from LGBT-individuals and organizations, also based on these violent and hateful comments from politicians, the politicians ignored the sanctions against them (HRP 2013: p. 25), and the Commissioner noted that in the three cases in which she imposed a fine on the subjects, the fines ranged from US \$100 to US \$200, but that the subjects had not made the payments. Without providing details, it was noted that the CPD was preparing further actions for the payment of the fines (IRBC 2014 II). The enforcement of the law is in other words generally weak (HRP 2013: p. 25), and when it comes to hate-crimes the situation is the same. In 2006 it was reported that Albanian courts have never heard cases relating to homosexuals, apart from one instance when the prosecutor's office opened the case of a homosexual man who was allegedly raped, robbed and beaten in 2005; however, the police did not follow up and the case was eventually closed (IRB Albania 2006). In May 2012, LGBT-activists organized a "pride-related" bicycle ride in Tirana, which ended with a group of young men who threw smoke bombs and firecrackers at the group of riders, but, according to a Country Report for 2012, police had arrested the suspects although "no charges were filed, and they were released shortly after the incident" (IRB Albania 2013).

Authorities have been criticized for the fact that so few legal challenges to cases of discrimination have been taken seriously. Whether the new hate crimes provisions will make a difference in criminal prosecutions will likewise depend on how willing the authorities and judiciary are to identify anti-LGBT animus and follow through with maintaining this, a legal framework designed to protect the LGBT community (Williams 2013). Civil Rights Defenders also indicated that "although Albania has a legal framework for the promotion and protection of human rights, there is a problem with weak implementation of the laws and inadequate functioning of the human rights protection mechanisms" (IRB Albania 2013).

Litigation, it then seems, has not shown to be a strong entrée into the political arena for the Albanian LGBT-community, as complaints with clearly homophobic and discriminatory elements have not been heard or properly dealt with.

Public opinion

In political opportunity theory there is also the element of public opinion which is crucial in making and breaking the movement and according to John Zaller and his *The Nature and Origins of Mass Opinion*, mass opinion change is a function of the elite environment that provides information

and cues to ordinary people through the mass media. The elite are presuming to be “value-neutral”, and act as sources of reliable and accurate information to keep the groups of citizens who lack the resources and interest highly informed in a sort of ‘top-down’ model. In turn, Zaller believes, this structures how ordinary citizens evaluate social and political issues (S. Yang 2001: p. 343). The role of the social movement itself (in this case the homosexuals) is of course also crucial, as it is the movement that needs to target the elite and persuade and educate them to formulate positions favourable to the interest of the group (S. Yang 2001: p. 344).

In the mentioned “Klodi case” from 2010 known journalists criticized the conservative mentality of Albanian society and the passiveness of the intellectuals, but it should be mentioned in this context that the Albanian elite often represents the dominating conservative views, as has been proven to be the case with peoples from higher societal classes such as politicians, doctors and other academics. The current progress for LGBT-issues has also sparked heavy debate, and social media have been hot red with angry commentators characterizing homosexuality as “a disease” and as “un-Albanian” (Lleshaj), and also intellectual groups have participated in the anti-gay campaigns, which was the case after the Pride-related bike ride in 2012, where intellectuals and public figures from Albania, Kosovo and Macedonia signed a “pro-family” petition, arguing for a “healthy family makes a healthy homeland”. “No support should be given to public models that turn our society into a Sodom and Gomorrah,” the petition said, specifically targeting the LGBT-community. The petition was led by older respected public figures, like 78-year old Kosovo academic Adem Demaci and 84-year-old Tirana footballer Shyqyri Rreli, but also included young entertainers like Ermal Mamaqi, Sidrit Bejleri and Jonida Maliqi. Men who signed to petition outnumbered women by a large margin (Lleshaj).

Chapter 8 – European integration of Albania

Albania was the last country in Europe to open up to pluralism and democratic regime (Tafili: p. 1), and it was the collapse of the communist regime in 1990 and the establishment of political pluralism that became the take-off for a new beginning, as the country initiated the first steps in a transformation progress from communism to democracy and European integration, as well as to a liberal market economy, (Mema 2010: p. 5) but with the severe form of repression experienced during communistic rule, and the complete isolation from the rest of the world, as well as the obliteration of human rights, the transformation of Albania was particular unique and agonizing. There was no real experience with political or economic liberalism, and this lack of knowledge and experience came to be a setback for the transformation process (D.I.I. 2006: p. 5).

The first free elections were held in Albania in 1992, where the Democratic Party came to power (D.I.I. 2006: p. 5), and Albania experienced a positive progress in the years from 1992 – 1995, as the private sector grew and market economy emerged resulting in great economic growth. Free and independent media also began to emerge alongside with civil society organizations.

A broad majority of the Albanian population is in favour of Albania's accession to the EU, and in 2009 Albania submitted its formal application, making the accession an official political goal (Stern & Wohlfeld 2012: p. 3). However, many scholars believe that the injurious political life in Albania is working against the country's possibilities of reaching the goal of becoming EU members, and as stated above it seems clear that consolidation of democracy is essential in order for the country to join the EU (Ah-Pine: 2011 p. 3).

Europe has nonetheless played a prominent role in Albania's transformation process, and both international organizations and the EU alike were active in involving Albania in their agreements and to pull the country into the European model of governance. When the Democratic Party won the election in 1992 the president began a strategic plan to bring Albania closer to Europe. Economic reforms were applied according to European standards, and so were mass privatization. Financial support was received from the EU and international organizations such as the IMF and the World Bank (Bruzja 2012 p. 11), and since then Albania has received approximately €1 billion in EU assistance (Hoffmann 2005: p. 58).

In 1996 Albania ratified the European Convention on Human Rights (ECHR), and they had also become members of CSCE – later OSCE (Mema 2010: p. 18) – which came to have a big

influence on the small Balkan country. OSCE have also played a key role in leading Albania to the EU negotiations that officially started on 31 January 2003 (Mema 2010: p. 31).

Albania furthermore participates in the Stabilisation and Association Process, the policy of the European Union towards the Western Balkans, established in 1999. The goal is stabilisation of the region and preparation for eventual membership of the EU. The Stabilisation and Association Agreement was signed in June 2006 and entered into force in April 2009 (EU 2013: p. 1).

In 2010 Albania was denied candidate status as 12 criteria should be met before the country could seek further accession negotiations. These criteria were related to the consolidation of democracy and the reinforcement of the rule of law. The EU also focused on the country's extreme polarization of political life (Ah-Pine 2012: p. 6). At the same time civil society is divided and only very few organizations are truly independent (Stern & Wohlfeld 2012: p.7). It was reported that Albania did not live up to the requirements relating consolidation of democracy and human rights of the Copenhagen Criteria, necessary for opening negotiations for accession to the EU (EU 2013: p. 1), but based on the recommendation by the European Commission, Albania was granted candidate status in 2014 (europa.eu 2014).

The role of the EU

Scholars working on LGBT-rights have begun to flag several important national variables that shape a country's likelihood to support LGBT-rights, including the level of economic development, the particular form of nationalism present, religiosity, and the strength and density of national social movements (Pelz 2014: p. 8). As I have already looked into, and as I will continue to analyse in this section, the EU has been a very crucial player in Albania in relation to promoting LGBT-issues and rights. I have already shown that Albania since the nineties has participated in different EU programs, and that Albania through these initiatives has received a considerable money flow. As I will analyse in the following comparison with Serbia, Albania has not been subdued to the same kind of strong nationalism, most likely because the population in general are very pro-western, and in comparison with Serbia, the Albanian population is less religious, which could constitute the factors that might have helped the EU pave the way for LGBT-concerns to make it into the political arena.

Schimmelfennig and Sedelmeier argue that Europeanization theory seeks to examine the process of implementation and enforcement of supranational rules in domestic contexts. Europeanization theory generally presents two models for how political leaders conform to EU rules. One approach – based on social learning – will not be discussed here as it rather holds interesting elements relevant for the concluding part of this thesis – while the other approach is called the external incentives model, which is based on rationalist bargaining. In this model, rationally acting political elites in applicant states fulfil EU criteria in order to gain membership in the Union. Given that EU accession criteria requires state protection for minority rights, the external incentives approach may help explain why applicant states to the EU have relatively liberal laws towards LGBT-persons, despite high levels of popular resistance to LGBT-rights (Pelz 2014: p. 4). It can therefore be concluded that the advancement of LGBT-rights has long been connected with the process of European enlargement, and, at a baseline, the Copenhagen criteria requires that applicant states ensure “...respect for and protection of minorities” (Pelz 2014: p. 5).

According to Rayside the range of allies is also an important element for the success of the social movement (Rayside 2001: p. 32), with the strongest allies in this contexts coming from outside forces in the form of EU-based organisations and projects. Albania is a potential candidate country for EU membership, and as I covered in the introducing part of this section, Albania has cooperated with the European Union since the early nineties, where they also participated in a range of different EU-based organizations and co-operations. The LGBT-groups operating in Albania in most cases receives financial support from the EU or EU member states, as it is the case with PE established in the mid 2000s.

Homophobia and European Integration

When homosexual relations in Albania were finally decriminalised in 1995, it happened with financial and political support from ILGA and the Council of Europe, who – through an intervention – started the process of changing the law, and the EU – either directly or through EU financed delegations and NGOs – continued to play a vital role in shaping more liberal policies in otherwise conservative Albania.

The European Convention on Human Rights has played an important role in the development and awareness of human rights in Europe, and in 1996 Albania ratified the European Convention on

Human Rights (hereafter ECHR), whose court jurisprudence provides implicit protection to LGBTI individuals under Article 8: The right to a private and family life (refugeelaidinformation.org). Then, in 2003, a country guidance case concluded that:

“... there is no country background evidence which supports a reasonable likelihood that homosexuals as such in Albania are subject to any action on the part either of the populace or the authorities which would amount to persecution for the purposes of the Refugee Convention or would be in breach of their protected human rights.”

(CIG 2014: p. 6; IAT 2003)

However, in a more recent country guidance case from 2009 it was concluded that:

“the evidence supports the proposition that homosexuals known to be members of gay associations and those who visit cruising areas in the centre of Tirana are likely to be harassed and on occasions ill-treated by the police but we are not satisfied that merely being effeminate or butch, being unmarried or living with a person of the same sex who was not a member of the family, would in itself attract the risk of serious harm from the police for reasons of sexual orientation,”

(CIG 2014 p. 6).

This characterizes the dramatic changes happening in Albania during the 00's, and as I have already shown, this was due to Albania's plan to implement the reforms and political changes necessary in order to fulfil the EU criteria.

In February 2009, a roundtable discussion was arranged in Tirana with the participation of ten Albanian human rights organizations to discuss anti-discrimination protections. These ten organizations prepared and submitted the first draft of the bill to the Albanian government for discussion (Racota 2010), and with the 2010 anti-discrimination law, which was adopted after intensive work by human rights and EU-based organizations, Albania now fulfilled the European Union's criteria for protection against discrimination and thereby also came one step further in the EU-integration process (CRD 2010). CPD writes about the anti-discrimination law that:

“It was submitted based on the proposal of a group of members of Parliament, based on the request from civil society groups working in the human rights protection field as well as on the EU requirements for the steps that Albania had to take in the framework of the European integration progress”

(CPD 2012)

The first change in the law, approved by the Albanian Parliament, amends The Criminal Code of the Republic of Albania, and specifically clause “j” of Section 50 of the Criminal Code, to:

“Enumerate sexual orientation and gender identity so that the clause now reads: j) when the offense is committed due to reasons related to gender, race, color, ethnicity, language, gender identity, sexual orientation, political opinions, religious or philosophical beliefs, health status, genetic predisposition, or disability”.

(Williams 2013).

This change has been labelled an important one because it distinguishes such crimes as planned not just to harass an individual but to suppress the influence and visibility of a particular group of people based on a defining characteristic, in this case their sexual orientation or gender identity. Prosecutors can now issue extra penalties to specifically balance such crimes. It is the second change to the law, however, that has drawn widespread praise. It amends Article 119 to create a list of offenses to outlaw:

“Providing to the public or distribution of deliberate materials containing racist, homophobic or xenophobic content, through [...] information technology [...] punishable by a fine or imprisonment up to two years.”

(Williams 2013).

This, as far as hate crimes legislation goes, far exceeds comparable legislation like the United States. This daring step has prompted the ombudsman Igli Totozani to remark: “The approval of

amendments to the Criminal Code against homophobia represents a revolution in the Albanian legislation against homophobia”, and that “Albania is on the way to a fairer, equal and European society” (Williams 2013). The ombudsman also added that “the laws are a valuable contribution to a greater protection of human dignity and a more open and European Albania,” and these changes, which were supported by a number of LGBT-organizations and the Ministry of Justice, according to Totozani “serve to put Albania at the forefront in a highly religious conservative region” (Williams 2013).

The Committee of Ministers of the Council of Europe also adopted the mentioned recommendations concerning sexual orientation and gender identity directed to governments of the council’s 47 member states. Articles 6 and 7 in the Appendix to the Recommendations CM/Rec (2010/5) under “Hate Speech” read:

“Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons”

(hrw.org 2012).

The Albanian foreign affairs minister agreed to the recommendations, thereby also agreeing that “hate speech” should be prohibited and publicly rejected whenever it occurs. Member states should also raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimizing such hatred or discrimination (hrw.org 2012)

In October, the European Commission issued the 2012 Progress Report on Albania, in which it acknowledged that the country has made moderate progress in the field of non-discrimination and equality. However, the report also highlighted that LGBT-people, particularly trans-people, continue to suffer from discrimination, including in access to social and health services. In view of this the report recommended that additional measures should be taken by CPD to process and conclude cases of discrimination against LGBT-people, and that the legislation be reviewed with a

view to addressing potentially discriminatory provisions against LGBT-people (ILGA-Europe AR 2013: p. 42).

A plan has also been drafted on how to tackle discrimination on the basis of sexual orientation and gender identity. This initiative was part of the Council of Europe's regional project Combating discrimination based on sexual orientation and gender identity and part of the National Activity Plan for the country's potential accession to the EU. LGBT-organisations participated in the meetings and roundtables and provided a training course on the rights of LGBT-people to members of the public administration. The ombudsman has furthermore signed collaboration agreements with LGBT-organisations on the following areas: exchange of information; preparation of studies and special reports on Albanian legislation and its implementation; analysis of draft legislation prepared by the Parliament; undertaking common initiatives for the improvement of human rights; treatment of specific cases of discrimination by the public administration and the raising of awareness on LGBT rights among the general public (Albania OGN 2013: p. 30-31).

In 2013 Albanian EU Ambassador Sequi made a speech to the Round table "Albania against homophobia: LGBT in front of politics, media, youth and anti-discrimination measures" Organized by the NGO Pink Embassy. Here he talks about the leap Albania has made in combating homophobia and protecting the rights of LGBT people.

"The EU is proud to have been an important engine for this leap, we are proud to have contributed to a freer and more respectful Albania – through serving as a model, but also through concrete and pioneering action".

(Sequi 2013).

Sequi is here articulating my main hypothesis of this thesis, namely that EU is the engine for bringing forth the improvements for the LGBT-community, and Sequi continued by saying that the EU sustain their financial support for human rights year after year, and that LGBT-rights have been specific target of the call for proposals of the European Instrument for Democracy and Human Rights – alongside women, children and disability rights. Sequi also assures that, on the EU Guidelines on Human Rights Defenders, adopted by the Council of the EU, a meeting is held every winter between EU Member State embassies and Albanian Human Rights Defenders, including LGBT defenders (Sequi 2013).

”At the highest political level; at a financial level; and at a routine, daily work level; we contribute to strengthening the values that unite Albania and the EU, the values of a democratic and just society – and human rights are a core component of our values, together with the rule of law”

“Protection against discrimination is enshrined in the highest of EU laws – at the treaty level. However, we risk losing the story we have to tell if we simply remind you of our laws.”

“We have these laws and we apply them, because we believe that nobody can be reduced to their sexual orientation – just like nobody can be reduced to their gender, disability, religious belief, political orientation, place of birth, skin colour or any of the other countless features we have.”

“The reason the EU stands against discrimination is because we believe and respect the complexity of humans – our complexity”

(Sequi 2013).

Once again Sequi articulates the interest of Albania in following the lead of the EU on both a financial, political and daily work level; and Sequi in general portrays a view in line with the mostly EU-friendly attitudes among the Albanian population, although an issue such as homosexuality is precisely one topic where Albania differs when it comes to adopting “Western values”. Earlier this year the European Parliament adopted its annual progress reports on Albania, where the need to further the equality of LGBTI people was reported. The European Parliament welcome "the setting up of a working group on LGBTI rights in the Ministry of Social Affairs and the opening of the first LGBTI residential shelter", but the Parliament encourages the government to work on a gender recognition bill, meeting Council of Europe standards, including the right to self-determination (lgbt-ep.eu 2015). Furthermore, the European Parliament encourage Albanian authorities to consider creating the possibilities for same-sex couples to have their relationship recognised, for instance through cohabitation rights, registered partnership or equal marriage, and Tanja Fajon, Vice-President of the Intergroup on LGBTI Rights, commented: "I am very happy with the positive developments in the region, but unfortunately homophobia and transphobia remain big problems in many accession countries", and Fajon then said that the Parliament has made it clear that “respect for the rights of LGBTI people is a key aspect of EU integration" (lgbt-ep.eu 2015).

As a response to the report the Albanian Parliament approved the Resolution "On Protection of Rights and Freedoms of persons belonging to the LGBT community in Albania", which was adopted with 75 votes in favour and only 2 against and 1 abstention. The approval of this resolution is a tremendous victory for the LGBT community since the adoption of the Law on Protection from Discrimination, in early 2010, as the Parliament had not passed many legislative or political initiatives in support of human rights of every LGBT individual in Albania.

The resolution identifies the achievements that Albania has made during the last 5 years; the positive role that civil society has played in terms of public awareness and the role of independent institutions of human rights, in particular the Ombudsman, and the recommendations of the Assembly resolution include:

- Formulation of a National Action Plan on the measures and for the protection of the rights of LGBT persons in Albania.
 - Adoption of necessary legal changes proposed by the National Plan of Action for the protection of LGBT rights, part of the Roadmap on 5 priorities of Albania for the opening of EU membership negotiations.
 - Approval of the legislative recommendations of the Ombudsman, for amendments to the Labor Code.
 - Encouraging the Ministry of Education and Sports to train teaching staff for better protection of the rights of LGBT persons.
 - Encouraging the Ombudsman, for monitoring the rights and freedoms of LGBT persons in Albania and propose new measures that guarantees their respect.
 - Support for civil society organizations for their role in public awareness while encourages the Albanian Government to cooperate with them to prevent discrimination against the LGBT community
- (pinkembassy.al 2)

Peoples Advocate and the Commissioner for Protection from Discrimination

So far I have established that the LGBT movement in Albania had very few political opportunities to effectively penetrate the political and juridical systems as well as to gain media access. In fact, their “windows of opportunities” have been vanishingly few without the EU, who

has played a vital role in every single case where progress was eventually made, whether through financial support or political pressure. The EU has in other words been the only true “window of opportunity” for the Albanian LGBT-movement, and the ombudsman and the CPD should be mentioned in this context.

The Albanian People’s Advocate is an independent institution operating in conformity with the UN Paris Principles and with the legal mandate given to it by the Albanian Parliament (OIN), and should, according to the Paris Principles, represent a national institution “vested with competence to promote and protect human rights” (ohchr.org).

The first Albanian ombudsman was appointed in 2000. The People's Advocate is elected by three-fifths of all members of the Assembly for a five-year period, with the right of reelection. Any Albanian citizen with higher education and with recognized knowledge and recognized activity in the field of human rights and law may be the People's Advocate.

The People's Advocate enjoys the immunity of a judge of the High Court. He is not liable to criminal proceedings for his actions when exercising his powers. He may not take part in any political party and carry on any other political, state or professional activity.

The People's Advocate presents an annual report before the Assembly. The Albanian Ombudsman has the right to make recommendations and to propose measures when he observes violations of human rights and freedoms by the public administration (OIN).

When the first Albanian ombudsman was appointed in 2000, the LBGT social-groups in Tirana had made very little progress. ALGA had been formed, but in 2006, as shown, a report stated that few homosexual organizations existed in Albania.

Then, in 2009, ombudsman Igli Totzani made his infamous suggestion that Albanian should become the first country in the Balkans to legalize gay marriages, and this sparked a huge media and political debate, and in 2012 the ombudsman swiftly condemned Spahia’s homophobic remarks, saying they contradicted “the spirit of tolerance, coexistence and diversity as the traditional values of Albanian society” (hrw.org 2012).

In Albanian public schools the ombudsperson also recommended that the Ministry of Education and Sciences should include information on LGBT-issues in school curricula and education programmes, and that academic staff would be trained on LGBT-issues. At the same time

a Memorandum of Co-operation between the State Police and LGBT civil society was created Albania OGN 2013: p. 30-31).

It is also clear that the ombudsman holds the most trust among homosexuals in Albania. In the survey mentioned earlier 17% trust the Ombudsman Institution to protect their citizen's rights. This level of trust is undoubtedly low, but not nearly as low as the 9% of the respondents, who replied that they trust the courts to protect their rights, while only 4% trust the police.

General Manager for Pink Embassy, Amarildo Fecanji has stated that: "Institutions such as the People's Advocate and the Commissioner for Protection from Discrimination are doing a remarkable job in strengthening LGBT rights. In the last five months the Commissioner has taken three important decisions condemning discriminatory speech and publications" (Shepherd 2013).

So, what we see is that The People's Advocate as an institution is able to gain the most trust among homosexual groups, and that the ombudsman has the best opportunities to form the necessary debate on LGBT issues and recommend the necessary steps towards progress and less discrimination. However, as I have also shown throughout this thesis, the debates and recommendations issued by the ombudsman are often met with scepticism and resistance as shown through the behaviours and comments from politicians, as when it was reported that a private text message had been sent from former justice minister Eduard Halimi to Democratic Party parliamentarian Fatos Hoxha during the ombudsman's appearance at a parliamentary meeting, warning Hoxha to "not mess with the ombudsman because he supports faggots" (HRP 2013: p. 25).

What should also be mentioned is that the ombudsman has no real executive powers, and that the institution is of advisory character only, since the institution is subjected to the Paris Principles (ohchr.org). The Albanian People's Advocacy – and other ombudsman institutions in Europe – also receives funds from a range of EU-based institutions, organizations and delegations, which, among other things, "seeks to improve governance and access to justice in Albania" that "will help pave the way for EU candidate status" (DIHR). This, in other words, shows that the ombudsman is submerged to EU guidelines and requirements, and as I have previously mentioned, Igli Totozani has been criticized by conservative politicians for, apparently, his "need for public attention or close personal interests", which can also be guessed to be in relation to EU-accession.

With the anti-discrimination law came also the CPD, who writes on their website that:

“the establishment of this institution was an initiative of the civil society, which prepared the draft law, as a result of the EU requests regarding the steps to be taken by Albania towards the progress and European integration process, and reflected the engagement of the Albanian authorities regarding the respect for human rights, equality and non-discrimination”

(kmd.al)

Although the Commissioner has his own private budget, this is not only financed from the state, but also from various donations (CPD 2012), some of which is stemming from the EU. As shown it was the EU who helped bring forth the anti-discrimination law, and as the CPD was created as a direct result of this law, it can easily be argued that the EU is the frontrunner in the positive changes that has occurred since the creation of CPD.

It was CPD who investigated mentioned cases such as the medical textbooks that portrayed homosexuality as a disease and a perversion after a complaint made by the Albanian LGBT-rights groups PE and Pro LGBT (IRBC 2014 II), a case where the CPD ruled that:

“Such definitions which include homosexuality in the group of sexual perversions make for an inadequate definition, non scientific and discriminatory because of sexual orientation and gender identity. Introducing students with such concepts, creates wrong perceptions on this group and affects the education of students as future lawyers and doctors”

(Littauer 2012)

In addition to pronouncing the books as discriminatory and making the recommendation that the textbooks should be modified or be removed from stores and libraries, CPD has also recommended that the Ministry of Education and Science verify public and private curricula to ensure that the materials used were not discriminatory (IRBC 2014 II).

CPD has also responded to complaints against "hate speech" that were found to be discriminatory against the LGBT community (IRBC 2014 II), although, as I touched upon in my analysis on legislation as a possible political opportunity, and as I will come back to in my debate on the limitations of the EU, CPD is not always very effective, mostly due to the resistance from prominent politicians and religious institutions. Still, in the cases where violent and degrading

comments have been made about LGBT-persons, CPD has recommended that the politicians in question gave a public apology, and The Commissioner also found two politicians of leading political parties guilty of discrimination in comparing homosexuality with "deviant and criminal behaviour". In these cases The Commissioner ordered the subjects to make a public apology and to refrain from using discriminatory language in the future. There are also cases where CPD have imposed sanctions by fine, and in cases directly linked with LBGT-citizens, the CPD have reacted on complains from LGBT-groups as it was the case when CPD found discrimination in a case filed by the Alliance Against Discrimination in which a waiter threatened a lesbian couple who displayed public affection and forced them to leave the restaurant. According to the Commissioner, the owner of the restaurant did not cooperate with the investigation and was imposed a fine on the subject of the investigation (IRBC 2014 II).

Debating the Albanian case

As proved the EU has played a significant role in changing and forming LGBT issues in Albania, particularly with the creation of the CPD, but also by the fact that the ombudsman is subjected to the Paris Principles. At the same time – as I will conclude more thoroughly in the last part of this thesis – the EU has paved the way for domestic LGBT organisations, which have helped create important policies such as the anti-discrimination law of 2010.

However, the limitation of the EU needs to be discussed in a case where homophobia still seems to prevail despite of the rapidly changing policies, and the question is how much the EU can really do, and how far they can go?

In the Spahia-case HRW said that the government should take prompt and effective action to disavow Spahia's comments and reprimand him (hrw.org 2012), but in reality, and as shown in the section on litigation as an political opportunity, the CPD failed to hold Spahia responsible for his comments, thus ignoring a case of strong discrimination based on sexuality. According to experts the Spahia's case put many question marks on Albania's substantial commitments to really respect and actively protect the human rights of marginalized groups. The law on anti-discrimination, without willingness to move forward with law enforcement, "looked good just on paper as a ticked box for the long list of EU conditions" (Lleshaj)

According to the joint report submitted by PE on LGBT-rights; the Commissioner's recommendations in cases of discrimination against sexual minorities have "not been effective

towards the perpetrators" (IRBC 2014 II), and in other cases, as also shown, where sanctions has been made against politicians, these have often been ignored. The enforcement of the anti-discrimination law, and thereby the role of CPD, is in general weak, and at the same time public opinion shows that the general attitude towards LGBT-peoples remains predominantly negative which creates a strong limitation for the EU. They are undoubtedly, as shown, able to push forward necessary political changes, which in the end can lead Albania closer to EU accession, but the strong conservative and traditional values seem to be deep-rooted and not easily changed, despite of the efforts EU makes in this area, especially when it comes to recommending education on LGBT-issues in public schools and on university level.

The role of the EU needs therefore also to be seen in a bigger picture. I have already established that the prime minister at the time and the ombudsman announced their idea to legalize gay marriage – and thereby to make Albania the first country in the Balkans to do so – at a time when the LGBT-movement in Albania had still made little progress, so one question naturally comes to mind: Who asked for legalization of gay marriages in the first place? For who is this piece of legislation suppose to benefit? There had been no advocacy for gay marriage by any human rights or LGBT groups, LGBT-Albanians hardly existed in the press coverage or in the eyes of the public, and all public conversation was by ostensibly straight Albanians discussing the theoretical lives of gay Albanians (Michels 2012). Due to the invisibility of the gay community in Albania, and due to the problematic history of the country, where homosexuals have been suppressed and discriminated against both in cultural and institutional terms, one argument seems to be that this kind of legislation would help bring Albania into a modern era. However, what has not been mentioned – which seems like a rather obvious point – is that perhaps this suggestion also has certain economical and foreign policy agendas – especially in relation to the EU.

So, in the light of the violence, discrimination and intolerance homosexuals still face on an everyday level in Albania, and the fact that the current anti-discrimination law is so difficult to enforce mainly due to resistance from politicians, it could be argued that even stronger action against such elements would have been a better bet than to immediately legalize gay marriages, a legal right that probably would not be used by many Albanian homosexuals anyway, as they still live in fear of the reactions from society, friends and family. In other words, could the suggestion of legalization of homosexual marriages rather be a way for the prime minister to be recognized – not only in Albania but also abroad – for his western *bona fides*?

No matter what the answer is the Anti-Discrimination law implemented in 2010 can be seen as a positive step forward. Some people are, however, rather sceptical of these political changes, and in the interview printed in an Albanian newspaper, Erion, mentioned earlier in this dissertation, concludes the following on this exact topic:

"The (anti-discrimination) law was approved just to keep in line with our international partners and to fulfil the conditions for EU entry. I don't think this law will be enforced, because society is aggressive, and not even the authorities themselves feel persuaded of the need to protect the rights of homosexuals"

(Hodgson 2010)

What is argued in the above has also been my main perspective in this thesis, namely that Albania adopted the pro-LGBT policies in order to get closer to the EU. This also proves that the initial theoretical part holds true, as the external incentives approach may help explain why applicant states to the EU have relatively liberal laws towards LGBT persons, despite high levels of popular resistance to LGBT rights.

Chapter 9 – Comparison with Serbia and Romania

Before the 1980s, religion was almost totally absent from the public space in the former Yugoslavia. With the “national revival”, which peaked in the 1990s, Orthodoxy, Catholicism and Islam were revived in Serbia. To this day the Orthodox Church remains among the most trusted institutions, and since the Church occupies an important position in society, it greatly affects the attitudes of the people (Jovanović 2013: p. 80).

In Romania religion holds a similar position. Since the collapse of communism religion has become an even stronger factor in shaping political and social life, and in Romania, just like in Serbia, the Orthodox Church commands widespread loyalty and remains the country’s most important religious institution (Turcescu & Stan 2005: 291).

The Orthodox Church often interprets homosexuality as a provocation imposed from abroad or by “the ‘decadent West’ (Jovanović 2013: p. 81-83), and there have been many examples of religious communities campaigning against LGBT-issues, like it happened in 2010 in relation to the Pride Parade in Serbia, where the Montenegrin Metropolitan Amfilohije (also influential in Serbia) wrote that:

“Something terrible happened yesterday in Belgrade. Never had something that terrible happened before in Belgrade. (...) It is terrible, as the event that took place today poisons; and it is dictated by today’s strongmen of the world. That is something that destroys not only the body itself but also the spiritual organism, the spirit of the folk, denies human life, and desecrates the holiness of the human body, human spirit, community, and leads to nothingness and self-destruction.”

(Jovanović 2013: p. 84)

A wide range of religious individuals have in general articulated their stance on homosexuality in negative terms, like the respected Romanian monk Nicolae Steinhardt did in his influential *Jurnalul Fericii*, where homosexuality was deemed “a disease in need of urgent treatment” (Turcescu & Stan 2005: 294-95), and it is therefore clear that religion constitutes a dominant position in both the Romanian and Serbian society, where the groups known for attacking homosexuals or people with unfavourable views of homosexuals often have strong connections with the Orthodox Church, just as I am about to review. In Romania sexual behaviour and practices have

been a contested territory for the Romanian church and state in the last century, and after 1989 the topics of homosexuality, abortion and prostitution deeply divided Romanian society and sparked heated public debates involving the political class, religious leaders, the local academic community, mass media and the public at large (Turcescu & Stan 2005: 291).

Another perspective relevant for both Serbia and Romania is that, just like in Albania, patriarchal tendencies are widespread. However, an even stronger element seems to be at play in relation to the negative attitudes toward homosexuals, in particular interesting in the Serbian case. In “Nationalism, Masculinity and Multicultural Citizenship in Serbia” Jessica Greenberg writes that “nationalist forms draw on a multitude of contemporary social categories and relations, making nationalism less a regressive backlash, and more a malleable social response to changing conditions,” and Greenberg uses nationalism to explain the homophobic views and attitudes of the Serbian society seen in the context of “specific transformation of categories of political and social belonging in Serbia” (Greenberg 2006: p. 321). Greenberg explains that the rise of “masculinist nationalism” in Serbia provided a connection between an emerging post-socialist citizenship and male identification and privilege, which was exemplified in 2001, when the Belgrade NGO community called for a Gay Pride Parade to be held on Trg Republike (Republic Square) in the very heart of Belgrade. This happened less than a year after the October Revolution (Greenberg 2006: p. 322-323), where Yugoslav President Slobodan Milošević was toppled after mass street demonstrations (Deliso 2009). Questions about Serbia’s future as a democratic state were on many people’s minds, and the fact that the extradition of Milošević came in the last minute, just before Western countries were going to pull much-needed funds from Serbia for non-cooperation with The Hague, left many with the feeling that Serbian politics was now subdued to the West (Greenberg 2006: p. 323). Furthermore, it should be noted that rallies on the square had been a prominent feature of public political life in Serbia in the 1990s, including anti-war and anti-government protests throughout the decade, and it had also been the scene for pro-government rallies staged in support of Slobodan Milošević. Greenberg uses this connection as an argument that the violent that happened during the Parade was of nationalistic character, and she writes that “the threatened, dominant young male citizens were reasserting a masculine, heteronormative claim to public space that had formed the basis of their national belonging and citizenship in the 1990s” (Greenberg 2006: p. 325).

Starting a few days before the Parade-event, nationalist and religious themed posters denouncing homosexuality and promoting Serbian Orthodox values appeared on the square, and

later the square was filled with hundreds of young men, chanting “Serbia, Serbia” while they carried national flags and banners. As the square filled, violence broke out, and protestors physically attacked parade participants, while even gun shots have been reported (Greenberg 2006: p. 324). Anti-gay protestors were, according to media sources, over a thousand in numbers, and some sources have linked them to the right-wing, Serbian nationalist and Orthodox youth group *Obraz*, as well as nationalist soccer fan clubs (Greenberg 2006: p. 324-25). Greenberg also explains that “homosexuality had come to stand in for new democratic forms, elite political agendas, an active NGO and human rights sector, Europe and the West” (Greenberg 2006: p. 326).

According to Srdjan M. Jovanović “there are states that do not consider one’s sexual orientation as an issue within the area of human rights, or even as a general matter of concern“, and M. Jovanović believes that Serbia is officially and formally among those states (M. Jovanović: p. 8), which should also be considered the case with Romania, as I will look further into later. M. Jovanović uses the example of the 2001 Parade, where tapes of the incident show how the anti-gay protestors dominated the scene, despite of police interference, and he comments that “the first pride parade was characterized by what seemed to be either the disability of the state against homophobic violence, or simple lack of interest” (M. Jovanović: p. 9).

Also in Romania can the existence of nationalism be connected with the religious institutions, and in the fight against homosexuality the Orthodox Church was successful in gaining the support of different political parties, such as the extremist Party of Romanian National Unity and the nationalist Greater Romania Party, who look to Orthodoxy and its moral standards to form their nationalism and an idea of ‘Romanianism’ (Turcescu & Stan 2005: 297).

In 2004 Greenberg studied a group referred to as Student Organization 1 (SO-1) – a large independent student group in Serbia that presents itself as a pro-European organization embracing principles of tolerance and respect for human rights. Since the violent 2001 Parade there had been no further attempts, but according to rumours there would be another Parade that year of 2004. The organization in question was approached and asked for its support, which it had given for the 2001 parade, but the request for support sparked a fierce debate within the group, as some actively argued that it would be a violation of the fundamental principles of the organization, if they did not support the Parade. Others, however, did not feel comfortable taking up the issue, and some even turned to homophobic remarks and arguments. Among this group within the organization the reputation of the

organization was of much concern. Their reasoning was that gay rights were an unpopular issue with little support among the student body and that supporting the parade could mean sound defeat in student elections (Greenberg 2006: p. 327)

On 10 October 2010 the first successful Parade took place in Belgrade, and this was seen as “a watershed in the history of LGBT-rights in Serbia”, bringing to light the deep divide between traditionalist and modernist social forces (Jovanović 2013: p. 80). However, in 2013 Serbia's government banned a weekend gay pride march for the third consecutive year, due, officially, to the threat of violence from right-wing hooligans, in a move that sparked protests by gay activists and criticism from the European Union. Prime Minister Ivica Dacic said on state television that the ban on Saturday's event was a public safety matter. The last Parade in 2010 had triggered a day of “rioting and arson” by nationalists in the capital Belgrade, and Western ambassadors had pressured Serbia to allow this year's event to go ahead, and EU Enlargement Commissioner Stefan Fule said it marked “a missed opportunity to show respect for fundamental human rights” (Vasovic 2013). In relation to the banned gay parades Jovanović also noted that: “many, including some of the interviewed LGBT activists, believed that the state did not do enough to prevent the violence although it surely could (M. Jovanović: p. 9).

According to M. Jovanović “homophobia can be said to represent one of the main instance of socially discriminative ideologies and movements of the contemporary Serbian Right-wing (M. Jovanović: p. 1), and he writes that “currently, the Serbian extreme right seems to concentrate on spreading its worldview through publications and events such as public discussions, concerts, demonstrations etc. Its most important platform is the internet, which activists and sympathizers use to communicate with each other, announce events, and circulate propaganda material (M. Jovanović: p. 2) Jovanović then mentions the Dveri “movement” that today have taken “all the characteristics of an official political party and even took part in parliamentary and presidential elections, making themselves a more impactful social and political factor in Serbia's public sphere” (M. Jovanović: p. 2). Dveri started a an anti-Semitic movement, later to replace the visible anti-Semitism with homophobia, and The Dveri can roughly be defined by its opposition towards Serbia's potential EU integration, its anti-Westernism and clerical nationalism based on the Orthodox Church, while it has a discourse that concentrates on the “enemy within the nation” (M. Jovanović: p. 3-4).

Serbia, Romania and the EU

In the early nineties, when Romania formally applied for membership of the European structures, Article 200 of its Criminal Code, punishing sexual relationships among same-sex persons with prison of up to five years, became heavily criticized for not meeting the European standards in regards to tolerance, recognition and non-discrimination of minority groups. Article 200 had been introduced by Romania's socialistic leader Nicolae Ceausescu in 1965, and had been part of a larger campaign to rid the country of what was believed to be unacceptable behaviours. Then, after the collapse of the communist regime, LGBT-groups started fighting for the ban to be lifted, but their demands were met with a strong resistance from the public as well as the political and religious communities (Turcescu & Stan 2005: 292), similar to the case of both Albania and Serbia. To reconcile the Romanian Criminal Code with European legislation, the Court decided that Article 200 was unconstitutional 'to the extent that it refers to consensual sexual relations between adults of the same sex, not taking place in public and not producing public scandal' (Turcescu & Stan 2005: 292). Still, years and much political and religious debate followed, and the government argued that the Article had been removed in order to harmonise Romanian and European Union legislation. Changes were supported by the senators, although deputies feared risking their popular support and the impending general election of late 2000 by voting for an unpopular bill, and one deputy commented that: 'We want to enter Europe, not Sodom and Gomorrah' (Turcescu & Stan 2005: 294). This indicates not only the divisions down cultural lines in the European "community", as I will also conclude in the following section, it also illuminates the similarities with both the Albanian and Serbian case in relation to Rayside's arguments. The changes was in the end voted against, but were suggested once again, when Romania started its EU-accession talks. This happened at a time when the problem of discrimination against minority groups had become a formal commitment for Romania to enter EU, and when they realized that Romanian politicians were ready to postpone eliminating Article 200 in the electoral year 2000, the Council of Europe threatened to restart monitoring Romania's human rights record. Hours before the deadline the Romanian Parliament passed the amendments (Turcescu & Stan 2005: 294). Therefore, it can be concluded that Romania's process toward EU-accession was influenced by the EU in its efforts to approve sexual minority policies, and that the ban on homosexuality was lifted at the insistence of the Council of Europe, while also the international community has played an important role in stopping discrimination against gays and lesbians (Turcescu & Stan 2005: 292).

Serbia's current status as an applicant state to the European Union would suggest that pressures from EU institutions to advance LGBT-rights are strongly felt, despite the fact that domestic political support is lacking. There are also some signs that EU pressure has influenced national policies towards LGBT-persons with the example of the 2013 national strategy for anti-discrimination protection, which specifically included LGBT-persons. The EU's annual accession report on Serbia also noted the country had become "more active" in processing documented cases of discrimination against LGBT persons, although there is also reported to be a "...lack of political support for the LGBTI-population," while political authorities have shown reluctance to guarantee LGBT-groups freedom of expression and assembly. Furthermore, it has been suggested that the state viewed the Parade-events as "something required by the EU," but that the state was also reluctant to engage in "...ideological confrontation" with those opposed to the parade, or actively pursue criminal charges against those committing violence (Pelz 2014: p. 16-17).

So why might the Serbian and Romanian governments be more reluctant to support EU norms advancing LGBT-rights than in Albania, even in the context of similar levels of EU pressure?

There are many similarities between the three cases, and the fact that Cultural and Institutional Homophobia is prevalent in them all seems to be an obvious conclusion. Serbia and Romania, however, has shown a much greater reluctance to support LGBT-issues and protect their rights than what is seen in Albania and the record of violence that have occurred at the two Pride-attempts in Serbia is not even comparable to the Albanian case.

There is no doubt that the political system in Serbia and Romania is just as polarized as seen in Albania, or maybe even more, but what makes a difference, at least between the case of Albania and Serbia, is the diversity in EU attitudes between the two countries. In Serbia an important component of the political spectrum opposes EU integration, and homophobia is found within many Serbian political parties, not only those with general anti-Western opinions (Pelz 2014: p. 18). One survey show that the attitude toward EU implies a series of values related to the acceptance of modern, 'pro-European' heritage, including the conquering of a new generation of human rights. Those who believe that Serbia should join the EU and those who see the EU as a system that will lead to normalcy, are assumed to also have a more positive attitude toward sexual minorities. This link has been confirmed in the survey, which shows that the number of those who are homophobic among the opponents of the EU is much higher than the average (CeSID 2010: p. 29).

In Albania this situation is different. 92% of Albanians believe that the country will benefit from being members of the EU, which is a much bigger confidence than seen in Serbia, where, according to the same study, only 42 % hold the same belief (IBNA 2014). According to this, Albanian's unfavourable views of homosexuality is not linked to their views on EU accession, and studies in general show that Albania has very pro-Western opinions (Thrall 2009). What can be concluded from this is that while a widespread anti-Western discourse appears to exist in Serbia, where, as already stated, there is a tendency to perceive homosexuality as a provocation imposed from abroad or by "the 'decadent West', which can be compared with a country such as Russia, the opposite is often the case in Albania, a country not only remarkable for its pro-Western attitudes, but also from its prevalent secularism, by some believed to be a product of Albania's Communist past. Enver Hoxha, the country's Muslim-born Marxist-Leninist dictator, outlawed all religious practices, books, and icons in 1967, declaring Albania the world's "first atheist state", as I showed in the beginning of this thesis.

In the Romanian case it is the deep-rooted trust in and connection with the Orthodox Church that seems to constitute their anti-homosexual attitudes; and as an EU-country Romania serves as an interesting case, since it proves the limitations of the EU in their abilities to improve conditions for sexual minority groups in member states, as I will conclude in the next section.

In addition, several political parties in Serbia and Romania maintain close relationships with the Orthodox Church (Pelz 2014: p. 18), and, as seen in the beginning of this section, the Orthodox Church is among the most trusted institutions in both countries, while, as shown, religious institutions do not obtain the same levels of trust in Albania. This directly indicates that religion play a much bigger part in creating homophobic attitudes in Serbia and Romania than it is the case in Albania, which, as I will come back to, is a big factor in shaping the nationalism that most likely is the biggest engine for shaping unfavourable views on sexual minority groups in especially the Serbian population.

Going back to the topic of EU we see that EU integration is much more contested by various political parties in Serbia, which allows the use of homophobia as an electoral strategy in Serbia perhaps more than it would be possible in EU-friendly Albania. The presence of homophobia may also make it more challenging for otherwise supportive actors to publicly maintain pro-LGBT views (Pelz 2014: p. 18), which the student organization in Serbia studied by Greenberg is a good example

of, along with the examples used to describe the lack of LGBT-support from Albanian as well as Serbian and Romanian politicians.

This also leads to another important factor that, in this context, is especially interesting in the Serbian case, where nationalism is one notion that can separate Serbia from the Albanian case. Even though I have shown examples of how homosexuality has been labelled “un-Albanian”, while nationalism is certainly also a factor at play in Romania, and despite the fact that the traditional values and gender roles is also connected to the concept of the nation and national identity in each country, nationalism is especially interesting in the Serbia, due to Albanians positive Western attitudes, and due to the fact that Romania is already an EU-country. In Serbia we seen that homosexuality is directly linked with the fear of the “other”, basically everything that does not fall under the strict gender definitions of the traditional society, and this also corresponds with the diversity in EU attitudes, as Serbia seems more anti-Western than Albania, due precisely, seemingly, to issues such as homosexuality. As shown, nationalism is perhaps the biggest explanation to the excessive violence seen in Serbia, which is not comparable to the situation in Albania, where the latest Parade in 2012 went without problems and with support from the government.

As stated religious communities play a role in shaping both Romanian and Serbian nationalism, and in Serbia homosexuals are even used to campaign against the situation in Kosovo, who declared independence in 2008, increasing the already high level of political instability of the region, which in turn plays a major role in shaping opinions towards non-normative groups and behaviours, like homosexuals (Jovanović 2013: p. 87). In 2011 the Serbian Patriarch interpreted the announcement of the Parade as a “treacherous diversion aimed at drawing public attention away from the alarming situation in the southern Serbian province of Kosovo and Metohija”, and a direct link was made between the situation in Kosovo and the gay parade: “Bearing in mind the announced parade in Belgrade, we come to the conclusion that one wants to cover up and obscure the tragic position of Serbian people in mournful Kosovo and Metohija” homosexuals (Jovanović 2013: p. 87). The same perspective is also shared outside of the religious communities as when actor Ivan Vučković labelled the gay parade as a “hypocritical whim and a dictated abnormal requirement” in the moment when lives and rights of “our brothers” from Kosovo and Metohija are “really threatened” (Jovanović 2013: p. 87). In this context Blasius could again be referenced as his

claims about the fear of losing one's identity – in this case national identity – is the reason behind the hatred toward homosexual groups.

In the Albanian case I concluded how difficult it was to gain access to the political system, and I have stated that one reason was the difficulties in getting presumably LGBT-positive parties to take a clear stance on the issue, as I have also shown to be the case in Serbia and Romania. I have further analyzed how the elite of the Albanian society has been mostly invisible in dealing with LGBT-issues, and I have explained that strong homosexual tendencies were to be found even among intellectual groups.

The same is the scenario in both Serbia and Romania. As shown earlier the student organization in Serbia, claiming to fight for human rights, did not accept making LGBT-issues a concern, and resistance against LGBT-issues has been strongly felt in the Romanian political arena. It has in general been reported difficult for LGBT-groups to get any real political support, even from parties seemingly sympatric to gays and lesbians rights, and the circumstance surrounding the attempts of sexual minorities to articulate their rights, have showed that without organized support from different social and political figures, their efforts could remain only on the level of attempts, which also indicates the powerlessness of state institutions to do their job with respect to securing and promoting the rights of all of their citizens (CeSID 2010: p. 21).

The cases of Serbia and Romania can also be analyzed in relation to John Zaller's ideas about public opinion and how it is crucial in making and breaking a movement. In Serbia and Romania there are high numbers of people with homophobic views, and according to a study – measuring homophobia based on values and political views in Serbia – it was revealed that homophobia also exists within elitist groups in a considerable amount. Based on statements from participants the survey classified people as traditionalists (31% moderate traditionalists and traditionalists), while less than one fifth were categorized as modernists (11% moderate modernists and 8% modernists). Among the modernists, mostly the ones who are not homophobic are dominant, and in this group we find 14% of those who are very or mostly homophobic. Among the traditionalists, there are only 5% of those who are mostly not homophobic or not homophobic at all, and 76% of those who are homophobic to a different extent. Unlike the survey, conducted two years ago, the difference between negative attitudes toward homosexuality has decreased. Previously, 85% of traditionalists had negative attitude toward homosexuals, and about 30% of modernists (CeSID 2010: p. 24), and

in Romania a similar situations exists, where a survey for instance has shown that 86% of Romanians would not want a gay or lesbian person as their neighbour (Turcescu & Stan 2005: 292), while the Romanian intellectuals are often in line with the view of the Orthodox Church (Turcescu & Stan 2005: 304).

So what can be concluded is that, just like in Albania, the EU is the main force behind the political changes. According to a survey the opinion of the citizens of Serbia show that more than a half of respondents see civil sector organisations as someone who, to the biggest extent, defends the rights of people that belong to sexual minority, while only 6% of answers goes to state or political institutions (the government, Parliament and President in total), while the total of 3% goes to the main social services and activities, healthcare and education (CeSID 2010: p. 22). It is in other words clear that state authorities do little to protect gay rights, while the – in many cases – EU funded civil sector organisations are the ones pushing forward the changes. This is something I will make a final conclusion on the final section of this thesis.

Chapter 10 – Conclusion

What was discovered during the analysis of the influence of the EU was that one of the mentioned approaches in Europeanization theory has proven to hold water. Here, I am referring to the external incentives model based on rationalist bargaining, since we have clearly seen applicant states changing policies to fulfil EU criteria with the prospect to gain membership. This conclusion is possible due to the fact that I have been able to confirm what Rayside also argues, namely that the necessary resources would not have been available for the LGBT-groups, had it not been for the EU creating them.

As described EU accession criteria requires state protection for minority rights, so I have argued that this is the main explanation to why Albania has relatively liberal laws towards LGBT-persons, despite high levels of popular resistance to LGBT-rights.

The second approach – based on social learning – assumes that the EU represents far more than a set of institutions, but is rather “...an international community defined by a specific collective identity and a specific set of common values and norms.” Through repeated interactions with EU institutions and policy makers, elites are gradually persuaded of the appropriateness of EU laws and norms. Long-term cooperation with EU institutions may help shift an actor’s preference formation from incentive-based cooperation (logic of consequentiality) to an internalized logic of appropriateness that helps cement adoption of EU norms. Given that social learning is designed to lead to an internalization of new preferences, it is likely to lead to longer-term and more sustained compliance with EU norms (and for LGBT-rights) even after the EU’s external leverage is reduced (Pelz 2014: p. 4).

This method is an interesting one in this case, since it also represents a huge limitation of the EU. As explained, nationalistic tendencies in the Serbian society is widespread, today much in relation to the Kosovo-conflict, and the attitude to the “other” is much connected with the disapproval of Western values, as well as basically everything that does not fall under the traditional and religious customs, here also traditional gender roles and the concept of (sexual) relationships. The EU might be able to push pending member-countries to change policies according to different sets of requirements, and they are, as proven, able to support civil society groups both politically and financially, in order for them to gain progress within society and the political arena. However, the EU is much limited in securing that these countries actually conform to the new policies and laws, especially since the resistance against them is strong and extensive among politicians as well as religious institutions and civil groups, just as it has been seen – not just in the Balkans – but in

the majority of previous socialistic countries – especially those with strong religious and cultural backgrounds, and in the case of Romania the director of the only gay rights group recognised in the country, Adrian Coman, made a comment in relation to the legislative changes that perfectly concludes this issue, when he admitted that “the fact that the law was repealed does not necessarily show that people in this country became more tolerant towards gays and lesbians in Romania”, as attitudes against homosexual behaviour remain “intransigent”, while homosexuals continue to be derided (Turcescu & Stan 2005: 298).

One interesting case that might serve as an entry to round up this entire subject is the 2014 Eurovision Contest, where the infamous Conchita Wurst, an Austrian transgendered singer also referred to as The Bearded Lady, won the competition. Wurst’s participation, and initial win, expressively highlights the growing European division on the rights of lesbian, gay, bisexual, and transgender (LGBT) persons. Her win was mostly backed and supported by Western Europe, where it was “hailed as a victory of freedom of expression and diversity” (Pelz 2014: p. 2), while, on the flipside, many countries in the East expressed disapproval. Some countries threatened to withdraw entirely from the competition and these same countries petitioned against Wurst’s performance (Pelz 2014: p. 2). Serbia was one of these countries where the animosities toward Wurst were strongly felt, and the Serbian Gay and Lesbian Info Center accused national television station RTS of discriminatory statements, as they believed Serbian TV commentator verbally insulted the trans population during Wurst’s performance, calling it “bizarre; a circus and freak-show”, while they were apparently horrified every time Conchita received maximum scores (Milosevic 2014).

Even though the complaints and petitions against Wurst were unsuccessful, the Conchita Wurst-case is still an indicator of the polarization between the West and East of Europe when it comes to the subject of homosexuality, and if we look outside of the Balkans there are many examples even within the EU of how countries’ efforts to expand rights for LGBT-persons have faced significant resistance, often from senior political leaders, which has also been the case in countries such as Poland, Latvia and Lithuania. The growing divergence and variation in national policies towards LGBT-persons in EU or candidate countries, raises questions on the efficacy and ability of the EU to promote uniform policies towards LGBT persons within a growing Union (Pelz 2014: p. 2), which is also going to serve as a main conclusion for this thesis.

As I have shown the EU has been greatly successful in pushing forward political changes that provide better opportunities for LGBT-people, and I have for instance shown that it was only when the Albanian ombudsman made his suggestion in 2009 that the LGBT-groups finally had a chance to mobilize, creating a strong proof that this suggestion did not come as a result of a demand from within Albania, but instead from outside forces, and it is therefore clear that EU effectively can influence the policies connected to LGBT-groups in the process of EU-accession. However, once countries are formally part of the Union, the EU's ability to get domestic actors to support LGBT-rights decreases considerably. This also corresponds with my previous statement, namely that the method in Europeanization theory, dealing with social learning and assumes that EU constitutes a coherent community defined by a specific collective identity and set of values, does not appear to be an effective method in every case. Instead, what is proven is that Europe, weather the countries are EU-members or not, are divided down cultural lines and that a collective identity does not seem to fully exist. In fact, homosexuality and LGBT-right (as well as other minority issues) has often been a dominant obstacle between the EU and countries interested in membership, while the approach seem to be that EU-membership is a way toward financial growth, although EU values, such as rights for gays and lesbians, are often not welcomed, which was proven to be true in the last section, where I states that a Romanian deputy in relation to changing sexual minority policies commented that: 'We want to enter Europe, not Sodom and Gomorrah'. Therefore, complicating the EU's limited ability to promote LGBT-rights, there appear to be significant disagreement within the EU, and its various institutions, on whether to push for more expansive rights for LGBT-persons beyond the current minimum anti-discrimination requirements (Pelz 2014: p. 2-3).

So, to sum up, what is seen is that EU conditionality requirements have resulted in several important policy changes. The EU has for instance been successful in getting all Central and East European countries to ban discrimination on the basis of sexual orientation in employment, and in a concrete example the EU's promise of visa-free travel to the Schengen Zone caused Moldova to reverse its anti-gay propaganda laws (Pelz 2014: p. 5), which clearly indicates that approach based on 'rationalist bargaining' is an effective way to go for the EU, which, as seen, has also been the case in both Albania and Serbia as well as in many other countries that have attained EU-membership.

Still, even where the EU relies on conditionality, the advancement on LGBT rights has often been irregular, and has not resulted in legal changes being effectively enforced. It has been reported

that many EU and candidate states, hereunder Albania, complied with EU regulations “shallowly,” and without any significant debate or full appreciation for what the laws entailed. Laws were passed quickly, primarily because of the desire of political elites to “...gain membership in the EU, as soon as possible” (Pelz 2014: p. 5).

One challenge facing the EU in its efforts to protect LGBT-rights is also the disagreement within EU institutions on how much should be done on this matter. One EU official stated recently that it was not the role of the EU to “change people’s values”, and the respondent suggested it was more realistic for the EU to promote human rights generally, rather than focusing specifically on LGBT issues (Pelz 2014: p. 7). Post-accession, it is then clear, leaves the EU with few choices to change the policies in the LGBT-field, hence making it possible to conclude that the EU is in fact not a “community of values”, despite of the opposite statements from EU state officials, and despite the fact that EU has made successful attempts changing policies to make it look as such on the surface.

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Kl. = Kindle Location

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